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Chapter 5 – Procurement

5.1 General Procurement

The State's procurement laws are set in **29 Del. C. Chapter 69**. The procurement information below is a synopsis of pertinent prevailing information relating to the State's official Budget and Accounting policies. Please refer to the Delaware Code, the Office of Management and Budget (OMB) website, and any online Department of Finance (DOF) accounting memoranda for additional information, governing laws, regulations, policies, and requirements.

5.1.1 Authority

The State promulgates its own set of procurement and purchasing laws, regulations, requirements, and guidelines. The responsibilities for establishing and maintaining the procurement and purchasing policies are shared among OMB through Government Support Services (GSS); DOF through Division of Accounting (DOA); and the Contract and Purchasing Advisory Council (CPAC)[1].

The GSS and the OMB Director set the policies in the Procurement Manual governing:

- Small Purchase Competitive Pricing,
- Competitive Sealed Bids (Invitations to Bid - ITB),
- Requests for Proposal (RFP),
- Sole Source Procurement,
- Multiple Source Contracting,
- Cooperative Procurement Participations,

DOA sets additional administrative rules for processing and recording transactions in the State's finance and accounting system, First State Financials (FSF), to ensure accurate and timely processing and reporting of the State's financial information. For more detailed transactions processing information, Organizations should refer to **Chapter 7, Purchasing and Disbursements**.

The CPAC, together with the Contracting and Purchasing Committee[2], are responsible for monitoring the State's procurement policies and procedures, and for making recommendations to improve the processes. The CPAC also sets the dollar amount thresholds that trigger formal bidding procedures for the State's various contract

[1] The CPAC consists of all covered State agency heads or their designee and one additional member to represent all public school districts. The administrator of OMB's GSS shall be a nonvoting member of the council and the Director of OMB shall be the council chair. (29 Del. C. §6913)

[2] The Contracting and Purchasing Committee representatives shall be appointed by OMB's GSS administrator. The GSS administrator shall chair this committee. The committee is responsible for staffing the CPAC, monitoring the effectiveness of the State's procurement process, recommending changes to the procurement process, policies, and procedures, and any other duties deemed necessary by the CPAC. (29 Del. C. §6913(e))

procurement classifications. For more information about these classifications and thresholds, see **Section 5.3**.

5.1.2 Purpose

The State created uniform purchasing policies to enable leveraged buying opportunities to increase the quantity and quality of data for spend analysis and to address deficiencies identified through benchmark analysis and annual audit findings. Additionally, it is in the State's interests to enact purchasing and procurement policies to:

- Process purchase transactions in a uniform manner in FSF;
- Take advantage of Strategic Sourcing opportunities;
- Assure legal compliance with federal and State requirements;
- Identify additional benefits and savings;
- Safeguard the State's monies and assets;
- Assure only prescribed uses of the State's resources; and
- Maintain transparency in the application of State policy and practice for all potential and actual vendors, purchasers, and all other constituents.

5.2 Contracts and Contract Purchasing

To create a more efficient procurement process to better enable the State to obtain the highest quality goods, materials, and services at the best possible price, the GSS section of OMB is empowered to administer and manage central or joint purchasing contracts for State Organizations.

5.2.1 State Contracts

The Contracting unit within GSS manages all Statewide contracts for goods and services and administers Organization contracts as requested. This team is the State’s central contracting unit and it acts on behalf of State Organizations, local government units, and authorized volunteer fire companies.

GSS may negotiate with various manufacturers and distributors and award contracts that will enable State agencies, local governments, schools and school districts to purchase materiel at prices approved by the General Services Administration (GSA) of the United States. **(29 Del. C. §6935)** The protocol for acquiring needed goods and services off GSA schedules is available on the GSS website at: https://mymarketplace.delaware.gov/documents/gsa-request-form.pdf

All covered Organizations are required to procure goods and services through the Mandatory Use Contracts (MUCs) negotiated by GSS. The Organization Business Manager is responsible to ensure that all eligible purchases are made using MUCs.

NOTE: A list of the State's current MUCs and contract numbers are available on the OMB/GSS website at https://contracts.delaware.gov/.

Delaware State University, Delaware Technical Community College, operations funded by public school districts, Delaware Transit Corporation, the Legislative Branch, and the Board of Pension Trustees and their consultants are specifically exempted from the requirement to use GSS-administered Statewide contracts. However, these contracts remain available to them as a service to these Organizations.

