

# STATE CONTROLLER POLICY

## LEASE PURCHASES and CAPITAL LEASES

### 1) Appropriation Required.

**a. Real Property** - Lease purchase agreements and capital lease agreements for real property require a special appropriation by the General Assembly and approval by the Office of the State Controller.

**b. Personal Property** - Lease purchase agreements and capital lease agreements for personal property shall be included in the annual general appropriations act or a supplemental appropriations act by the General Assembly and approval by the Office of the State Controller

**c. Statute** - CRS §24-82-801 Lease Purchase Agreements for Acquisition of Real or Personal Property

**2) Lease Purchase Agreement – Defined.** CRS §24-82-801(3) defines lease purchases as *“any installment purchase agreement for the purchase of real or personal property which requires payments during more than one fiscal year, or any agreement for the lease or rental of real or personal property which requires payments during more than one fiscal year and under which the state is entitled to receive title to the property at the end of the term for nominal or no additional consideration.”*

**3) Exemption – Higher Education and CDOT.** §CRS 24-82-801(4) exempts institutions of higher education and the Department of Transportation from this statute.

**4) Capital Lease – FAS.** Under Financial Accounting Standard (FAS) 13, a lease is classified as a capital lease, if at its inception it meets any one of the following four criteria:

**a. Ownership Transfer.** The lease transfers ownership of the property to the lessee by the end of the lease term.

**b. Bargain Purchase Option.** The lease contains a bargain purchase option. This is defined as, *“A provision allowing the lessee, at his option, to purchase the leased property for a price which is sufficiently lower than the expected fair value of the property at the date the option becomes exercisable and that exercise of the option appears, at the inception of the lease, to be reasonably assured.”* FAS 13, paragraph 5d.

**c. 75% Economic Life.** The lease term is equal to 75 percent or more of the estimated economic life of the leased property. The lease term is defined as the *“fixed non-cancelable term of the lease plus (i) all periods, if any, covered by bargain renewal options.”* FAS 13, paragraph 5(f).

**d. Present Value-90% Fair Value.** The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by lessor.

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