

**MANUAL OF PROCEDURES  
FOR USE OF STATE SUPPORTED BONDS  
TO FINANCE EQUIPMENT**

**New York State Division  
of the Budget**

**New York State Office  
of General Services**

**Updated 7/2/09**

MANUAL TABLE OF CONTENTS

	<u>Page</u>
A. PURPOSE OF THE MANUAL .....	3
B. CONTACTS IN OGS, DOB .....	3
C. DEFINITION OF EQUIPMENT COSTS THAT ARE ELIGIBLE FOR FINANCING .....	4
D. OUTLINE OF PROCEDURES TO USE STATE-SUPPORTED BOND FINANCING .....	4
E. PROCESS AND INSTRUCTIONS FOR PURCHASERS' PAYMENTS (AC-340 ENCUMBRANCE AND JOURNAL VOUCHER).....	8
F. MOU REPRESENTATIONS, RESPONSIBILITIES AND RIGHTS OF PURCHASERS .....	10
G. RECORDS OF THE STATE COMPTROLLER'S OFFICE AND THE PURCHASERS .....	11

ATTACHMENTS

ATTACHMENT A - Instructions for Purchasers Signing of Memorandum of Understanding with OGS.

ATTACHMENT B - Instructions to Purchasers on Preparation of Forms Used in Processing purchases to be charged to the Equipment Finance Capital Projects Appropriation.

ATTACHMENT C - Budget Policy and Reporting Manual Item H-101.

ATTACHMENT D – Office of the State Comptroller Procurement and Disbursement Guidelines, Bulletin No. G-80, G-80A, and G-80B, “Equipment Acquisition Guidelines”.

ATTACHMENT E – Budget Bulletin H-1031 Installment-Purchase and Lease – Purchase Financing of Equipment for the Fiscal Year 2006-07.

## **A. PURPOSE OF THE MANUAL**

This manual explains the procedures that agencies must follow when using the Equipment Finance Capital Projects Appropriation (EFCPA) to purchase equipment. Spending from this appropriation will be reimbursed from the proceeds of State-supported bonds or similar instruments.

State agencies can, with Division of the Budget (DOB) approval, purchase personal property (equipment) and real property (with legislative authorization) using the EFCPA.

At a future date, usually in October or November, State-supported bonds would be issued to reimburse the EFCPA with the Office of General Services (OGS) acting as Service Agent in an agreement with the Empire State Development Corporation (ESDC) or one of the other State Authorities or Public Benefit Corporations authorized to issue State-supported bonds, and the Trustee. Agencies (Purchasers) using EFCPA and the subsequent State-supported bond financing must sign a Memorandum of Understanding (MOU) with OGS (Service Agent) before the appropriation and related financing can be used.

The legal documents governing the sale of State-supported bonds provide the framework for the procedures outlined in this manual. It is important that the Purchasing agencies comply with the procedures to ensure that the State does not default on its obligation to repay the bondholders, or jeopardize the tax-exempt status of the State-supported bonds.

The use of State-supported bond proceeds for reimbursement of the EFCPA does not exempt an agency from complying with all State Procurement Rules and Guidelines.

## **B. CONTACTS IN OGS, DOB**

1. Office of General Services:  
Corning Tower  
Empire State Plaza  
Albany, NY 12242

\* Requisition and Payment Issues:

Mr. Daniel Turcotte, Ms. Julia Lennox  
Division of Financial Administration  
40th Floor - (518) 402-5688

\* Legal Issues:

Mr. William F. Brusco, Jr., Esq., Office of Legal Services  
41st Floor - (518) 473-4982

2. Division of the Budget:  
Expenditures/Debt Unit  
State Capitol  
Albany, NY 12224

\* Program Approval, Financing Availability and Approval

### **C. DEFINITION OF EQUIPMENT COSTS THAT ARE ELIGIBLE FOR FINANCING**

Although initially charged to the EFCPA, all agency equipment or real property purchases charged to the appropriation will be reimbursed using State-supported bond proceeds. As such, all purchases must comply with Article 5-B of the State Finance Law (New York State Debt Reform Act of 2000) and all other rules and regulations applicable to the use of tax-exempt bonds. The method of State-supported bond financing (either Certificates of Participation [COPs] or New York State Personal Income Tax Revenue Bonds) will be based upon the lowest cost alternative, and will be determined by DOB.

The equipment finance MOU defines the equipment costs to be all costs of payment of, or reimbursement for, acquisition, installation, customization and delivery of the equipment including software licensing fees, architectural, engineering, consultant and installment management costs, shipping costs, performance and payment bond costs and letters of credit, administrative costs and capital expenditures relating to installation and financing payments, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, provided, however, that equipment costs shall not include personal service expenses of agencies, or any annual fees or costs for vendor maintenance, with the exception of fees or costs for vendor maintenance of statewide, multi-year projects costing \$50 million or more, supplies, training, software support or prepaid upgrade of computer software and/or hardware.

In accordance with State law, the term of the financing cannot be greater than the useful life of the property. All equipment acquisitions will be financed for a term of three years unless approval for a different term is obtained from the Division of Budget. The justification for a longer term must include evidence that the equipment has a useful life of at least the longer financing term.

In addition, the equipment must have an outright purchase cost of \$250,000 or more. Multiple items of the same type of personal property or related items of property acquired as the result of a single Request for Proposal (RFP) (i.e.: same vendor), may be grouped under one or several contracts as part of a procurement package to reach the applicable minimum purchase price.

Requests to finance consultant services must be clearly defined on the H-101 submitted to DOB. Consultant services for software improvements are only eligible for State-supported bond financing if they are an integral part of a hardware/software procurement package. The hardware/software component of the procurement package must have a value of at least \$250,000.00.

### **D. OUTLINE OF PROCEDURES TO USE STATE-SUPPORTED BOND FINANCING**

1. During the annual budget making process, agencies submit budget request IP schedules for all new installment purchases and lease purchases which includes State-supported bonds, vendor financing, Statewide Lease-purchase Agreement (See Budget Request Manual - Item 9.). These schedules must be submitted with all budget request documents by the stated Budget deadline.
2. Agencies develop draft documentation for acquisitions from equipment vendor.
  - a. Agencies issue RFPs, if necessary.
  - b. Agencies develop equipment vendor purchase orders, contracts, or contract amendments.
3. Agency requests H-101 approval from Division of the Budget. (See Attachment C - Budget Policy and Reporting Manual Item H-101, dated July 27, 2005.)
  - a. Agency submits completed H-101, H-101B and H-101C forms for each procurement to its Budget Examination Unit. Items that are being bundled together as an integrated package can go on a single H-101 form as one procurement.

Among other information that must be provided, agencies must explain on the H-101 if there will be any use of the equipment being financed by other than State or local government employees for a wholly governmental purpose. It is critical that agencies identify any potential private use of the equipment since such use could impact the tax-exempt status of the State-supported bonds being used to finance the purchase.

- b. Budget Examination Unit ensures agency payments due to OGS for prior installment purchases are paid in full. **Requests for EFCPA State-supported bond financing or any other form of installment purchase financing by agencies with past due COPs or State-supported bonds billings will not be approved.**

Upon approval by the Budget Examination Unit, the Division of the Budget's Expenditure/Debt Unit reviews the H-101 forms. If a requested financing is approved, the Expenditure/Debt Unit will segregate a portion of the EFCPA to individual agencies based on the amounts indicated on the H-101 forms. Upon execution of an MOU between OGS and the agency, OGS will create a cost center for the portion of the EFCPA for which the agency has received segregation.

Copies of approved H-101 forms along with the cost center information and a letter giving the agency authorization to use the assigned Cost Center will be forwarded to the appropriate agency, and OSC personnel.

- c. Agencies that receive approval to finance equipment using EFCPA State-supported bonds will be required to make semi-annual payments to OGS usually in August and February throughout the financing term approved by DOB. For planning purposes, agencies should be aware that if State-supported bonds are sold in October, agencies will generally begin making installment payments to OGS the following February/March.)

In some instances, agencies may not initially receive a payment schedule from OGS. In those instances, agencies will receive a payment schedule shortly after the closing of the EFCPA State-supported bond sale.

Participating Agencies must agree, as part of the Memorandum of Understanding (MOU), to make payments to OGS for the agencies' share of debt service on the State-supported bonds that were sold to finance their purchases, including interest, and to reimburse OGS for all associated administrative costs.