Additional information regarding Organization exceptions to the State's purchasing and procurement policies can be found at **29 Del C. §6904.**

5.2.2 Organization Contracts

If no state contract exists for a certain good or service, covered and non-covered agencies may negotiate contracts for their own use. An agency may procure a good or service under another agency's contract as long as the arrangement is agreeable to all parties **(29 Del. C. §6904(e))**. For more information or assistance with negotiating Organization contracts, contact GSS.

5.2.3 Fiscal Year

Contracts and agreements should coincide with the State's fiscal year, whenever possible. The fiscal year begins each year on July 1, and concludes on the following June 30 **(29 Del. C. §6507).**

Any agreement or contract which does not coincide with the State's fiscal year must contain a "funding out" clause, nullifying the State's obligations in the event of a reduction to an Organization's appropriation. Following is an example of an acceptable "funding out" clause:

> "If sufficient funds are not appropriated by the Delaware General Assembly, or other appropriate federal or State Organization, to sustain in whole or in part the Department of _____'s performance under this agreement; or if such appropriation is reduced such that the amount of the appropriation is insufficient to sustain said performance; this agreement shall be null and void at the insistence of the Department of _____.

5.2.4 Non-Discrimination

Contracts involving the expenditure of State funds may only be awarded on condition of compliance with the State's equal opportunity laws. **(29 Del. C. §6519A)**

5.2.5 Purchase Orders Required

Any contracts signed prior to DOA's approval of the applicable purchase order must contain a clause to the effect that the contract is subject to the vendor's receipt of an approved purchase order. **The State will not be liable for any goods or services provided by the vendor prior to the receipt of an approved purchase order**.

5.2.6 Contract Documentation

Each Organization must retain in their files all pertinent documents and correspondence relating to the contract bid process, in order that these supporting documents may be available for audit or review by a State official at all times. Documents are not to be kept at an architect's office, etc.

If a contract is awarded to a firm other than the lowest responsible and responsive bidder, the organization head must make a written determination of the reason or reasons for rejecting the bid **(29 Del. C. §6923(k)(2))** to be kept in the Organization files. **If a purchase is supported by a contract, the contract number must be listed on the requisition/ purchase order/direct claim voucher.**

To establish a proper audit trail, Organizations must assign a numerical control number to all Organization contracts on a fiscal year basis. The numbering process must be in sequential order.

The contract naming and numbering scheme is found for commodities and services contracts in the Agency Solicitation Request.

5.3 Small Purchase Procedures and Bidding Thresholds

CPAC establishes thresholds that trigger formal bidding procedures in the areas of Materiel and Non-Professional Services, Public Works, and Professional Services **(29 Del C. §6913)**. In addition to the thresholds stated here, an Organization may institute policies that are more restrictive than those established by either code or by the council.

NOTE: For covered Organizations, open market purchases are **only permitted for goods and services not already under contract.**

5.3.1 Materiel and Non-Professional Services Purchase Thresholds

In the case of Materiel and Non-Professional Services (M&NP), the threshold is a yearly cumulative limit.

For those items not already under a State Mandatory Use Contract, purchases are made according to the following thresholds:

Less than $10,000	Open Market Purchase
$10,000 - $99,999.99	3 Written Quotes
$100,000 and over	Formal Bid

Organizations should refer to the Contracting website OMB - MyMarketplace: Delaware's Procurement Portal - Small Purchase Procedures and Thresholds **for additional information.**

5.3.2 Public Works Thresholds

For purchases related to Public Works projects, the dollar amount thresholds listed below are on a contract by contract basis.

Less than $50,000	Open Market Purchase
$50,000 - $249,999.99	3 Letter Bids
$250,000 and over	Formal Bid

Organizations should refer to the Contracting website OMB - MyMarketplace: Delaware's Procurement Portal - Small Purchase Procedures and Thresholds **for additional information.**

5.3.3 Professional Services Thresholds

For Professional Services purchases, the dollar amounts listed below are on a contract by contract basis.

Less than $150,000	Open Market
$150,000 and over	Formal RFP Process

Organizations should refer to the Contracting website OMB - MyMarketplace: Delaware's Procurement Portal - Small Purchase Procedures and Thresholds **for additional information.**

5.4 Exceptions to Bid Laws

Any person who willfully subdivides or fragments any contract, the probable cost of which would require competitive bidding as directed by the Delaware Code or this Manual, into two or more contracts with the intent to avoid compliance with these bidding requirements shall be subject to penalties in accordance with **29 Del. C. §6903(f)**.

