

## APPENDIX B -- SCORING LEASE-PURCHASES AND LEASES OF CAPITAL ASSETS

This Appendix provides instructions on scoring lease-purchases and leases of capital assets consistent with the scorekeeping rule developed by the executive and legislative branches in connection with the Budget Enforcement Act of 1990 (BEA), as revised pursuant to the Balanced Budget Act of 1997 (see Appendix A). The scorekeeping rule focuses on leases and lease-purchases specifically authorized by law. However, the scorekeeping requirements apply to all lease-purchase arrangements and capital leases, including those arrangements that agencies may enter into under existing general legal authorities and arrangements that are financed through the Federal Financing Bank.

### 1. Scorekeeping rule.

When an agency is authorized to enter into a lease-purchase contract or capital lease, budget authority will be scored in the year in which the authority is first made available in the amount of the net present value of the Government's total estimated legal obligations over the life of the contract, as described in section 2 (b) below. Outlays for lease-purchases in which the Federal Government assumes substantial risk will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for a capital lease or a lease-purchase in which the private sector retains substantial risk will be spread across the lease term. The scorekeeping requirements are summarized below.

For operating leases, budget authority is required for the first year of the contract in the amount necessary to cover the Government's legal obligations, consistent with the requirements of the Antideficiency Act. This will include the estimated total payments expected to arise under the full term of the contract or, if the contract includes a cancellation clause, an amount sufficient to cover the lease payments for the first year plus an amount sufficient to cover the costs associated with cancellation of the contract. (For each subsequent year, sufficient budget authority is required to cover the annual lease payment plus any additional cancellation costs.) In a limited number of instances, where funds are self-insuring under existing authority, only the amount of budget authority needed to cover the annual lease payment is required to be scored. OMB will advise agencies if funds should be considered self-insuring for this purpose.

Unless otherwise specified by law, budget authority is available for liquidating obligations (i.e., outlays) for only five fiscal years after the authority expires. For leases financed by annual or multi-year budget authority, agencies should ensure that the appropriations language allows the budget authority to remain available for lease payments over the full term of the lease. If this period is expected to be longer than five fiscal years after the authority expires, the appropriations language should include the provision described in section 96.5.

When an agency modifies or amends an existing capital lease or lease-purchase contract, any remaining budgetary resources prior to modification should be used to offset the cost of the new contract. The amount scored will be the difference in the net present value of the Government's total estimated legal obligations between the new contract and the remaining term of the original contract. (Both net present values should be calculated using the Treasury borrowing rates published in the annual update to Appendix C of OMB Circular No. A-94 at the time the contract is amended (see section 4). There would be no remaining budgetary resources if funds equal to the lease payments or the present value of the lease payments were not scored up front at the time the lease was signed. In this case, the full cost of the new contract should be scored, consistent with the rules for scoring lease-purchases and capital leases. When the lease agreement contains an option to renew that can be exercised without additional legislation, it will be presumed that the option will be exercised for purposes of calculating the term of the lease and scoring budget authority. When

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the lease agreement contains an option to purchase at less than fair market value (at the time the option is to be exercised), and the option can be exercised without additional legislation, it will be presumed that the option will be exercised for purposes of classifying the type of lease and scoring budget authority.

**SUMMARY OF SCOREKEEPING REQUIREMENTS**

<b>Transaction</b>	<b>Budget Authority</b>	<b>Outlays</b>
Lease-purchase without substantial private risk	Amount equal to asset cost recorded up front; amount equal to imputed interest costs recorded on an annual basis over lease period.	Amount equal to asset cost scored over the construction period in proportion to the distribution of the contractor's costs; amount equal to imputed interest costs recorded on an annual basis over lease term.
Lease-purchase with substantial private risk	Amount equal to asset cost recorded up front; amount equal to imputed interest costs recorded on an annual basis over lease term.	Scored over lease term in an amount equal to the annual lease payments.
Capital lease	Amount equal to asset cost recorded up front; amount equal to imputed interest costs recorded on an annual basis over lease term.	Scored over lease term in an amount equal to the annual lease payments.
Operating lease	Amount equal to total payments under the full term of the lease or amount sufficient to cover first year lease payments plus cancellation costs recorded up front	Scored over lease term in an amount equal to the annual lease payments.

**2. Budget presentation.**

(a) *General.*

For the purposes of scorekeeping transactions that involve lease-purchases and capital leases, the costs are separated into the following components:

- Asset cost.
- Imputed interest cost.