**Agencies will be required to make lease payments to OGS on State-supported bonds issued on their behalf regardless of when the agency actually purchases the equipment.**

4. Agency submits equipment vendor contracts to AG for approval.
5. Agency signs Memorandum of Understanding (MOU) with Office of General Services obligating the agency, to pay the cost of financing those purchases through the use of State-supported bonds.
6. Agencies purchasing vehicles using EFCPA State-supported bonds and falling under the provisions of Budget Policy and Reporting Manual Item D-750 must secure OGS Statewide Vehicle Management approval on their purchase orders.
7. Agency secures Comptroller's Office (Contracts Unit) approval of all equipment vendor purchase orders, equipment contracts and equipment contract amendments in compliance with normal State Procurement Guidelines. Agencies should identify the EFCPA as the source of payments (e.g. "Financed with the Equipment Finance Capital Projects Appropriation enacted pursuant to section 1 of chapter 50 of the laws of 2006" on the purchase order, contract, or contract amendment and the agency will use their assigned EFCPA cost center to encumber equipment purchases.
8. Agencies should submit revised H-101 forms to DOB when the items of equipment to be purchased change from the original H-101, or the cost of equipment to be purchased increases from the original H-101.
9. Agency orders equipment.
10. Equipment vendor delivers equipment.
11. Agency accepts equipment or determines if a progress payment or work in progress payment is due.
12. Based on procedures in Attachment B, agency completes and forwards the appropriate payment documentation to OGS for approval. Each time the Purchaser is ready to process a payment to an equipment vendor, a Standard Voucher must be completed and submitted to OGS (NOT OSC) along with the invoice(s) and a copy of the approved Purchaser Order on a separate batch transmittal including a clean Batch Control

List (BCL). When the payment is approved by OGS, OGS will forward the documentation to OSC for payment. If not approved by OGS, all documentation will be returned to the agency, and DOB will be notified of any discrepancies between the documentation and the approved H-101 form. To ensure compliance with these procedures, OGS will review daily reports provided by the Comptroller's Office detailing all payments charged against the EFCPA to verify that all payments have had prior OGS approval.

13. Based on procedures in Attachment B, **If the payment is to reimburse the Purchaser/State for prior vendor expenditures, the Purchaser must fill out a Journal Voucher, attach copies of the standard voucher, invoices and a copy of the State Comptrollers report VOU065 or proof of payment, and submit to OGS (NOT OSC) a Suspended Batch Control List (BCL).** When the payment is approved by OGS, OGS will sign the Journal Voucher and forward the documentation to OSC for payment. If not approved by OGS, all documentation will be returned to the agency, and DOB will be notified of any discrepancies between the documentation and the approved H-101 form. To ensure compliance with these procedures, OGS will review daily reports provided by the Comptroller's Office detailing all payments charged against the EFCPA to verify that all payments have had prior OGS approval

**The Division of the Budget may immediately rescind all current funding and will not approve future funding from the EFCPA for Agencies that do not comply with the preceding directive.**

14. After the State-supported bond sale, OGS will generate payment schedules for each agency. Agencies will process AC-340s through the Comptroller's Office to encumber payments per the schedule provided by OGS.
15. Semi-annually, (usually August and February) OGS prepares invoices and forwards the invoices and journal vouchers to agencies for their share of the State-supported bonds payments. Agencies process the journal voucher through the Comptroller's Office to transfer funds to OGS.
16. Agencies request sufficient appropriation in next fiscal year's budget to make payments to OGS.
17. Agencies have three years from the date State-supported bonds are issued to make the approved installment purchases. Agencies that choose not to spend their proceeds within three years can allocate their unspent proceeds to another project with the approval of the Division of the Budget. Unspent proceeds of \$250,000 or more may be allocated to a new H-101 approved project. Unspent proceeds of less than \$250,000 can only be allocated to supplement the financing of another approved H-101 project. Unspent proceeds that are not reallocated to another project after the term of the bonds is over will be reallocated to reduce debt service or other costs associated with the State-supported bonds. One project can be financed over multiple State-supported bond issues.
18. Agencies may release their unspent proceeds, prior to the end of the three-year period, provided that those funds can be allocated to another agency with an approved H-101 project. Agency payments between the release date and the end of term will be adjusted.

19. Agencies that receive released proceeds will be billed over a three-year period.

**It is critical for agencies to keep OGS Financial Administration Staff and DOB Expenditure/Debt Unit Staff informed on any changes in the Following:**

- The dollar amount of the purchase order or contract Increases;
- The items of equipment on the purchase order or under the contract;
- The date the agency plans to accept the equipment; and
- The date the agency expects to make payment to the equipment vendor.

**If the dollar amount increases or the items of equipment change, an agency must request DOB's approval on a revised H-101 form.**

**E. PROCESS AND INSTRUCTIONS FOR PURCHASERS' PAYMENTS TO OGS (AC-340 ENCUMBRANCE AND JOURNAL VOUCHER)**

1. AC-340 Forms - Encumbering Funds for Payments

At the beginning of each fiscal year, Agencies (Purchaser) will process through OSC an encumbrance request (AC-340) in the "Vendor's name/OGS" for the full amount of the payments it must pay to OGS' Centralized Services Fund for that fiscal year. OSC will send the AC-340 form back to the Purchaser. Complete the AC-340 as follows:

a. "Contract No."

- 1) Equipment Acquired Through the Agency's Vendor Contract or Contract Amendment.

Under "Contract No." indicate the contract number for that contract. Contract provisions (e.g., maintenance) not financed with the State-supported bonds must be assigned a new contract number.

- 2) Equipment Ordered Through Purchase Orders

Assign a contract number ("C" number) to the purchase order and indicate the "C" number under "Contract No." on the AC-340. Purchase orders for the same equipment vendor and finance term may be grouped under one contract number.

b. "Action Code" - Indicate "A".

c. "Payee I.D." - Provide the equipment vendor I.D. number.

d. "Payee Name" - Provide the equipment vendor name and add "OGS."

e. "Payee Address" - Provide the equipment vendor address.

- f. "Contract Amount" - Indicate the total payments to OGS for the financing term. OGS will provide the agencies with payment schedules (Exhibit C of MOU). Agencies will be required to make semi-annual payments to OGS in August and February for three, four, five or seven consecutive fiscal years depending on the financing term approved by DOB.
- g. "Contract Period" - The start date for the contract period is the date that OSC approved the contract or purchase order between the agency and the equipment vendor. The ending date of the contract period is the last payment date on the payment schedule (Exhibit C of MOU) provided by OGS.
- h. "Description" - Type e.g. "Payments to OGS for October 2006 State-supported bond."

Complete the remaining mandatory fields on the AC-340. Attach two copies of the payment schedule (Exhibit C, MOU) and purchase orders(s).

Submit the AC-340 to the Office of the State Comptroller's Contracts Unit.

In each subsequent year, agencies should encumber funds.

2. **Journal Vouchers: Making Payments to OGS.**

Semi-annually during the financing term, OGS Financial Administration will forward the following to each Purchaser: invoices indicating Purchaser payments due to the OGS' Centralized Services Fund and journal vouchers to make this payment. OGS Financial Administration will have completed the block "For Office of General Services Use Only" on the Journal Vouchers. The "Amount" in this block is the Purchaser's payment.

Fifteen days prior to the payment date, each Purchaser should process its Journal Voucher through OSC and thus pay OGS for the Purchaser's share of the State's consolidated equipment finance debt service payment. OGS will pay the consolidated payment to ESDC or other authorized State Authorities or Public Benefit Corporation out of its Centralized Services Fund appropriation. ESDC or other authorized State Authorities or Public Benefit Corporation will then pay the Trustee.

**IF A PURCHASER FAILS TO PAY OGS FOR THE PURCHASER'S SHARE OF THE CONSOLIDATED DEBT SERVICE PAYMENT FIFTEEN DAYS PRIOR TO THE PAYMENT DATE, THE STATE DIRECTOR OF THE BUDGET IS AUTHORIZED, UNDER SECTION 66-f OF THE STATE FINANCE LAW, TO TRANSFER SUCH FUNDS FROM THE AGENCY TO OGS. IN ADDITION, AGENCIES WITH PAST DUE STATE-SUPPORTED BOND DEBT SERVICE BILLINGS WILL NOT HAVE FUTURE REQUESTS FOR ANY FORM OF INSTALLMENT PURCHASE FINANCING APPROVED.**

A Purchaser must complete the remaining fields of the Journal Voucher following instructions on the back of the Voucher form. The Journal Voucher must list each

contract financed through State-supported bonds for which the agency encumbered funds on AC-340 forms.