Materials may be purchased and work contracted to be performed without competitive bidding in the following instances:

1. The agency head may determine an emergency condition exists by reason of extraordinary conditions or contingencies that could not reasonably be foreseen and guarded against. An emergency condition creates an immediate and serious need for materiel, professional, or

non-professional services that cannot be met through normal procurement methods for the protection of public health, safety, or property. **(29 Del. C. §6907**) Any procurement under this exemption is only permitted during the emergency situation and may not extend beyond the expiration of the emergency itself.

For the period during which a state of emergency is declared by the Governor, the Delaware Emergency Management Agency (DEMA) may incur or authorize other state agencies or local governments to incur obligations to purchase or to purchase immediately such materials and supplies as may be necessary to protect the health and safety of persons and property and provide emergency or disaster assistance to victims of a disaster. Such obligations and purchases shall be exempt from bidding provisions required by Chapter 69 of Title 29. **(20 Del. C. §3107(18))**

In the case of a declaration of a state of emergency by the Governor, state agencies may implement their emergency or disaster assignments without regard to procedures required by other laws (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds. **(20 Del. C. §3126)**

2. A contract may be awarded without competition if the agency head, prior to the procurement, determines in writing there is only one source for the required contract. Sole source procurement shall not be used unless there is sufficient evidence there is only one source for the required contract, and no other type of goods or service will satisfy the requirements of the agency. The agency shall examine cost or pricing data prior to an award under this subsection. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination by the agency for the sole source procurement shall be included in the agency's contract file. **(29 Del. C. §6904(i))** A copy of any such declaration shall also be forwarded to GSS with the contract documents for publication on the central contract portal. GSS serves as a clearinghouse for procurement information for materiel and services for both agencies and vendors **(29 Del. C., §6908(a) (4))**.

   Descriptions or specifications shall not use a brand or trade name except as an indication of the type and quality of materiel and in all such cases shall contain the words "or approved equal." All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the agency's needs and shall not be unduly restrictive. **(29 Del. C. §6932)** An explanation justifying the award of a "sole source" contract or agreement must be included in the agency’s contract file, as audit support for any subsequent purchase orders. **(29 Del. C. §6925(a), (b); §6965(a), (b); §6985(a), (b))**

3. Where, because of changed situations, unforeseen conditions, strikes and acts of God, change orders, supplemental agreements, or extra work determined to be necessary and requested by the agency and not specified in the agency's solicitation or advertisement for bids and in the awarded contract the awarding agency may issue a change order or supplemental work agreement(s) on a contract, which shall not:

- Be subject to competitive bidding requirements; or

- Invalidate the contract, provided the change is within the scope of the contract as set forth in the standard specifications, special provisions or similar publication of the agency**.**

20 Del. C. §6904(f); §6963)

4. Where the purchase of material is from the federal government or from any government of the State, including any agency of the State, as defined in **29 Del. C. §6902. (29 Del. C. §6904(b))** provided that such purchase is consistent with **16 Del. C., Chapter 96**, regarding Set Aside contracts and the provisions of **29 Del. C., §6935.** For additional information regarding Set Aside contracts, Organizations should refer to https://mmp.delaware.gov/Contracts/. GSS processes regarding the use of GSA contracts may be found at. https://mymarketplace.delaware.gov/documents/gsa-request-form.pdf.

5. Where the purchased material or work is necessary to enable the Department of Elections to conduct a primary, general, or special election. **(29 Del. C. §6904(l))**

6. Where the purchase of materials or services conflict or are inconsistent with a project or activity subject to federal grant requirements and may jeopardize the availability of federal funds. **(29 Del. C. §6904(a))**

7. Where the contracts are for the transportation of school children. All proposed contracts for transportation of school children are to be submitted to the Secretary of Education through the Department of Education Transportation office for approval. **(29 Del. C. §6904(c))** Approval of a contract is by majority vote by the appointed members of the State Board of Education. Failure to obtain a majority vote shall cause the rejection of the contract.

