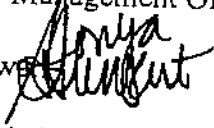




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
CHIEF FINANCIAL OFFICER/CHIEF ADMINISTRATIVE OFFICER

APR 23 2003

MEMORANDUM FOR: Assistant Administrators
Management and Budget Chiefs
Acquisition and Grants Office
Information Systems Office
Administrative Support Centers
Real Property Management Office

FROM: Sonya G. Stewart 

SUBJECT: Policy on Capital Leases and Compliance with Office of Management and Budget (OMB)A-11

NOAA has examined its capital lease planning process to ensure compliance with OMB Circular A-11. In prior years, NOAA has been deficient in ensuring compliance with these regulations inasmuch as sufficient budgetary resources have not been secured prior to signing capital leases. This has been a consistent audit finding by KPMG in its annual audit of NOAA's financial statements from 1996 through 2001. NOAA has recently completed an analysis of the issues regarding how to bring its capital leases into compliance with OMB Circular A-11 without adversely affecting NOAA's ability to perform its missions.

OMB Circular A-11 states that *"for all lease purchases and leases of capital assets, agencies must have sufficient budgetary resources up front to cover the present value of the remaining lease payments discounted using Treasury interest rates."* It further states that *"Administration policy and the Anti Deficiency Act require you to have sufficient budget authority or other budgetary resources to cover the full amount of unconditional obligations under any contract."*

OMB Circular A-11 defines a capital lease as any lease which meets one or more of the following six criteria:

- Ownership of the asset is transferred to the government at or shortly after the end of the lease term.
- The lease contains a bargain-price purchase option.
- The lease term exceeds 75 percent of the estimated economic life of the asset.
- The asset is for a special purpose of the government and is built to unique specifications of the government lessee.
- There is no private sector market for the asset.
- The net present value of the minimum lease payments over the life of the lease exceeds 90 percent of the fair market value of the asset at the beginning of the lease term.



For capital lease acquisitions, OMB Circular A-11 requires agencies to seek full contract authority. In budget terms, contract authority is defined as authority that "...permits you to incur obligations in advance of an appropriation of the cash to make outlays to liquidate the obligations. Typically, Congress provides contract authority in an authorizing law, and requires you to seek a subsequent appropriation of the liquidating cash.....". This allows obligations to be recorded in advance of the appropriation of the cash to make outlays, and is a key principle in OMB Circular A-11 for capital leases. Thus, the requirement that agencies request full funding is accomplished through obtaining up-front contract authority and not advance appropriations.

Effective immediately, NOAA's policy on capital leases, whether for real property, e.g., facilities, or for personal property, e.g. computers, is as follows:

1. During each annual budget cycle, NOAA will request the contract authority needed to ensure compliance with OMB Circular A-11 for:
 - a. Existing portfolio of capital leases not yet fully funded, excluding leases which:
 - Expire within the 5-year budget window: FY... FY+4 (e.g. FY04...FY08)
 - Have a remaining lease liability of less than \$1.0M
 - b. Planned new acquisitions classified as capital leases that meet NOAA's capitalization threshold of \$200,000 and above, and
2. If contract authority is not provided for NOAA's existing capital lease portfolio, NOAA will continue to administer the existing lease portfolio through its intended term, but treat any subsequent lease renewals as a new acquisition, in conformance with OMB A-11.
3. If contract authority is not provided for NOAA's planned new acquisitions or renewals classified as capital leases, NOAA will:
 - a. where possible, when significant adverse impact to the mission is not present, convert new acquisitions or renewals to operating leases in order to conform with OMB A-11 within the existing authority available to NOAA.
 - b. In special cases where a determination has been made that because of market or other conditions, NOAA's mission would be compromised by entering into or renewing as an operating lease, the program may enter into a capital lease without "*sufficient budgetary resources up front ...*", only after requesting approval from NOAA Finance and Administration (NFA) prior to entering into a capital lease (NFA will issue implementation procedures). NOAA will notify DOC and OMB of NOAA's decision to award.
4. Each Line Office must implement procedures to perform timely acquisition planning for all new and renewal lease acquisitions. Proactive budget planning for such acquisitions by the Line Office should incorporate a three to five year planning period, and include, the appropriate commercial and governmental market research and analysis.

If you have any questions, please contact Jill Meldon (202-482-4600) or Helen Hurcombe (301-713-0325).

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