Purchaser should submit the completed Journal Vouchers to the address below:

Office of the State Comptroller  
Appropriation Section  
110 State Street  
Albany, NY 12236

**F. MOU REPRESENTATIONS, RESPONSIBILITIES AND RIGHTS OF PURCHASER**

1. In the MOU, the Agency (Purchaser) represents and warrants to the Office of General Services (Service Agent) the following:
  - a. The equipment has been accepted and is being used by the agency; is in good working order.
  - b. The equipment is essential to the conduct of the agency's governmental functions.
  - c. The useful life of the equipment is equal to or greater than the period financed.
  - d. The fair market value of the equipment is not less than the original equipment cost.
  - e. The acquisition of the equipment complies with the State procurement rules.
  - f. That it will not take any action, omit to take an action, or permit the taking or omission of any action, if taking or omitting to take such action would cause the State-supported bond to be arbitrage bonds, private activity bonds or a federally guaranteed obligation within the meaning of the Internal Revenue Code, or would otherwise cause the State-supported bond to lose their tax exempt status. This would include allowing the use of equipment by non-governmental persons, other than use by the general public.
2. Pursuant to Section 5 of the MOU, immediately after the enactment of the Executive Budget, the Purchaser will be responsible for notifying OGS and DOB if the New York State Legislature has not appropriated sufficient funds for the Purchaser to make its payments.
3. Under Section 9, the Purchaser retains title to the equipment at all times.
4. Section 10 mandates that the equipment remains personal property and not deemed to be affixed or a part of the real estate on which it may be situated.

5. Section 11 covers loss, damage, destruction or condemnation of equipment. Such an event does not release the Purchaser from making its regular payments unless it chooses to pay the buyout price and thereby prepay the equipment.
6. Under Section 12, each Purchaser has the right, at any time, to prepay its obligation for an item of equipment by depositing sufficient moneys (purchase price) with the Service Agent on or prior to the effective prepayment date. The Purchaser must provide written notice of the intended prepayment to the Service Agent and DOB (Expenditures/Debt Unit and examination unit) at least sixty days before the effective prepayment date.
7. Sections 16(a) thru 16(d) of the Purchaser MOU identify the events that put the Service Agent and the Purchaser in default of their obligations and the remedies available to the Service Agent to cure the default.

**G. RECORDS OF THE STATE COMPTROLLER'S OFFICE AND THE PURCHASERS'**

It is very important for the Purchasers, Service Agent, ESDC or other authorized State Authorities or Public Benefit Corporations, the Trustee and OSC to maintain accurate and correct records for the administration of equipment purchases financed with the State-supported bonds. It is the responsibility of the Purchaser and Service Agent to ensure that they supply the necessary information in a timely manner so that the records of the other State agencies are accurate, correct and complete. Records include MOU's and MOU revisions including changes in Exhibit A (List of Equipment) and Exhibit C (Payment Schedule).

## ATTACHMENT A

### **INSTRUCTIONS FOR PURCHASER SIGNING OF MEMORANDUM OF UNDERSTANDING WITH OGS**

#### **1. Memorandum of Understanding**

Agencies should complete and sign two MOU's before they seek Office of General Services approval for the purchase of the equipment. The MOU must be signed by the Purchaser prior to the submission of documentation to Office of General Services for approval for payment.

There is a specific MOU for each State-supported bond program (e.g., October 2006 State-supported bond.) Purchasers should contact Bill Brusco, Office of General Services Counsel's Office, to obtain an MOU to sign.

##### **a. Cover Page**

Type the name of the agency as Purchaser on the cover page.

##### **b. Section 18 Notices.**

Type in the party (name and address) in the Purchaser agency to whom notices should be sent.

##### **c. In Witness whereof...(last page of MOU)**

Type the name of the agency as Purchaser over the line "as Purchaser". On the next line after "By", the individual authorized to sign for the Purchaser should sign the MOU. Then below the signature, type in the "Name" and "Title" of the individual signing the MOU.

#### **2. MOU - Exhibit A - List of Equipment**

When a Purchaser signs an MOU, a completed copy of Exhibit A (DOB approved H-101 copy) must be attached to the MOU for each equipment purchase approved by Division of the Budget on an H-101 form for financing (e.g., from the October 2006 State-supported bond program).

#### **3. MOU - Exhibit B - Attachment 2: Sample Certification of the New York State Office of General Services**

#### **4. MOU - Exhibit C - Amortization Schedule.**

**Do not remove this exhibit** - A final copy of this Exhibit is completed by the Service Agent and provided to the Purchaser at the time of the closing of the Bond Sale.

If you have any questions on the completion of these documents, please contact Julia Lennox or Daniel Turcotte at OGS (518-402-5688).

## ATTACHMENT B

### PROCEDURES AGENCIES ARE REQUIRED TO FOLLOW TO PROCESS PAYMENT TO VENDORS FOR EQUIPMENT PURCHASED USING THE EQUIPMENT FINANCE CAPITAL PROJECTS APPROPRIATION

1. The Office of General Services (OGS) is the Service Agent for all State-supported bonds to finance equipment. Questions related to the information contained in this Attachment should be directed to Daniel Turcotte or Julia Lennox (OGS) at (518) 402-5688.
  
2. All procedures governing outright purchase of equipment by State agencies also apply to equipment purchased using the EFCPA and financed through State-supported bonds. **Purchase Orders for equipment being purchased from state contracts, except orders in excess of the reservation clause, no longer require prior approval from the Office of the State Comptroller.** Approval of **all other** Purchase Orders, Contracts, and Contract Amendments must be obtained from the Office of the Attorney General (if applicable) and the Office of the State Comptroller before an agency (Purchaser) can order equipment and request payment.
  
3. Each time the Purchaser is ready to process a payment to an equipment vendor, a Standard Voucher, must be completed and submitted to OGS (NOT OSC) along with the invoice(s) and a copy of the approved Purchase Order on a separate batch transmittal including a clean Batch Control List (BCL). When the payment is approved by OGS, OGS will forward the documentation to OSC for payment.. If not approved by OGS, all documentation will be returned to the agency, and DOB will be notified of any discrepancies between the documentation and the approved H-101 form. To ensure compliance with these procedures, OGS will review daily reports provided by the Comptroller's Office detailing all payments charged against the EFCPA to verify that all payments have had prior OGS approval.

While not required, it will facilitate OSC's audit for equipment being purchased from State contract, if agencies also attach a copy of the actual price sheet from the state contract or vendor. If the price sheet comes directly from the vendor, the vendor should certify that the prices listed are the most current.

If the payment to a vendor is for vehicles, according to statutory authorization, there is no lien holder information to be placed on Motor Vehicle forms.

While not required, if the payment to a vendor is a progress payment, a copy of the purchase contract payment schedule and an original performance bond or letter of credit for the full amount of the Purchase Contract should be attached to the Standard Voucher.

The completed Standard Voucher and attachments should be submitted in the following order:

- **A clean BCL report (entered through the OSC accounting system)**
- **Individual Batch Transmittal signed by the preparer.**
- **Standard Voucher**
- **Vendor's invoice.**
- **A copy of the approved Purchase Order/Contract**

4. **If the payment is to reimburse the Purchaser/State for prior vendor expenditures, the Purchaser must fill out a Journal Voucher, attach copies of the standard voucher, invoices and a copy of the State Comptrollers report VOU065 or proof of payment and submit to OGS (NOT OSC) a Suspended Batch Control List (BCL). When the payment is approved by OGS, OGS will sign the Journal Voucher and forward the documentation to OSC for payment. If not approved by OGS, all documentation will be returned to the agency, and DOB will be notified of any discrepancies between the documentation and the approved H-101 form. To ensure compliance with these procedures, OGS will review daily reports provided by the Comptroller's Office detailing all payments charged against the EFCPA to verify that all payments have had prior OGS approval**

The completed Journal Voucher and attachments should be submitted in the following order:

- **A Suspended BCL report (entered through the OSC accounting system)**
- **Individual Batch Transmittal signed by the preparer.**
- **Journal Voucher**
- **The processed/paid Standard Voucher**
- **Vendor's invoice.**
- **A copy of the approved Purchase Order/Contract**
- **State Comptrollers report VOU065 or proof of payment**

5. All forms must be fully completed. Incomplete items will result in delays in processing payments to equipment vendors.

**ATTACHMENT C** – Budget Policy and Reporting Manual Item H-101

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 1

## Purpose and Scope

This item provides instructions for financing installment- and lease-purchases of (1) real property and capital improvements and (2) personal property (equipment) for all State agencies, departments, the State University of New York (SUNY), the City University of New York (CUNY), and the Unified Court System. This item does not apply to purchases financed by State public authorities.

State agencies may, with Division of the Budget (DOB) approval, finance acquisitions through State-supported bonds (New York State Personal Income Tax Revenue Bonds or Certificates of Participation [COPs]) or through a financing contract with a commercial vendor using vendor financing or the Statewide Lease Purchase Agreement.