These concepts are defined in section 3. Guidance on calculating the appropriate amounts is provided in section 4. Budget authority and outlays attributable to asset costs will be classified as investment-type activities (physical assets), and budget authority and outlays attributable to imputed interest costs will be classified as non-investment activities (see section 84.4).

b) *Budget authority.*

- *Amounts.* The up-front budget authority required for both lease-purchases and capital leases is called the asset cost. This equals the present value of the minimum lease payments excluding payments for identifiable annual operating expenses that would be paid by the Government as owner, such as

utilities, maintenance, and insurance. Property taxes will not be considered to be an operating expense and will be included in the calculation of the up-front budget authority. (See section 3 for the treatment of property taxes for purposes of distinguishing operating leases from capital leases.) The present value of the lease payments is discounted as of the date of the first payment (or the beginning of the lease term, whichever is earlier) using the appropriate interest rate (see section 4).

Additional budget authority equal to Treasury's cost of financing (i.e., the imputed interest cost) plus any annual operating expenses will be recorded on an annual basis over the lease term.

- *Type of authority.* When an agency enters into a capital lease or lease-purchase under general authorities available to the agency, it must do so within the limits of the budgetary resources available to it and the constraints of the scorekeeping requirements. If Congress enacts legislation that enables an agency to enter into a lease-purchase or capital lease for a specific project without further congressional action (e.g., appropriations action), it will be assumed that Congress has provided the budget authority required for the transaction. If Congress does not provide the budget authority in the form of an appropriation, then authority to borrow or contract authority will be recorded as follows:
  - ▶ *Authority to borrow* will be recorded if the transaction is a lease-purchase without substantial private risk. A portion of the amount appropriated (or collected, if the agency receives offsetting collections) for the annual lease payment will be applied to retire outstanding agency debt attributable to the lease-purchase.
  - ▶ *Contract authority* will be recorded if the transaction is a lease-purchase with substantial private risk or a capital lease. A portion of the amount appropriated (or collected, if the agency receives offsetting collections) for the annual lease payment will be applied to liquidate contract authority.
- *Timing.* When Congress enacts legislation that specifically authorizes a lease-purchase or capital lease, the budget authority required for the transaction will be recorded when the authority first becomes available for obligation. Obligations will be recorded when the lease agreement is signed. When the authority stems from general authority available to the agency, obligations are recorded, and sufficient budgetary resources must be available, when the lease agreement is signed.

(c) *Outlays.*

- *Lease-purchases without substantial private risk.* Outlays are not equal to the annual lease payments.
  - ▶ Outlays are scored over the period during which the contractor constructs, manufactures, or purchases the asset, in an amount equal to the asset cost. This amount will equal the up-front budget authority. Amounts of the asset cost in excess of the contractor's actual construction or manufacturing costs should be distributed in proportion to the distribution of the construction or manufacturing costs. If the asset already exists, the outlays will be recorded in the year in which the lease-purchase contract is signed.
  - ▶ Outlays equal to the imputed interest costs are reported on an annual basis over the lease term.

- *Lease-purchases with substantial private risk and capital leases.* Outlays are scored annually equal to the annual lease payments.
  - ▶ Over the life of the lease agreement, a portion of the outlays (equivalent to the asset cost) will come from the balances obligated when the lease agreement was signed, and a portion (equivalent to the imputed interest cost) will come from new budget authority. The appropriate amounts can be determined from amortization tables developed in accordance with the instructions in section 4.

(d) *Annual appropriations for lease financed by contract authority or borrowing authority.*

The annual lease payments under a lease-purchase or capital lease can be divided into two components:

- Asset cost.
- Imputed interest cost.

These amounts can be determined from the amortization tables developed in accordance with the instructions in section 4.

Lease-purchases and capital leases that are financed by contract authority or borrowing authority (see section 2(b)) will generally require annual appropriations in an amount equal to the annual lease payment. Since budget authority equal to the asset cost is scored up front, the portion of the annual appropriation that corresponds to the amortization of the asset cost is not scored as new budget authority. If it were, total budget authority would be overstated over the life of the lease. The budget authority that is recorded on an annual basis will equal the imputed interest cost. The required adjustments are explained below.

- *For lease-purchases financed by borrowing authority.* An amount equal to the amortization of the asset cost component of the annual lease payment will be treated as redemption of debt and deducted from the new budget authority totals. On the program and financing schedule (see section 82), this amount will be reported as a negative entry on line 4047 or 6047. (If offsetting collections are used to make the annual lease payment in lieu of an appropriation, the amount will be reported as a negative entry on line 6847 or 6947.)
- *For capital leases and lease-purchases financed by contract authority.* An amount equal to the amortization of the asset cost component of the annual lease payment will be treated as liquidating cash and deducted from the new budget authority totals. On the program and financing schedule (see section 82), this amount will be reported as a negative entry on line 4049 or 6049. (If offsetting collections are used to make the annual lease payment in lieu of an appropriation, the amount will be reported as a negative entry on line 6849 or 6949.)