8. Where the purchase is for library materials by libraries of any agency, or for services by libraries of any agency pursuant to **29 Del. C. Chapter 66. (29 Del. C. §6904(d))**

9. Where the purchase is for educational materials and supplies by a post-secondary educational institution participating in and benefitting from special educational discount and cooperative programs. **(29 Del. C. §6904(j))**

10. Where the purchased material will be used by DHSS's Delaware Industries for the Blind as raw material for goods which the program manufactures for resale, or the purchased material will be used by the Business Enterprise Program of the Division for the Visually Impaired as supplies to operate the vending stands in the program. **(29 Del. C. §6904(g)(1))**

11. Where the purchase pertains to the rental, lease, and/or purchase of automobiles for State use:

    a. All cars, heavy duty (taxi packages) cars, and station wagons purchased for State use must be purchased by contracts administered by OMB's GSS Fleet Services. All other vehicles must be purchased from bid lists approved by OMB's GSS Contracting Services. **(29 Del. C. §6906(a))** Bid specifications are developed by GSS

with the concurrence of the OMB Director and the Controller General. The purchase of special purpose vehicles in excess of the restrictions established by the bid specifications requires the approval of the OMB Director and the Controller General. **(29 Del. C. §6906(b))** The special purpose vehicles of the Department of Public Safety, Division of State Police, the New Castle County Police and all Sussex County vehicles are exempt from these requirements. **(29 Del. C.§6906(f), (g))**

b. No agency shall purchase any passenger motor vehicle to be used for State purposes unless, on a one-for-one basis, a vehicle has been identified and/or turned over to the OMB's GSS Surplus Services for sale at auction or as salvage. This requirement may be waived by the Director of GSS, OMB Director, and the Controller General. Passenger vehicles may not be transferred from one agency/school district to another agency/school district without the approval of the Director of OMB. **(29 Del. C. §6906(e))** No agency shall lease passenger vehicles except from GSS. Exempt from this subsection are the Governor's car, agency employees traveling on out-of-state business, and GSS. **(29 Del. C. §7105(c))**

c. Except for the Governor's car, cars rented while on out-of-state business and those cars leased by GSS, no agency/school district may lease passenger vehicles except from GSS. **(29 Del. C. §6906(d))** Upon written request, the OMB Director, with the concurrence of the Controller General and the Director of Finance, may grant exemptions to the lease-rental restriction.

12. Where the agency determines professional services are necessary during the course of a previously awarded public works contract, and the agency determines it would be in the best interest of the State to procure additional or supplemental professional services from a firm already under contract for the project, provided such professional services are within the scope of the contract **(29 Del. C. §6981(b) (2))**.

5.5 Public Works Contracts

Public Works Contracts are divided into three classifications, each classification with its own purchasing requirements. Agencies should contact OMB's Facilities Management for more information or assistance negotiating Public Works Contracts. Plans require Facilities Management approval PRIOR to solicitation for vertical construction **(29 Del. C., §7419(a)** and **29 Del. C. §6307A)**. Public Works Contracts may be classified as**:**

Small – (less than $50K – CPAC/ Facilities Management) – follow **§6922**; open market purchase (see M&NP, below); bid and performance bonds may be required. **(29 Del. C. §6927(a) (1))**

Medium – ($50K - $149,999.99 – CPAC/ Facilities Management) – three (3) letter bids; bid and performance bonds may be required.

Large – (greater than $150K – CPAC/Facilities Management) – follow **§6962**; Material and work of a non-professional nature not performed by employees of an agency must be performed under contract after competitive bidding, except as noted otherwise in this Manual. **(29 Del. C. §6904(g))**

If the probable cost of a Public Works contract is expected to exceed $150,000:

- The contract is awarded and associated purchases may only be made after public advertising and the receipt of sealed bids. **(29 Del C. §6904(g))**. The State issues an Invitation to Bid (ITB), per **29 Del C. §6923,** or a Request for Proposal (RFP), per **29 Del C. §6924**, as it deems appropriate. Organizations are required to retain proof of public advertising (a copy of the ad or the newspaper's invoice) and bid tabulations in the contract file as supporting documentation for purchase orders related to the awarded contract. Bids may require a deposit of good and sufficient bond to the State for a sum equal to at least 10 percent of the bid **(29 Del. C. §6962(d)(8)(a)).** Upon execution of a formal contract and bond, the security deposit is to be returned immediately to the successful bidder; securities from unsuccessful bidders are returned immediately upon

  award of the contract or the rejection of all bids, but no later than 30 days after the opening of bids. **(29 Del. C. §6927(c)** and **§6962(d)(8)(b))**