The term "installment purchase" will be used hereafter and should be understood to include all purchases financed with State-supported bonds, vendor financing, and the Statewide Lease Purchase Agreement. The method of State-supported bond financing will be based upon the lowest cost alternative, as determined by DOB.

Vendor financing includes financing through: (1) the equipment vendor from whom the equipment is purchased; (2) the equipment vendor's credit corporation; or, (3) other financing institutions. The Statewide Lease Purchase Agreement includes financing by pre-qualified equipment vendor financing companies through a statewide equipment lease-purchase agreement. Agencies are responsible for the payments to the vendor for the life of the lease-purchase agreement.

This item: (1) defines equipment costs eligible for State-supported bonds, vendor financing, and the Statewide Lease Purchase Agreement; (2) identifies the criteria and procedures for DOB approval of all installment-purchase financings; (3) outlines the procedures and debt service payment structure for State-supported bond financing; (4) provides information on the statutory requirements for lease-purchases; (5) provides for all of the mandatory clauses required to be included in lease-purchase contracts; (6) provides instructions for requesting DOB approval of State-supported bond financing (forms H-101, H-101B and H-101C); and (7) provides instructions for requesting DOB approval for vendor financing and the Statewide Lease Purchase Agreement (forms H-101S and H-101B).

In addition to the guidance provided by this item, State agencies may find further guidance on installment purchase financing in the Manual of Procedures for Use of State Supported Bond Proceeds, issued by the Division and OGS ([http://www.budget.state.ny.us/guide/bprm/h/h101\\_manual.pdf](http://www.budget.state.ny.us/guide/bprm/h/h101_manual.pdf)).

### 1. Definition of Equipment Costs Eligible for Financing

The following equipment costs are eligible for financing through State-supported bonds, vendor financing, or the Statewide Lease Purchase Agreement.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 2

Equipment costs are all costs of payment of, or reimbursement for, acquisition, installation, customization and delivery of the equipment including software licensing fees, architectural, engineering, consultant and installment management costs, shipping costs, performance and payment bond costs and letters of credit, administrative costs and capital expenditures relating to installation and financing payments, costs of feasibility, environmental and other reports, inspection costs, permit fees, filing and recording costs, printing costs, reproduction and binding costs, *provided, however*, that equipment costs *shall not* include personal service expenses of agencies, or any annual fees or costs for vendor maintenance, with the exception of fees or costs for vendor maintenance of statewide, multi-year projects costing \$50 million or more, supplies, training, software support or prepaid upgrade of computer software and/or hardware. Please consult DOB for additional information on the types of equipment that may be eligible for financing.

## 2. Criteria for Installment Purchases

Equipment financed with State-supported bonds or vendor financing must have a useful life of three years or more, and an outright purchase price of \$250,000 or more. Real property projects must have an outright purchase price of \$500,000 or more and a useful life of 10 years or more.

Equipment financed through the Statewide Lease Purchase Agreement must have a useful life of three years or more, and the minimum and maximum dollar amounts which may be financed through the Agreement are \$250,000 and \$15,000,000 respectively. Real property projects are not eligible for financing under the Statewide Lease Purchase Agreement.

The following criteria apply to all installment purchase contracts entered into by State agencies, departments, the State University of New York (SUNY), the City University of New York (CUNY), and the Unified Court System.

All equipment acquisitions will be financed for a term of three years, unless approval for a term of more than three years is obtained from the Division of the Budget. The justification for a longer term must include evidence that the equipment has a useful life of at least the longer financing term. The lease term of any financing arrangement cannot be greater than the useful life of the property.

Agencies may not group unrelated items of equipment to reach the minimum outright purchase price eligible for installment purchase financing. However, multiple items of the same type of personal property, or related items of property

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 3

acquired as the result of a single Request for Proposal (RFP), may be grouped under one or several contracts as part of a procurement package to reach the applicable minimum purchase price.

Consultant services for software improvements are only eligible for State-supported bonds, vendor financing, and the Statewide Lease Purchase Agreement if they are an integral part of a hardware/software procurement package. The hardware/software component of the procurement package must have a value of at least \$250,000. Stand-alone consultant services *may not be* financed. Requests to finance eligible consultant services must be clearly defined on the H-101 or H-101S and H-101B submitted to DOB.

Before entering into new installment purchases, agencies should consider any Federal grant or aid conditions which could affect an agency's ability to make lease payments (e.g., debt service payments). Federal Funds cannot be used to directly finance agency lease payments to OGS to reimburse the State for debt service paid on State-supported bonds. State appropriations that can be reimbursed with Federal Funds must be appropriated to make lease payments to OGS. This is due to the uncertain timing of the receipt of Federal funds as it relates to the time the equipment is purchased (i.e., Federal funds cannot be definitively determined to be available when the debt service payments are due and debt service payments are due regardless of when the equipment is purchased.). In addition, it is not possible to reimburse Federal funds that were used to pay debt service on equipment that is not ultimately purchased.

Interest income on financings is ordinarily tax-exempt. Agencies should therefore be cognizant of potential private use issues regarding the equipment to be financed to ensure that the purchases meet Federal tax law requirements. If there is use or access by any non-State or local government entity to the asset intended to be financed, it must be indicated on the H-101B form.

Agencies should keep their contract files and those at the Comptroller's Office up to date for each installment-purchase contract. Amendments to contract documents, including revised installment-purchase payment schedules and assignment and reassignment documents, must be forwarded to DOB for review. DOB will then forward the revisions to the Comptroller.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 4

### 3. Schedule of Required Installment/Debt Service Payments for State-Supported Bond Financing

Agencies which use State-supported bond financing are required to make installment payments to the Office of General Services (OGS). Agency installment payments made to OGS are the source of funds used by OGS to make "debt service" payments (i.e., principal and interest) due to State-supported bondholders/investors. To ensure State-supported bondholders are paid on a timely basis, agencies which receive approval to finance equipment through State-supported bonds will be required to make semi-annual debt service/installment payments to OGS 15 days prior to when debt service payments are due to State-supported bondholders.

For example, agency lease/debt service payments on State-supported bonds, which are typically issued in the month of October, will begin in the following February. Agencies will be required to make semi-annual payments to OGS in February and August for three consecutive fiscal years (or longer depending on the term of the bonds). Agencies will be required to make installment/debt service payments to OGS on State-supported bonds issued on their behalf *regardless of when the agency actually purchases the equipment.*

Agency installment/debt service payments due to OGS must be timely and paid in full. *Requests for State-supported bond financing by agencies with past due COPs or State-supported bonds billings will not be approved.*

### 4. State Law Regarding Installment and Lease-purchase Financings

State Finance Law requires the Budget Director to approve all new "financed equipment acquisitions" which includes State-supported bonds (e.g., COPs or State Personal Income Tax Revenue Bonds), vendor financing, and the Statewide Lease Purchase Agreement. In addition, the State Finance Law provides for the responsibilities of the Executive and the Legislature regarding the State's annual budget authorization and implementation process to finance equipment and real property projects with State-supported bonds.

Section 138 of the State Finance Law requires that any assignment or reassignment of an installment-purchase contract by a financing vendor through COPs, vendor financing, or the Statewide Lease Purchase Agreement must have the prior written approval of the State agency involved. Agencies must notify the Comptroller of all changes in assignment.

Section 66-a of the State Finance Law requires approval by the Comptroller of any assignment of rights under an installment-purchase contract if the

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 5

assignment will result in the sale of COPs by an entity other than New York State. This section provides that all contracts must include language that prohibits any other State or private party from issuing COPs to finance New York State installment-purchases without the express written approval of the State Comptroller. Section 66-a applies regardless of whether the contract contains this language.

#### **5. Mandatory Clauses for Installment- and Lease-purchase Financings of Consultant Services for Software Improvements**

Consultant services for software improvements are only eligible for State-supported bonds, vendor financing, or the Statewide Lease Purchase Agreement if they are an integral part of a hardware/software procurement package. The hardware/software component of the procurement package must have a value of at least \$250,000, and stand-alone consultant services may not be financed.

Agencies financing consultant services for software improvements through the use of State-supported bonds, vendor financing, or the Statewide Lease Purchase Agreement must include the following language in the contract documents between the State agency and the consultants. Using this contract language is essential for the financings to be considered tax-exempt which results in lower interest rate costs to the State.