(e) *Agency debt.*

For lease-purchases without substantial private risk, agency borrowing must be recorded to finance the outlays scored for the construction, manufacture, or purchase of the asset. The agency debt that accumulates over this period is equal to the asset cost; this debt is subsequently redeemed over the lease payment period in an amount equal to a portion of the annual lease payment. The appropriate amounts of debt and debt redemption can be determined from the amortization tables developed in accordance with the instructions in section 4, Step 5. Interest on agency debt can be determined in accordance with Steps 3, 4, and 5.

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If the account has a balance sheet, the amount of such agency debt should be included as a separate item (and separate from other agency debt) under liabilities and identified as having been incurred to finance lease-purchases. All other accounts should include the amount of agency debt in the narrative statement for the account (see section 97.6).

**3. Definitions and concepts.**

For the purposes of scoring lease-purchases and capital leases, the following definitions and concepts apply. Agencies should consult with OMB in cases where enhanced use leases and public-private partnerships are involved. Public-private partnerships should not be used solely or primarily as a vehicle for obtaining private financing of Federal construction or renovation projects. Such transactions should be used only when they are the least expensive method, in present value terms, to finance construction or repair.

***Lease-purchase*** means a type of lease in which ownership of the asset is transferred to the Government at or shortly after the end of the lease term. Such a lease may or may not contain a bargain-price purchase option.

***Capital lease*** means any lease other than a lease-purchase that does not meet the criteria of an operating lease.

***Operating lease*** means a lease that meets all the criteria listed below. If the criteria are not met, the lease will be considered to be a capital lease or a lease-purchase, as appropriate. Multi-year service contracts (e.g., grounds maintenance) and multi-year purchase contracts for expendable commodities (e.g., aspirin) will be considered to be operating leases. Agencies should consult with OMB in cases where a service contract requires a private contractor to construct or acquire a capital asset solely or primarily to provide the service to the government.

- Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease term.
- The lease does not contain a bargain-price purchase option.
- The lease term does not exceed 75 percent of the estimated economic life of the asset.
- The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the beginning of the lease term.

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- The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to the unique specification of the Government as lessee.
- There is a private sector market for the asset.

The following guidelines will be used in distinguishing between operating leases, capital leases, and lease purchases. They should be used in calculating the *term of the lease* and the value of the *minimum lease payments*:

- *Estimate of fair market value.* In the case of real property, the fair market value should be based on current market appraisals. If no asset exists, the fair market value of the proposed asset should be calculated based on the Government's estimate of the cost to construct a facility equal in size and other characteristics to the amount of space to be leased. The estimate should include consideration of the Government's total direct and indirect costs of the facility, including land, design, site improvements, and management costs.
- *Projects on Government land.* If the project is constructed or located on Government land, it will be presumed to be for a special purpose of the Government.
- *Renewal and purchase options.* If the lease agreement contains an option to renew that can be exercised without additional legislation, it will be presumed that the option will be exercised. If the lease agreement contains an option to purchase at less than fair market value (at the time the option is to be exercised), and the option can be exercised without additional legislation, it will be presumed that the option will be exercised.
- *Cancellation clauses.* It will be presumed that the lease will run for the full term of the contract, and the minimum lease payments will be calculated on the basis of the lease payments that will be made over the full term of the lease (including options to renew).
- *Property taxes.* Property taxes, along with other operating expenses, will be excluded from the lease payments for purposes of comparing the present value of the minimum lease payments with the fair market value of the asset. (Note: Property taxes will be included in the calculation of the net present value of the lease payments for purposes of scoring budget authority under the BEA. See section 2 (b) above.)
- *Interest rates.* The present value of the minimum lease payments will be calculated on the basis of Treasury rates for marketable debt instruments of similar maturity to the lease term (see section 4).

**Risk** means the level of private-sector risk. Lease-purchase agreements are scored as with or without substantial private risk depending on the level of private-sector risk. Substantial private risk means the absence of substantial government risk. Risk is defined in terms of how governmental in nature the project is. That is, if the project is less governmental in nature, the private sector risk is considered to be higher. The following types of illustrative criteria indicate ways in which the project is *less governmental*:

- There is no provision of Government financing and no explicit Government guarantee of third-party financing.

- Risks incident to ownership of the asset (e.g., financial responsibility for destruction or loss of the asset) remain with the lessor unless the Government was at fault for such losses.
- The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to the unique specification of the Government as lessee.
- There is a private-sector market for the asset.
- The project is not constructed on Government land.