- Simultaneous to the execution of a formal contract, the successful bidder executes a good and sufficient bond to the State for the benefit of the agency in a sum equal to 100 percent of the contract price. An agency may reduce or waive such bond, if so stated in the bid specifications. **(29 Del. C. §6962(d)(9)**

- Agencies of the State are empowered to retain a percentage of the monies to be paid to a contractor during the performance of the contract. The percentage at any one time may not exceed 5 percent of the monies due to the contractor at that time. The rate or amount of retainage may be reduced at any time by the agency. **(29 Del. C. §6962(d)(5)(a)).**

- **Documentation –** Each Organization must retain in their files all pertinent documents and correspondence relating to the bid process, in order that these supporting documents may be available for audit or review by a State official at all times. Documents are not to be kept at an architect's office, etc.

- If an agency determines that a bidder is nonresponsive or non-responsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be sent to the affected bidder within five working days of said determination. The final determination shall be made part of the procurement file. If the agency elects to award on the basis of best value, the agency must determine that the successful bidder is responsive and responsible. The determination of best value shall be based upon objective criteria that have been communicated to the bidders in the invitation to bid. **(29 Del. C. §6962(d)(13))**

5.6 Professional Services Contracts

"Professional services" means services which generally require specialized education, training or knowledge and involve intellectual skills. Examples of professional services include, but are not limited to, engineering, environmental engineering, environmental monitoring, land surveying, landscape architecture, geology, architectural, archaeologists, architectural historians, historians, educational consultants, management, medical, teaching, planning, computer information management, financial, accounting, auditing, construction management, and arbitration services.

(29 Del. C. §6902(19))

5.6.1 Advertising

Any State contract for which an agency is a party with probable fees, including reimbursable expenses and amendments, greater than the threshold amount(s) established by the CPAC pursuant to **§ 6913** of this title for the completed job will be subject to the provisions of this subchapter. **(29 Del. C. §6981(a))**

Professional service contracts are to be publicly announced not less than once a week for a two consecutive week period in a Statewide news publication. **(29 Del. C. §6981(b))**
Per the State's web-based procurement program, legal notices shall direct interested bidders to the Organization websites. For additional information, Organizations should refer to **Section 30(a) Epilogue in HB 190:**

> For the purposes of meeting the public notice and advertising requirements of 29 Del. C. c. 69, the announcement of bid solicitations and associated notices for the required duration on www.bids.delaware.gov shall satisfy the public notice and advertisement requirements under this chapter.

5.6.2 Evaluation and Negotiation

Organizations are required to evaluate current qualifications and performance data of prospective firms. Each Organization must establish written administrative procedures for the evaluation of applicants.

After discussions with the firms regarding the proposed project, including the firm's qualifications, approach to the project, and ability to furnish the required services, the agency then ranks the qualified firms in order of preference based on criteria established in accordance with **29 Del. C. §6981(f), 29 Del. C. §6982(a), (b).**

The agency will then negotiate for the professional services with the firm ranked first on the preference list. Should the agency be unable to negotiate a satisfactory contract with the firm ranked first on the preference list, at a price deemed fair and reasonable by the agency, negotiations with that firm shall be terminated.

The agency shall then undertake negotiations with the second ranked firm. Failing accord with the second firm, negotiations shall be terminated and the agency will negotiate with the remaining firms. After successful negotiations have been completed, the agency will prepare a public notice within 10 days after awarding the contract stating the firm selected**.**

(29 Del. C. §6982)

5.6.3 Additional Provisions

1. All solicitations are required to be processed through www.bids.delaware.gov for formal above threshold procurements. The solicitation process is available through GSS at https://mymarketplace.delaware.gov/agencies/processes-flowcharts.shtml

   A copy of all awarded/executed contracts is to be forwarded to GSS with the contract documents for publication on the central contract portal. GSS serves as a clearinghouse for procurement information for materiel and services for both agencies and vendors **(29 Del. C., §6908(a) (4))**.

2. Each contract for professional services will contain a prohibition against contingent fees. The agency shall have the right to terminate the agreement for the violation of this provision. **(29 Del. C. § 6903)**

3. For all lump-sum multiple of direct personnel expense or cost-plus-a-fixed-fee professional services contracts, the firm receiving the award may be required to execute a truth-in-negotiation certificate. **(29 Del. C. § 6982 (a)(2))**

4. Each Organization must retain in their files all pertinent documents and correspondence relating to the bid process, in order that these supporting documents may be available for audit or review by a State official at all times. Documents are not to be kept at an architect's office, etc.