The mandatory contract language is as follows:

It is anticipated the Project Deliverables under this [Agreement] may include "existing" and/or "custom" materials. "Existing Materials" include, without limitation, such things as: programs, program listings, programming tools, documentation, reports, drawings, data, modules, components, utilities, interfaces, templates, subroutines, algorithms, formulas and technical information, existing prior to or independently developed by [Vendor] or another Third Party other than as a result of this [Agreement]. "Custom Materials" include, without limitation, such things as: programs, programming tools, source codes, object codes, user or training manuals, programming, reports, drawings and any other materials, preliminary, final and otherwise, created, prepared, written or developed, whether jointly or individually, for the [Agency] under this [Agreement].

New York State shall have ownership and the perpetual rights to use, copy, modify, and prepare derivative works of the Custom Materials, developed in the course of the [Services] pursuant to this [Agreement], whether jointly or individually, subject to the terms of [specify any Articles or sections of Agreement related to confidentiality treatment of Existing Materials and Custom Materials].

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 6

All rights in the Custom Materials remain in the [Agency]. The parties will cooperate with each other and execute such other documents as may be appropriate to achieve the objectives of this [Article]. With respect to any third party software provided by the [Agency] to [Vendor] hereunder which [Vendor] modifies and/or enhances as provided for under this [Agreement], the [Agency] shall be responsible for obtaining from the third party licensors the necessary rights to such software, including the rights for [Vendor] to access, use and modify the software on behalf of the [Agency] to own such modifications and replacements thereto.

The [Agency] acknowledges that [Vendor] in performing hereunder may use any information, products and Existing Materials that are proprietary to the [Vendor]. The [Agency] will use reasonable efforts to preserve the proprietary character of Existing Materials. Other than those rights or interest in the Existing Materials specifically provided by this [Agreement], the [Agency] shall receive no rights or interest in such Existing Materials of the [Vendor] including any enhancements and improvements thereto which are not created as a result of this [Agreement], except pursuant to a separate written agreement. Furthermore, nothing herein shall preclude the [Vendor] from using the related or underlying general knowledge, skills and experience developed in the course of providing the deliverables and intellectual property under this [Agreement] in the course of [Vendor's] business.

The State retains the right to sell, or license on an exclusive or non-exclusive basis, the Custom Materials developed under this [Agreement]. The sale or licensure of such Custom Materials shall not occur until such Custom Materials are or become useable. The sale or licensure of such Custom Materials shall be at a fair market value. The fair market value of such Custom Materials shall be determined at the time of sale or licensure. In the event the [Vendor] wishes to purchase any Custom Materials developed under this [Agreement], such purchase shall be pursuant to a separate written agreement.

## **6. Other Mandatory Clauses for Installment- and Lease-purchase Financings**

Installment-purchase contracts should include a "non-appropriation" or "executory" clause which states that installment-purchase contracts are not State debt as defined in Article VII of the State Constitution, nor are they a contractual obligation, except to the extent that money is appropriated to make installment-purchase payments. Additionally, the State has no continuing legal or moral obligation to appropriate funds to make installment-purchase payments or any other payments due under installment-purchase contracts.

Installment-purchase contracts for COPs, vendor financing, and the Statewide

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 7

Lease Purchase Agreement may contain a "non-substitution" clause. This prohibits an agency from acquiring substitute equipment to replace equipment for which installment payments were not appropriated. This type of restriction would stipulate a time period during which substitution was prohibited. The intent of this clause is to prevent the State from arbitrarily using an event of non-appropriation to terminate an installment-purchase contract.

## 7. Instructions for Requesting Budget Approval of State-Supported Bonds to Finance Equipment (H-101, H-101B and H-101C)

### Links to Forms

In PDF	In Microsoft Word
<a href="#">Form H-101</a>	<a href="#">Form H-101</a>
<a href="#">Form H-101B</a>	<a href="#">Form H-101B</a>
<a href="#">Form H-101C</a>	<a href="#">Form H-101C</a>

Agencies, upon receipt of a Budget Bulletin announcing a planned State-supported bonds issuance, must submit an H-101, H-101B and H-101C request for *prior approval* by the Director of the Budget for all new equipment or real property installment-purchase obligations and all refinancings of such obligations. Form H-101 identifies basic information on the installment-purchase, form H-101B provides narrative justification, and form H-101C provides the anticipated schedule of proceeds expenditures. Requests for H-101, H-101B, and H-101C approval should be submitted to the agency's budget examiner.

### a. Instructions for Completing Form H-101 – Request for Approval of Installment- Purchases - State-Supported Bonds

#### General Heading Entries

"H-101 Number \_\_\_\_". This number will be assigned by DOB when it processes the agency request.

"FY 20\_\_-20\_\_". Enter the fiscal year in which your agency will enter into an installment-purchase obligation for the items listed on the H-101.

Identify the agency, program, division/institution and agency code for which the item will be procured. Identify the fund type and the name and code numbers for the fund and account that will be used to make installment-

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 8

purchase payments.

### **Column A - "Description of Equipment or Real Property"**

Describe the item of equipment (e.g., computer mainframe) or real property (i.e., capital project or real property acquisition) to be financed.

### **Column B - "Acquisition Cost"**

Identify the cost of the equipment or real property if it were paid for outright rather than financed over time. If a refinancing is involved, specify the prepayment amount required to buy out the existing installment-purchase contract.

### **Column C - "Date to Order Equipment/Property"**

Identify the date the equipment purchase or real property project will be initiated through the execution of a contract, contract amendment, or purchase order. Contracts and purchase orders must be approved by the Office of the State Comptroller prior to ordering equipment or initiating a real property project, and if appropriate, reviewed by the State Office for Technology.

### **Column D- "Date(s) Financing Required"**

Identify the date(s) when you expect to purchase the equipment/property from the vendor/contractor. If the contract for the equipment acquisition or real property project includes a provision for progress payments, agencies should identify the amounts of progress payments and payment dates on the H-101. Progress payments are used for real property projects where the contractor is paid as work is completed.

### **Column E - "Useful Life"**

Identify the useful life of the equipment or real property to be financed. The useful life should generally be consistent with recognized industry or professional standards.

### **Column F - "Finance Term"**

Agencies can only finance equipment for three years unless approval for a different term is obtained from DOB. In no event can a term of a lease exceed the useful life of the property being financed.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 9

### In Column G - "Date of First Installment-Payment"

Enter the month of February and the calendar year following the October in which State-supported bonds are expected to be sold.

### In Column H - "First Year Installment-Payments"

For the purpose of calculating first-year installment payments, agencies should assume that State-supported equipment finance bonds will be issued in October. Enter the total amount of installment/debt service payments to be made to OGS in February following the October in which the State-supported bonds are issued. Please refer to the most recently issued *Budget Bulletin for Installment-Purchase Financing of Equipment* for guidance on the interest rates to be used in calculating installment payments.

### In Column I - "Total Installment-Payments"

Enter the total amount of installment/debt service payments to be made during the three (or term of the bonds) years following the October in which the State-supported bonds are issued. Please refer to the most recently issued *Budget Bulletin for Installment-Purchase Financing of Equipment* for guidance on the interest rates to be used in calculating installment payments.

Agencies which receive approval to finance equipment through State-supported bonds will be required to make semi-annual debt service/installment payments to OGS 15 days prior to when debt service payments are due to State-supported bondholders. Typically, the first payment will begin in February following the October in which State-supported bonds are issued and will be made for three years. Since State-supported bonds are typically sold annually in October, agencies will be required to make semi-annual debt service payments to OGS in February and August.

Agencies will be required to make installment/debt service payments to OGS on State-supported bonds issued on their behalf *regardless of when the agency actually purchases the equipment.*

Agency installment/debt service payments due to OGS must be timely and paid in full. Requests for State-supported bond financing by agencies with past due COPs or State-supported bonds billings will not be approved.

### Column J - "Expenditure Object Code"

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 10

Identify the State Comptroller's object code against which the contract will be charged.

### **Signatures for Agency Request and Division of the Budget Approvals**

The H-101 must be signed by an agency representative, the examination unit, and the Expenditure/Debt Unit of the Division of the Budget. State-supported bond financing requests must be amended by the agency and approved by the Division of Budget.

### **b. Instructions for Form H-101B – Request for Approval of Installment-Purchase Contracts- Justification for State-Supported Bonds**

This justification schedule should be completed for all items listed on Form H-101. If additional space is required, attach separate sheet(s) and be sure to identify the item which such material supplements.

#### **General Heading Entries**

"FY 20\_\_-20\_". Enter the fiscal year in which your agency will enter into an installment-purchase obligation for the items listed on the H-101.

Identify the agency, agency contact person and phone number, program and division/institution for which the item will be procured. Identify the fund type and the name of the fund and account that will be used to make installment-purchase payments.

