

# MANAGEMENT MEMO

SUBJECT: <b>FINANCED AGREEMENTS FOR TANGIBLE ASSETS</b>	NUMBER:  
REFERENCES: Public Contract Code sections 10301, 10320.5 and 12100 et seq.	DATE ISSUED:  EXPIRES:
	ISSUING AGENCY: Department of General Services

**Introduction** This Management Memo supersedes MM 99-12 and MM 98-06.

**GS \$Mart** For the purpose of financing procurements, all departments are permitted to use the Department of General Services' (DGS) Golden State Financial (\$) Marketplace (GS \$Mart, pronounced "G S Smart") to enter into installment purchase agreements (commonly referred to in the industry as "lease purchases").

**Tax exempt rates** GS \$Mart offers tax-exempt rates which usually are less costly than commercial lending rates. For this reason, rates negotiated under GS \$Mart tend to be the lowest obtainable. Also, loans are structured to comply with Internal Revenue Service regulations. GS \$Mart can be used for financed agreements as a matter of:

- Convenience;
- Efficiency; and
- Substantial cost savings.

**Contact DGS** Contact the DGS Financial Marketplace prior to initiating a procurement that involves financing.

**Financing conditions**

Conditions for entering into a financed agreement include, but are not limited to, the following:

- Generally, the financed portion of an acquisition is a minimum of \$100,000. This includes the cost of the tangible asset and, if applicable, sales tax. Financing an amount smaller than \$100,000 may not be cost-effective. Contact the Financial Marketplace for additional information regarding finance of lower dollar-value transactions.
- Acquisitions conducted under delegated purchasing authority that include financing must subscribe to the requirements identified in the State Contracting Manual, Volume II (Purchasing Authority Manual). For determination of whether the transaction is within a department's delegated purchasing authority limit, the cost of financing is not included.
- The term duration of the finance agreement may not exceed the projected useful life of the asset being financed.
- If a department wishes to consider a lender that is not participating in the GS \$Mart program, contact the GS \$Mart Administrator *prior* to proceeding to learn how the desired lender can qualify for the GS \$Mart program. Requirements to become a lender are found on the Procurement Division's (PD) Internet home page ([www.pd.dgs.ca.gov](http://www.pd.dgs.ca.gov)) under the "Featured Link": G S \$Mart. Click on "Lender Qualifications."

Note: Current DGS-approved lenders and financing plans are posted in the GS \$Mart, on the PD website.

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**Applicability**

The above conditions for financed agreements apply to the following:

- Orders for applicable items placed against Leveraged Procurement Agreements such as the California Multiple Award Schedules (CMAS), unless otherwise stated in user instructions;
- A competitive acquisition; or
- A non-competitively bid acquisition.

Note: The above conditions do **NOT** apply to operating leases and rental agreements.

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**Tangible assets**

“Tangible assets” that may be financed through GS \$Mart include:

- Vehicles
- Information technology equipment and necessary pre-integrated software (including mainframes, PCs, printers, network equipment, and storage)
- Software licenses
- Software development and integration (on a case-by-case basis by Department of Finance (DOF) support unit approval)
- Select services included with the procurement of assets (e.g., warranty, installation, and training)
- Copy machines
- Laboratory equipment
- Medical equipment
- Furniture (including modular)
- Video conferencing systems
- Mailing equipment
- Telephone systems
- Most energy efficiency and sustainability equipment and systems (see “Capital Outlay” below)

“Tangible assets” that may **not** be financed through GS \$Mart include:

- Consultant and other services
- Real property:
  - Land
  - Structures
  - Easements
  - Rights-of-way
  - Other forms of legal entitlements to use or dictate the use of real property.
- Capital outlay projects:
  - Capital outlay projects are those that alter the purpose or capacity of real property. Projects that keep real property functioning at its designed level service, or improve the efficiency of its operating systems—such as repair projects and most energy efficiency projects—are not capital outlay. Note, however, that some energy efficiency projects (e.g., photovoltaics) can involve significant facility engineering issues that make them capital outlay in nature or could be limited by covenants on debt-financed buildings. Such projects must receive prior approval by the DOF before securing financing.

**Energy efficiency projects**

GS \$Mart financing may also be used for energy efficiency and sustainability projects. However, the approval of these projects will be based on a cost-benefit analysis to substantiate that there is enough energy savings derived to repay all associated project costs including financing. A Life Cycle Cost (LCC) analysis model is available from the DGS to conduct this evaluation. The LCC model **must** be used for this analysis, and the DGS will not approve any GS \$Mart financing for such projects unless the applicant department certifies that the model has been applied and the results justify the asset acquisition on a cost-benefit basis.

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**DGS oversight**

All State departments that use the Financial Marketplace and are subject to DGS oversight must send a copy of each finance agreement to the GS \$Mart Administrator. The contract is reviewed to ensure compliance with Internal Revenue Service code requirements. The Administrator also files the necessary tax forms and reports on behalf of the department. No financing contract may be signed by a department without prior written approval by the DGS.

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**Assignments**

Contact the GS \$Mart Administrator prior to initiating an assignment of a contract that was financed using the GS \$Mart program.

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**Refinancing**

The GS \$Mart program posts the latest market information on the Internet, including the DGS-approved lenders and finance rates. State departments are advised to review GS \$Mart information periodically for refinancing opportunities and, if advantageous, to execute a **refinancing** contract to realize the cost savings. To ensure refinancing is executed properly, departments should contact the GS \$Mart Administrator before proceeding.

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**Budgetary conditions**

Certain budgetary conditions apply to the use of GS \$Mart. Please refer to the DOF's Budget Letter 06-xx for specific procedures and reporting requirements.

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**Contact** For more information regarding this memo, please contact Patrick Mullen at (916) 375-4617, Department of General Services, Procurement Division.

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**Approval**

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Ron Joseph  
Director

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