

## Leasing/Rental Procedures For Motor Vehicles

September 17, 2008

### **I. Department of Budget and Management Authority**

1. Pursuant to State Finance and Procurement Article (SFP), §§3-501 *et. seq.* and 12-107(b)(2), the Department of Budget and Management (DBM) is responsible for controlling the purchase, leasing and rental of motor vehicles for State use or use by State employees and officials.
2. The exceptions to this authority are: (1) University System of Maryland, (2) Morgan State University, (3) Saint Mary's College of Maryland and (4) the Maryland Port Administration. State Finance and Procurement §3-501 and Education §§12-104, 14-104(a)(2) and 14-404(b)(2). Agencies that are otherwise exempt from the Procurement Law (SFP Division II and COMAR Title 21) remain subject to this authority.
3. Under COMAR 21.02.01.04A(2)(b), DBM has procurement and contracting authority for purchasing, leasing, and rental contracts for the acquisition of motor vehicles by State employees and officials.
4. COMAR 21.02.03.04 provides that DBM may enter into contracts for the supply of rental vehicles to State agencies and provides for the use of small procurement procedures, upon the prior approval of the Secretary, for rental vehicles outside of such contracts.
5. All leases or rentals of motor vehicles require the concurrence of the Board of Public Works. On November 22, 1989, the Board of Public Works delegated to DBM approval for motor vehicle leases or rentals which are both in the amount of \$10,000 or less and for a period of 6 months or less. This delegation was consistent with COMAR 21.02.03.04.

### **II. Definition of Motor Vehicles**

1. "Motor vehicle" is not defined in the State Finance and Procurement Article or COMAR Title 21, but Transportation Article, §§11-101 *et. seq.* provides guidance.
2. Transportation Article §11-135 defines "motor vehicle" as a vehicle that is self-propelled or propelled by electric power obtained from overhead wires and is not operated on rails. "Motor vehicle" includes a slow-moving vehicle but excludes mopeds, motor scooters, and electric personal assistive mobility devices (e.g. Segways). *See* Transportation Article §§11-134.1, 11-134.5, 11-135(b), 11-176.
3. This definition includes many vehicles that agencies might not normally consider motor vehicles, such as:
  - i. Buses
  - ii. Dump trucks
  - iii. Emergency Vehicles
  - iv. Specialized Use Vehicles (e.g., road sweeper, grader, de-icer truck)
  - v. Motorcycles

### **III. Procedures**

1. Exemption: Vehicles rented while on travel status are subject to the State Travel Regulations (COMAR 23.02.01) and do not come under this policy and procedure.
2. Prior DBM Approval Required for All Agencies. Before leasing or renting any motor vehicle, within the scope of this policy and procedure, an agency must receive prior, written approval from the DBM Fleet Division.
3. Use of Procurement Procedures. After securing written permission from the DBM Fleet Administration Unit to enter into a vehicle lease or vehicle rental agreement, agencies shall follow State procurement law in procuring a lease for vehicles. Agencies which are specifically exempted from the State procurement law (SFP Division II and COMAR Title 21) shall obtain vehicle leasing in accordance with the policies and procedures governing their procurements, after first receiving DBM written permission for the vehicle lease or rental.
  - a. Leasing that is not expected to exceed the State's Small Procurement level, as established in COMAR 21.05.07, shall be procured in accordance with those Small Procurement procedures.
  - b. Leasing that is expected to exceed the State's Small Procurement level shall be procured in accordance with the State Procurement Regulations, COMAR Title 21. Typically such procurements will be conducted using the competitive sealed bidding procurement method (COMAR 21.05.02).
  - c. In accordance with COMAR 21.05.07.05, leases may not be artificially divided, either by vehicle or by duration, in an effort to circumvent approval by DBM or the Board of Public Works.
  - d. Leasing that is expected to exceed an agency's procurement delegation level from DBM shall submit the leasing procurement specifications to DBM in advance for approval by the DBM Procurement Unit. This submission should follow the same procedure used for other procurements that exceed an agency's delegation under COMAR 21.02.03.02.
  - e. Leasing that is required to meet an emergency situation, as defined in COMAR 21.01.02.01.B(36), shall be procured in accordance with COMAR 21.05.06.02 and reported to DBM Fleet in advance if possible, but no later than two working days after declaring the emergency.

### **IV. BPW Approval**

1. Pursuant to its delegation from the Board of Public Works, DBM may approve a lease that is both in the amount of \$10,000 or less and for a period of 6 months or less.
2. All vehicle leases that exceed \$10,000, or potentially may exceed this amount, must be approved by the Board of Public Works on a Board Agenda prior to an agency entering

into the lease, regardless of the duration of the lease. When determining the potential for a lease to exceed \$10,000, the actual or potential value of any available renewal option to the lease must be taken into consideration; i.e., the maximum possible value of a renewal option must be added to the maximum possible value of the base lease term. If this total maximum value will or may exceed \$10,000, the initial (base) lease must be approved by the Board of Public Works on a Board Agenda prior to an agency entering into the initial lease.

3. All vehicle leases that exceed 6 months in duration, regardless of the value of the lease, must also be approved by the Board of Public Works on a Board Agenda prior to an agency entering into the lease.
4. If a lease initially does not require Board of Works approval (see IV.1 above), but then the agency wishes to modify the lease such that the total lease value will exceed \$10,000 or 6 months duration, or both, the modification must be approved by the Board of Public Works on a Board Agenda before the agency may execute the lease modification.
5. If an agency seeks to lease more than one vehicle under the same lease, including multiple vehicles of the same vehicle type or of different vehicle types, the above described Board approval thresholds of \$10,000 and 6 months in duration apply to the aggregate lease, and not to the individual vehicles covered by the lease.
6. Agencies seeking to lease multiple vehicles, or vehicles for multiple periods of time, may not artificially divide the total lease requirement(s) into multiple, separate leases in an effort to circumvent approval by DBM or the Board of Public Works.