"Item of Equipment or Real Property". Provide the same description of equipment or real property as shown on form H-101.

#### **1. Description of the Installment-Purchase**

Describe the equipment or real property to be procured in sufficient detail to explain its purpose and use. This description will be used as a basis for determining whether the proposed purchase is eligible for financing.

If multiple items of related equipment/property are grouped together under a general description to reach the program's minimum purchase price of \$250,000 (e.g., office equipment, vehicles, computer equipment), please provide a list describing each item and identifying the anticipated cost of

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 11

each item.

## 2. Cost Estimate

For the item(s) of equipment and real property, provide a cost estimate for the hardware, software and consulting components (if applicable).

Standalone consulting services are not eligible for installment-purchase financing. Consulting services may be financed if the services are part of an integrated system and the hardware and/or software component(s) total \$250,000. Indicate if there are progress payments.

## 3. Is it an Integrated System?

Explain if the equipment to be procured (i.e., hardware, software, consulting services) is part of an integrated system.

## 4. Private Use

Explain if the equipment or real property intended to be financed will be used or accessed by any non-State or local government person, including any non-employee position (e.g., SUNY Hospitals).

## 5. Contingent Factors

Explain if this purchase is contingent upon some other event, such as the major renovation of a building to install the equipment to be financed.

## 6. Related Procurement

Explain any planned equipment or real property procurements that would have a significant relationship to this purchase.

## 7. Source of Payment for Installment-Purchases

Explain the appropriation source (e.g., State Operations, Special Revenue Other) and the amount, by appropriation, planned for all installment-purchase payments for the current fiscal year.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 12

## 8. Planned for Outright Purchase

If funds have been appropriated for the outright purchase of all or a portion of this equipment, identify the appropriation source (e.g., State Operations, Special Revenue Other) and the amount appropriated for outright purchase by appropriation source.

## 9. Technology Purchases

Budget Policy and Reporting Manual Item H-300A (insert link) requires agencies to submit Annual Technology Plans (ATPs) to facilitate statewide planning and coordination of technology initiatives. Among other requirements, ATPs must include a detailed proposal for each new initiative summarizing the types of goods and services to be acquired and the planned method of acquisition. Please indicate whether the equipment was identified in an ATP and how it relates to an initiative identified in the ATP. In addition, please indicate whether the Office for Technology has approved an Intent to Purchase Technology in connection with this purchase.

## 10. Useful Life Justification

All equipment acquisitions will be financed for a term of three years, unless approval for a term of more than three years is obtained from the Division of the Budget. If a financing term greater than three years is requested, agencies must provide a thorough explanation of how the stated useful life of the equipment or real property was determined. The useful life justification should generally be consistent with recognized industry or professional standards.

### c. Instructions for Form H-101C – Request for Approval of Installment Purchase Contracts- Schedule of Payments to Vendors

This schedule of anticipated payments to vendors should be completed for all items listed on Form H-101. If additional space is required, attach separate sheet(s) and be sure to identify the item which such material supplements.

#### General Heading Entries

"FY 20\_\_-20\_\_". Enter the fiscal year in which your agency will enter into an installment-purchase obligation for the items listed on the H-101.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 13

Identify the agency and program for which the item will be procured. Identify the fund type and the name for the fund and account that will be used to make installment-purchase payments.

### "H-101 Description"

Describe the item of equipment (e.g., computer mainframe) or real property (i.e., capital project or real property acquisition) to be financed.

### "Total Project Amount"

Estimate the total amount of the project cost to be financed.

### "Dates"

Identify the dates the agency expects vendor payments to occur.

### "Amounts"

Enter the amounts expected to be paid to the vendor for each of the dates listed above.

## 8. General Guidelines for Statewide Lease-purchase Agreements and Vendor Financing

Statewide Lease Purchase Agreements are a statewide vendor equipment financing program that pre-qualifies equipment vendor financing companies through a statewide equipment lease purchase agreement. Agencies requiring financing for equipment will conduct a mini-bid process using the pool of pre-qualified vendors. Agencies using the Statewide Lease Purchase Agreements will not need to draft, submit and review Requests for Proposals to finance equipment purchases. Agencies cannot finance more than \$15 million for a single purchase through the Statewide Lease Purchase Agreement.

Agencies using vendor financing must solicit bids from vendors through the Request for Proposal (RFP) process. This approach allows the agency to select the best financing bid and, separately, the best equipment or real property bid. The financing bid should be awarded to the competitive bidder offering the lowest interest rate, and lowest overall costs. Use of a non-competitive financing proposal must be fully justified.

Installment-purchase agreements must provide that title passes to the State at some point during the term of the payment period. If there is a purchase option

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 14

price due at the close of the financing term, it must be a nominal cost (i.e., one dollar). In addition, installment-purchase agreements should allow for pre-payment of the agreement. If the contract requires a premium charge (i.e., penalty) for pre-payment of the agreement, the charge should not exceed two percent of the outstanding principal balance due, and should be considered in determining overall costs.

Agencies are responsible for the payments to the vendor for the life of the lease-purchase agreements.

## 9. Instructions for Requesting Budget Approval of Statewide Lease-purchase Agreements and Vendor Financing (H-101S and H-101B)

### Links to Forms

In PDF	In Microsoft Word
<a href="#">Form H-101S</a>	<a href="#">Form H-101S</a>
<a href="#">Form H-101B</a>	<a href="#">Form H-101B</a>

Agencies must submit an H-101S and H-101B request for pre-approval and approval by the Director of the Budget for all new equipment or real property installment-purchase obligations. Form H-101S identifies basic information on the installment-purchase and form H-101B provides narrative justification. Requests for H-101S and H-101B approval should be submitted to the agency's budget examiner.

### a. Instructions for Completing Form H-101S - Request for Approval of Installment-Purchases - Statewide Lease Purchase Agreements and Vendor Financing

#### General Heading Entries

"H-101S Number \_\_\_\_\_". This number will be assigned by OSC when it processes the agency request.

"FY 20\_\_-20\_\_". Enter the fiscal year in which your agency will enter into an installment purchase obligation for the items listed on the H-101S.

"Statewide Lease Purchase Agreement" or "Vendor Financing". Indicate which type of installment purchase financing the agency is requesting.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 15

"Pre-approval" or "Approval". Indicate if this is a pre-approval for the agency to solicit bids or a final approval of a vendor and interest rate.

Identify the agency, program, division/institution and agency code for which the item will be procured. Identify the fund type and the name and code numbers for the fund and account that will be used to make installment purchase payments.

### **Column A - "Description of Equipment or Real Property"**

Describe the item of equipment (e.g., computer mainframe) or real property (i.e., capital project or real property acquisition) to be financed.

### **Column B - "Acquisition Cost"**

Identify the cost of the equipment or real property if it were paid for outright rather than financed over time.

### **Column C - "Date to Order Equipment/Property"**

Identify the date the equipment purchase or real property project will be initiated through the execution of a contract, contract amendment, or purchase order. Contracts and purchase orders must be approved by the Office of the State Comptroller prior to ordering equipment or initiating a real property project, and if appropriate, reviewed by the State Office for Technology.

### **Column D- "Date(s) Financing Required"**

Identify the date(s) when the vendor/contractor must be paid for the equipment acquisition or real property project. For most equipment purchases, the vendor payment date occurs after installation and acceptance of equipment. If the contract for the equipment acquisition or real property project includes a provision for progress payments, agencies should identify the amounts of progress payments and payment dates on the H-101S. Progress payments are used for real property projects where the contractor is paid as work is completed, and for some equipment acquisitions which require lengthy installation and testing periods (e.g., telecommunications systems).

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 16

**Column E - "Useful Life"**

Identify the useful life of the equipment or real property to be financed. The useful life should generally be consistent with recognized industry or professional standards.

**Column F - "Lease Term"**

Agencies can only finance equipment for 3 years unless approval for a different term is obtained from DOB. In no event can a term or a lease exceed the useful life of the property being financed.

**Column G - "Date of First Installment-Payment"**

Identify the date the agency will begin installment-purchase payments to the vendor. The first installment-payment normally occurs after the vendor is paid for an invoice, either for a progress payment or a payment-in-full.

**Column H - "First Year Installment-Payments"**

Estimate the agency's total installment-purchase payments in the first year of the financing.

**Column I - "Total Installment-Payments"**

Estimate the total amount of all agency installment-purchase payments for the entire term of the installment-purchase.

**Column J - "Expenditure Object Code"**

Identify the State Comptroller's object code against which the contract will be charged.

