

FAP 111-52-00

LEASE OR RENTAL OF EQUIPMENT AND SERVICES

1. **General:** Equipment and service requirements, which are contemplated for lease or rental, are not within the requirements of FAP 111-09-00(6), and are not otherwise covered by an established contract, shall be thoroughly evaluated on the basis of need, economy and the best interest of the Commonwealth and conform to this policy. Such factors as lease or rental versus purchase, long term costs, future needs, depreciation, penalties, and other considerations shall be analyzed by an agency to propose a lease or rental arrangement. If possible, a lease agreement shall be solicited and awarded on a competitive basis. A lease agreement shall not be formalized between the Commonwealth and any lessor for the intended purpose of circumventing the requirements of competitive bidding and normal purchasing procedures.
2. **Lease Agreement within an Agency's Small Purchase Authority:** An agency may formalize a lease or rental agreement, which does not exceed its small purchase authority without prior approval from the Office of Material and Procurement Services.
3. **Lease Agreements that Exceed an Agency's Small Purchase Authority:** If a contemplated lease agreement exceeds an agency's small purchase authority, the agency shall forward a Purchase Request to the Office of Material and Procurement Services in the state's procurement system with an accompanying electronic attachment or electronic notepad supporting the need and reasons for entering into the agreement. This request shall be subject to the approval of the executive director of the Office of Material and Procurement Services.

Upon review and approval by the executive director, the Office of Material and Procurement Services shall issue the appropriate contract document in the state's procurement system. The document shall be the authority basis for the agency to order items on the contract and make payments to the vendor.

4. **Contract Administration:** The agency shall administer the terms of the contract, ensuring that the vendor is billing according to the contract terms, and providing any maintenance or other requirements according to the contract terms.
5. **Post-Contract Agreements:** Unless provided in a contract, an agency shall not enter into any further agreement, lease, company order, or other document to complete or initiate the terms and conditions of a contract already in effect and awarded via a competitive solicitation. Any "post-contract" signed agreement shall be considered non-binding upon the Commonwealth of Kentucky and cause for breach of contract.

- 6. Lease with Purchase Option:** A purchase option in a lease shall be exercised only if the lease containing the option was placed by competitive bidding, competitive negotiation or small purchase procedures, or if the leased equipment is the only product that can meet the Commonwealth's requirements, as determined in writing by the agency head and approved by the Office of Material and Procurement Services.
- a. Before exercising a purchase option in the lease, the agency shall:
 - (1) Investigate alternative means of procuring comparable equipment,
 - (2) Compare costs and benefits associated with the alternative means and the exercise of the option, and,
 - (3) Document the basis and justification for exercising the purchase option.
 - b. A request for a purchase option in a lease shall be submitted on a Purchase Request in the state's procurement system and shall describe the equipment desired giving all pertinent details and supporting the basis for exercising the option.

(KRS 45A.035)