5.7 Used Equipment

Any agency may purchase used equipment or other materiel by negotiated purchase, rather than by competitive bidding, as provided in this chapter, if it is demonstrated to the satisfaction of the agency head that the negotiated price is reasonable for the intended use. **(29 Del. C. §6934)**

- Purchases of used equipment costing $5,000 or more but less than $10,000 must be requested by letter to the OMB Director. The letter will include a detailed description of the item purchased, cost, useful life, purpose for which the item was acquired, and the name, address, and telephone number of the seller.

- Used vehicles employed by any agency for undercover operations may be purchased by negotiation rather than by competitive bidding, provided that the negotiated prices are approved by the OMB Director and the Controller General. **(29 Del. C. §6906)(c))**

All items costing $10,000 or more must be presented to the OMB Director for approval.

NOTE: This procedure does not relieve the organization from obtaining other required approvals as described in this Chapter.

5.8 Leases

A lease is defined as a contract that conveys control of the right to use another entity's nonfinancial asset as specified in the contract for a period of time. Examples of non-financial assets include buildings, land, vehicles and equipment.

To determine whether a contract conveys control of the right to use the underlying asset, it should include:

- The right to obtain the present service capacity from use of the asset as specified in the contract.
- The right to determine the nature and manner of use of the asset as specified in the contract.

Leases include contracts that, although not explicitly identified as leases, meet the definition of a lease. Contracts for services are not considered leases unless the contract contains both a lease component and a service component. All new or amended leases or contracts containing lease provisions, either as the lessee or lessor, must be submitted to DOA by all Organizations upon receipt of the fully executed document to ensure inclusion in the Annual Comprehensive Financial Report (ACFR). These leases or contracts must be submitted to: GAAP.Reporting@delaware.gov.

5.8.1 Property Leases

All property leases must conform to unique requirements of State law and provide for comprehensive maintenance and reporting of fiscal information. The Director of OMB shall negotiate, review, and approve, on behalf of all state departments and state agencies, all leases and lease renewals for facilities throughout the state. **(29 Del. C. §6307A (e) (3)**

Organizations are required to adhere to the Office of Management and Budget, Division of Facilities Management's procedures for Lease Space. Detailed procedures and flowchart are available on the Division of Facilities Management website at https://dfm.delaware.gov/realprop/lease-space.shtml.

5.8.2 Equipment Leases

Copiers, printers, computers and communication devices are common types of equipment that may be leased.

Organizations may not procure independent third party financing arrangements. The Master Municipal Lease Purchase Agreement (MMLPA) contract administered by the State is a mandatory use contract. Lease contracts are not covered by the bidding laws of the State **(29 Del. C. Ch. 69)** since these laws refer only to purchases.

The GSS section of OMB maintains a Master Municipal Lease Purchase Program. Current rates can be obtained by contacting GSS.

Covered Organizations are required to use the Master Municipal Lease Purchase Program, unless the Organization can demonstrate a rationale for using an alternative vendor. Any alternative vendor(s) must be approved, on a case by case basis, by GSS prior to contracting to lease.

Non-covered Organizations (Transportation Authority, Transportation Trust Fund, public school districts, Legislative Branch and the Board of Pension Trustees) must conduct an analysis of available financing alternatives from several potential vendors and select the vendor with the lowest financing cost.

The lessee Organization is responsible to ensure all proper documentation is prepared, including Federal form 8038. The Secretary of Finance is the only authorized signatory for this form. Each Organization must forward the Federal form 8038, with the appropriate background information, to the Office of the Secretary of Finance (Attention: Director of Bond Finance). The form will be reviewed, signed, and returned to the lessee Organization for filing.

For aggregate amounts greater than $3 million, the Director of Bond Finance in the Office of the Secretary of Finance must be consulted to determine whether a more economic manner to finance the proposed equipment should be considered.

By its nature, leasing represents the most expensive form of finance capital to the State. Equipment that has less than a 10-year life should be paid for with operating (non-bond) funds. Equipment that has at least a 10-year life may be eligible for purchase with general obligation bond funding and should be incorporated in the organization's capital budget funding request. **Under no circumstances shall general obligation bond authorization be used for lease payments**.