**"Financing Institution"**

Indicate the financing institution that has been chosen through the Statewide Lease Purchase Agreement mini-bid process or the RFP process for vendor financing. This must be included on the "Approval" H-101S form.

**"Approved Interest Rate"**

Indicate the approved interest rate of the financing institution. This must be included on the final approval H-101S form.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 17

### **Signatures for Agency Request and Division of the Budget Approvals**

The H-101S must be signed by an agency representative and the Division of the Budget. Vendor financing and Statewide Lease Purchase Agreement requests must be amended by the agency and approved by the Division of the Budget.

#### **b. Instructions for Form H-101B – Request for Approval of Installment-Purchase Contracts- Justification**

This justification schedule should be completed for all items listed on Form H-101S. If additional space is required, attach separate sheet(s) and be sure to identify the item which such material supplements.

#### **General Heading Entries**

"FY 20\_\_-20\_\_". Enter the fiscal year in which your agency will enter into an installment-purchase obligation for the items listed on the H-101S.

Identify the agency, agency contact person and phone number, program and division/institution for which the item will be procured. Identify the fund type and the name for the fund and account that will be used to make installment-purchase payments.

"Item of Equipment or Real Property". Provide the same description of equipment or real property as shown on form H-101S.

#### **1. Description of the Installment-Purchase**

Describe the equipment or real property to be procured in sufficient detail to explain its purpose and use. This description will be used as a basis for determining whether the proposed purchase is eligible for financing under the program.

#### **2. Cost Estimate**

For the item(s) of equipment and real property, provide a cost estimate for the hardware, software and consulting components. Stand-alone consulting services are not eligible for installment-purchase financing. Consulting services can be financed if the services are part of an integrated system and the hardware and/or software component(s) total \$250,000. Indicate if there are progress payments.

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 18

### 3. Is it an Integrated System?

Explain if the equipment to be procured (i.e., hardware, software, consulting services) is part of an integrated system.

### 4. Private Use

Explain if the equipment or real property intended to be financed will be used or accessed by any non-State or local government person, including any non-employee position (e.g., SUNY Hospitals).

### 5. Contingent Factors

Explain if this purchase is contingent upon some other event, such as the major renovation of a building to install the equipment to be financed.

### 6. Related Procurement

Explain any planned equipment or real property procurements that would have a significant relationship to this purchase.

### 7. Source of Payment for Installment-Purchases

Explain the appropriation source (e.g., State Operations, Special Revenue Other) and the amount, by appropriation, planned for all installment-purchase payments for the current fiscal year.

### 8. Planned for Outright Purchase

If funds have been appropriated for the outright purchase of all or a portion of this equipment, identify the appropriation source (e.g., State Operations, Special Revenue Other) and the amount appropriated for outright purchase by appropriation source.

### 9. Technology Purchases

Budget Policy and Reporting Manual Item H-300A (insert link) requires agencies to submit Annual Technology Plans (ATPs) to facilitate statewide planning and coordination of technology initiatives. Among other requirements, ATPs must include a detailed proposal for each new initiative summarizing the types of goods and services to be acquired and the planned method of acquisition. Please indicate whether the equipment was identified in an ATP and how it relates to an initiative identified in the

<i>Date</i> 7/01/09	<i>Subject</i>  <b>Installment Purchase Financing</b>	<i>Item</i> H-101
<i>Supersedes</i> 7/27/05		<i>Page</i> 19

ATP. In addition, please indicate whether the Office for Technology has approved an Intent to Purchase Technology in connection with this purchase.

#### 10. Useful Life Justification

All equipment acquisitions will be financed for a term of three years, unless approval for a term of more than three years is obtained from the Division of the Budget. If a financing term greater than three years is requested, agencies must provide a thorough explanation of how the stated useful life of the equipment or real property was determined. The useful life justification should generally be consistent with recognized industry or professional standards.

**ATTACHMENT D** – Office of the State Comptroller Procurement and Disbursement Guideline

**ATTACHMENT D** – Office of the State Comptroller Procurement and Disbursement Guideline[Click for Text Version](#)**New York State Office of the State Comptroller**

Thomas P. DiNapoli, State Comptroller

[Home](#) > [Agencies](#) > [G - Bulletin Listing](#)

New York State Office of the State Comptroller

**Procurement and Disbursement Guidelines  
(G-Bulletins)**

<b>Bulletin Category:</b>	Procurement & Contracting		
<b>Bulletin Number:</b>	G-080		
<b>Date Issued:</b>	9/19/88	<b>Date Last Updated:</b>	1/8/07
<b>Bulletin Name:</b>	Equipment Acquisition Guidelines		

**Purpose:** The purpose of this bulletin is to establish guidelines for the acquisition of equipment. The guidelines cover the following acquisition methods:

1. Outright purchase;
2. Extended term purchase: installment purchase, lease purchase, or lease with an option to purchase;
3. Straight lease.

**General Rules :****1. Establishment of Need**

An agency must first establish and document a need for the equipment. The agency should determine whether the need for the equipment is long-term or short-term because this is a determining factor in deciding on an acquisition method.

**2. Required Approvals**

There are three control agencies involved in the equipment acquisition process: Division of the Budget (DOB); Office of General Services (OGS); and the Office of the State Comptroller (OSC).

DOB approval is required, pursuant to Sections 66-b and 167-a of the State Finance Law, for all new installment purchases and lease purchases, including those financed by Certificates of Participation (COPs) and for all refinancings of such purchases. Agencies must submit completed H-101 forms to their budget examiner to secure prior DOB approval for all equipment contracts,

contract amendments, or purchase orders procured through a new installment or lease purchase, regardless of the method of financing. Agencies should refer to Budget Policy and Reporting Manual Item H-101 and Budget Bulletin H-1004 for information on the DOB H-101 approval process. Agencies should also refer to Budget Policy and Reporting Manual Item D-800 regarding DOB and OGS approval of acquisition of telecommunication systems, services, and equipment.

OGS approval is required pursuant to Section 174 of the State Finance Law. OGS approval signifies that the provisions of the statute have been met.

OSC approval is required for all contracts for the acquisition or lease of equipment pursuant to Section 112(2) of the State Finance Law.

### **3. Methods of Acquisition**

In the determination of need, a decision must be made whether the equipment should be purchased (either outright, or over an extended term), or simply leased. Generally, equipment should be acquired through some form of purchase. Generally, the only circumstances where a straight lease should be utilized is to meet a short-term need or when the equipment has a short useful life due to agency program requirements or to the obsolescence of the equipment because of changing technology.

#### **a. Outright Purchase**

Usually, the most economical method to acquire equipment is by outright purchase. If an agency has funds available, it should first consider this method. (If an agency has an extended term purchase contract, it should also consider executing the early buy-out provision if funds are available.) The useful life and potential obsolescence of the equipment are factors that should be considered in the decision to purchase or lease the equipment.

OSC requires agencies to acquire the equipment by outright purchase when the cost is less than: \$50,000 for equipment acquired during the fiscal year 1988-89; \$100,000 during subsequent fiscal years. OSC may issue regulations establishing higher levels for the fiscal years beginning with 1990-91. Multiple items of the same type equipment or related items of equipment procured pursuant to a single request for proposal may be grouped under one or several contracts as part of a procurement package to reach the above stated dollar levels.

**b. Extended Term Purchase**

As a general rule, an extended term purchase should be considered under the following circumstances:

- (1) The equipment was customarily purchased or leased over an extended term and was not traditionally acquired by outright purchase, (i.e. computer hardware, telecommunication systems).
- (2) The total cost is less than the cost for a straight lease.

Equipment can be acquired over an extended term in one of the following methods

(1) Installment Purchase

Title to the equipment transfers to the state immediately and the payments are made over an extended term (more than one year). The term of the contract cannot be longer than the useful life of the equipment. The payments are computed based on the purchase price (principal) and interest. Maintenance of the equipment requires a separate contract.

(2) Lease Purchase

Title automatically transfers to the state after the final payment. The payments are computed in the same manner as an installment purchase, except maintenance generally is included with the principal and interest in the payment. A nominal amount (i.e. \$1.00) may be required before title passes to the state.

(3) Lease with an Option to Purchase

Title does not automatically pass to the state unless the option is exercised. The lease payments are structured as in a straight lease. Principal and interest components are not listed separately. Generally, a percentage of the lease payments accrues toward the purchase option

price.

**c. Straight Lease**

The primary difference between a straight lease and a purchase is that the state has no intention of acquiring title to the equipment. The lease payment does not segregate into principal and interest and is usually obtained from a published price list.

The straight lease method is not required to be approved by OGS because it is not a purchase. Agencies may not use the straight lease to circumvent the OGS approval requirement by subsequently making arrangements for the purchase of the equipment.