**Imputed interest cost** means the financing costs that Treasury would have incurred if it had sold debt to the public equal to the total project cost. The difference between the total estimated legal obligations (excluding obligations for annual operating expenses as described in section 2(b)) and their estimated net present value represents imputed interest costs. Imputed interest costs will be calculated at Treasury rates for marketable debt instruments of similar maturity to the lease term on the date the contract is signed. These costs will be considered mandatory under the BEA and will be shown in the same function as interest on agency debt, that is, in the function that provided the obligational authority to enter into the contract.

**Differential cost of financing** means the total annual interest payments on any debt sold to the public less the interest payments that would have been made on the same amount of debt at the Treasury rate, i.e., less the imputed interest costs.

**Asset cost** means the present value of the agency's minimum lease payments discounted from the date of the first payment (or the beginning of the lease term, whichever is earlier) using the Treasury interest rate for marketable debt instruments of similar maturity to the lease term on the date the contract is signed and excluding obligations for identifiable annual operating expenses as described in section 2(b). Asset cost corresponds to the total construction or acquisition costs, plus property taxes and any interest above Treasury's cost of financing (i.e., the differential cost of financing).

#### **4. Guidance on calculations.**

A schedule of lease payments or an amortization schedule is required to calculate budget authority, outlays, and debt. Illustrative amortization schedules and PC spreadsheets for the amortization schedules (in Lotus 1-2-3 format), are available from OMB's Budget Review and Concepts Division (telephone (202) 395-7567). The correct Treasury rate to use for discounting to present value and for calculating imputed interest costs will be based on the economic assumptions in the most recent budget, which are published in the annual update to Appendix C of OMB Circular No. A-94. Revised Treasury interest rates are released whenever economic assumptions for the budget are updated. Use Treasury rates for marketable debt instruments of similar maturity to the lease term on the date the contract is signed. Discount from the date of the first payment (or the beginning of the lease term, whichever is earlier). The term selected for the Treasury rate should be comparable to the term of the capital lease or lease-purchase.

##### ***Step 1 -- Calculate up-front BA.***

*For lease-purchase without substantial private risk; lease-purchase with substantial private risk; and capital lease:* To determine up-front BA (i.e., asset cost), calculate the present value of the lease payments, discounting from the date of the first payment or the beginning of the lease term, whichever is earlier, using the appropriate Treasury interest rate as the discount factor and excluding obligations for identifiable annual operating expenses as described in section 2(b). This BA is scored when the authority to enter into a contract for the lease-purchase or capital lease first becomes available for obligation.

***Step 2 -- Calculate outlays over the period during which the contractor constructs, manufactures, or purchases the asset.***

*For lease-purchase without substantial private risk:* Score outlays in proportion to the distribution of the contractor's costs. For example, assume a contractor's costs on a \$50 million project are estimated to be \$7.5 million the first year, \$27.5 million the second year, and \$15 million the third year. The analyst should apply spendout rates of 15 percent, 55 percent, and 30 percent to the BA calculated in Step 1 for the first, second, and third years, respectively. Total outlays at the end of the construction, manufacture, or purchase period should equal the BA calculated in Step 1. (Note that total outlays will ordinarily exceed the contractor's costs.)

*For lease-purchase with substantial private risk and capital lease:* Outlays are not scored during this period. Refer to Step 4 for outlay scoring.

***Step 3 -- Calculate annual BA for the lease payment period.***

*For lease-purchase without substantial private risk; lease-purchase with substantial private risk; and capital lease:* Annual BA will equal the imputed interest costs calculated using the same Treasury interest rate used to discount the lease payments in Step 1. The interest portion of each periodic payments is the imputed interest cost. In the case of a lease-purchase without substantial private risk, the interest rate should be applied to debt that is initially equal to the up-front BA calculated in Step 1 and that is then amortized over the lease term in accordance with Step 5.

***Step 4 -- Calculate outlays over the lease payment period.***

*For lease-purchase without substantial private risk:* Annual outlays are equal to the annual BA (i.e., the imputed interest costs).

*For lease-purchase with substantial private risk and capital lease:* Annual outlays are equal to the lease payments.

***Step 5 -- Calculate agency debt (applies only to lease-purchases without substantial private risk).***

Agency debt accumulates during the period of construction, manufacture, or purchase of the asset. The increase in debt each year equals the amount of outlays calculated in Step 2. Agency debt is subsequently redeemed over the lease payment period according to an amortization schedule. The amount of debt redemption each year is equal to the lease payment less the imputed interest cost as defined in Step 3. (Debt redemption is not scored as BA or outlays.) Imputed interest costs are scored as BA and outlays and are also scored as interest on agency debt.

**5. Reporting to OMB and Treasury.**

Budget execution reports and apportionment requests will reflect budget amounts in accordance with these requirements. Amounts (e.g., budget authority and outlays) will be reported to Treasury on the same basis.