A straight lease should be considered in the following circumstances:

- (1) The equipment vendor only supplies the equipment under a straight lease.
- (2) The agency has only a short term need for the equipment.
- (3) The equipment to be acquired is experiencing rapid technological changes that may render the equipment obsolete in a relatively short period of time.

**4. Requirement for Legislative Approval**

Agencies must obtain specific legislative approval to acquire capital equipment through any method other than outright purchase.

Equipment of a capital nature is generally purchased outright with monies appropriated for the purchase by the Legislature. (See attached listing)

Office equipment such as computer systems, telecommunication systems, copiers, and word processors, is generally acquired through extended term purchase contracts or straight lease contracts. The funding for the contracts is usually provided in the annual state operations appropriation.

**5. Financing**

If a decision is made to acquire equipment over an extended term, instead of

by outright purchase or straight lease, a method of financing must be chosen. Financing methods available are:

a. Certificates of Participation (issued only through OSC or with OSC approval).

b. Installment purchase or lease purchase contracts financed through:

(1) Equipment manufacturer or a manufacturer's subsidiary credit corporation.

(2) Private third-party financing company selected through competition.

Pursuant to Budget Bulletin H-1004 and Budget Policy and Reporting Manual Item H-101, agencies must submit H-101 forms to request prior DOB approval for all new installment purchase and lease purchase financings of new contracts, contract amendments and purchase orders for equipment with a purchase price of \$50,000 or over, regardless of the method of financing and for all refinancing of such purchases. The information on the H-101 forms is used by DOB to plan the issuance of Certificates of Participation.

As indicated earlier, the above guidelines are to be used by agencies in their decision making process in selecting a method of acquiring equipment. This decision will assist agencies in preparing form H-101 for DOB.

Agencies should refer to OGS Purchasing Memorandum CL-144 regarding "The Role of the Standards and Purchase Group with Respect to Equipment Financed through Certificates of Participation."

**Questions:**

If you have any questions regarding this bulletin contact:

Office of the State Comptroller  
Bureau of Contracts  
Invitation for Bid Team  
(518) 474-6494

**Listing of Capital  
Equipment:**

**Vehicles:**

- Cars

- Trucks
- Construction Equipment
- Buses
- Aircrafts

**Furniture:**

- Desks
- Chairs
- Sofas
- Refrigerators
- File Cabinets
- Freezers
- Ovens

**Air-Condition Systems****Boilers****Generators****Furnaces**

\*This listing is designed to identify the major types of capital equipment and is not all-inclusive. If you need to acquire equipment appearing to fall into the category of capital equipment, you should contact OSC for guidance. As a general rule, the above equipment is purchased outright.

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Thomas P. DiNapoli, State Comptroller

[Home](#) > [Agencies](#) > [G - Bulletin Listing](#)



New York State Office of the State Comptroller

## Procurement and Disbursement Guidelines (G-Bulletins)

<b>Bulletin Category:</b>	Procurement & Contracting		
<b>Bulletin Number:</b>	G-80b		
<b>Date Issued:</b>	7/11/91	<b>Date Last Updated:</b>	1/8/07
<b>Bulletin Name:</b>	Equipment Acquisition Guidelines		

This bulletin revises bulletin G-80 (Section 3a, second paragraph) dated September 19, 1988, and bulletin G-80A dated October 3, 1990.

In accordance with Section 167-a of the State Finance Law, the Comptroller may establish higher minimum outright purchase costs beginning in fiscal year 1990-91.

Effective July 10, 1991, the Office of the State Comptroller, by regulation published in the State Register, requires agencies to acquire equipment by outright purchase when the cost is less than \$250,000. Multiple items of the same type of equipment, or related items of equipment, procured pursuant to a single request for proposal may be grouped under one or several contracts, as part of a procurement package to reach the aforementioned dollar level. All other aspects of bulletin G-80 remain in force.

If you have any questions regarding this bulletin, contact:

Office of the State Comptroller  
Bureau of Contracts  
Invitation for Bid Team  
(518) 474-6494

ATTACHMENT E - Budget Bulletin H1031 Installment-Purchase and Lease-Purchase Financing  
of Equipment for the Fiscal Year 2006-07

## Budget Bulletin

# H-1031

## Installment-Purchase Financing of Equipment for Fiscal Year 2006-07

*effective date September 18, 2006*

[Printable PDF version](#)

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**TO: ALL DEPARTMENT AND AGENCY HEADS**

**FROM: John F. Cape**

**Subject: Equipment Maintenance Program – Expansion and Enhancements**

This Bulletin identifies the requirements for Division of the Budget (DOB) approval of new requests for essential installment purchases of equipment for all State agencies, departments, the State University of New York, and the City University of New York in fiscal year 2006-2007. The term “installment purchase” includes all equipment purchases financed with State-supported bonds, vendor financing, and the Statewide Lease-Purchase Agreement (SLPA). It is expected that all agency final requests will be at or below amounts recommended in the 2006-07 Executive Budget.

To accurately assess all agency equipment needs for which State-supported bonds, vendor financing, or SLPA financing may be required, agencies must review all the financing requests they submitted to their DOB Examination Unit for purposes of preparing the 2006-07 Executive Budget. Agencies should then follow the instructions outlined below to submit their final requests to their DOB Examination Unit for approval by **Wednesday, October 4, 2006**.

DOB expects that agencies will use the most cost effective means for financing equipment purchases, which, based on past experience, has generally been through the use of State-supported bonds. DOB will notify agencies that submit requests for vendor or SLPA financing if it is more cost effective to finance their equipment purchases with State-supported bonds, provided sufficient bond authorization is available. **The timely submission of agency requests is essential to plan for the issuance of State-supported Personal Income Tax Revenue bonds during the fall of 2006 and to ensure that equipment purchases are financed in the most cost effective manner possible.**

Please note that all of the requirements and procedures for the issuance of COPs as identified in Budget Policy and Reporting Manual Item H-101 will still apply to the State-supported bond sale (e.g., definition of equipment costs eligible for financing, criteria for installment purchases, agency lease payments to the Office of General Services) and that requests for State-supported bond financing by agencies with past due payments to OGS for equipment previously financed will not be approved.

### **Instructions for Submitting Equipment Financing Requests**

For all installment purchase requests for equipment, agencies must:

- Submit final requests for all equipment installment purchase obligations anticipated for fiscal

year 2006-07 to your Budget Examination Unit by Wednesday, October 4, 2006. (Agencies are directed to Budget Policy and Reporting Manual Item H-101 for instructions on how to prepare the request.) Agencies must complete the H-101, H-101B and H-101C forms identified in Item H-101 of the Budget Policy and Reporting Manual. **Please note that these forms were revised in July 2005 and outdated forms will not be accepted. The new forms are available electronically through the Division of the Budget's website (<http://www.budget.state.ny.us>), Budget Policy and Reporting Manual, Item H-101.**

- Secure prior DOB approval, through the H-101 process, for all anticipated installment-purchase financing of equipment, regardless of whether the equipment is financed through State-supported bonds, an equipment vendor, or a financing company. This includes purchases that will be financed through the Statewide Lease Purchase Agreement.
- Submit final H-101 requests only for equipment financings that are essential for health and safety and/or critical to the delivery of services or agency operations and for which sufficient spending authority is available to make lease payments.
- Exclude annual fees or costs for vendor maintenance, training, stand-alone consulting services or upgrade of computer software and/or hardware from the H-101 requests for State-supported bond or vendor financing because these items are not eligible for such financing. Consulting services may be included if the services are part of a package and the hardware and/or software component of the package meets the \$250,000 minimum threshold.
- Obtain DOB H-101 approval before refinancing any outstanding installment- and lease-purchase obligations.
- Limit installment purchases to procurements with a minimum outright purchase price of \$250,000.
- Assume an interest rate of 4 percent to calculate anticipated installment payments if requesting a financing term of three years. If a request is made for a financing term greater than three years, agencies should contact Sean Fitzgerald in the Division of the Budget's Expenditure/Debt Unit (518-402-2277) for guidance on the applicable interest rate assumption.
- For all computer related procurements, obtain appropriate review and approval from the State Office for Technology.

Agencies planning to solicit financing quotes from equipment vendors or financing companies must review the guidelines provided in the Budget Policy and Reporting Manual Item H-101 prior to issuing a Request for Proposal or a mini-bid through the Statewide Lease Purchase Agreement.

Questions concerning this Bulletin should be directed to Sean Fitzgerald (518-402-2277) in DOB's Expenditure/Debt Unit. Questions concerning agency H-101 requests should be directed to your Budget Examiner.