



# **Administrative Regulation 3240**

## **INSTALLMENT-PURCHASE AGREEMENTS**

### **(LEASE FINANCINGS)**

**Responsible Office:** Office of Business and Finance

#### **PURPOSE**

This Administrative Regulation shall establish the guidelines for entering into installment-purchase agreements and the associated responsibilities for reporting of such agreements. Lease financed purchases of large equipment, which the District has sometimes used, is a type of installment-purchase agreement, and thus is encompassed in this regulation.

#### **DEFINITIONS**

1. "Capital lease" is defined by Governmental Accounting Standards Board (GASB) Statement No. 62 as a lease that meets one of the following criteria:
  - a. The lease transfers ownership of the property to the lessee by the end of the lease term;
  - b. The lease contains a bargain purchase option (i.e., less than the fair market value);
  - c. The lease term is greater than 75% of estimated economic life of the equipment; and
  - d. The present value at the beginning of the lease term of the minimum lease payments equals or exceeds 90% of leased property's fair market value.
2. "General obligation bonds" represent debt issued by a local agency that pledge the "full faith and credit" of the agency. In Nevada, primary security for such bonds is the property tax. However, all resources of the District are available for repayment of general obligation debt in the event of a default.
3. "Installment-purchase agreement", as defined in Nevada Revised Statute (NRS) Chapter 350, is (a) the purchase of real or personal property by installment, lease, or (b) other transaction types described in NRS 350.800, such as certificates of participation, whereby a local government acquires real or personal property and another entity acquires or retains a security interest in that or other property, unless there is a non-appropriation clause. For counties greater than 100,000 population, only installment-purchase agreements greater than \$100,000 require certain approvals, as indicated below.
  - a. Generally, a capital lease qualifies as an installment-purchase agreement; and

- b. An operating lease, in when rent is due but the lessee does not acquire ownership of the property, is generally not considered an installment-purchase agreement.
4. "Medium term bonds" refers to bonds with a maturity of less than 10 years, in accordance with NRS 350.087 et. seq.

## **REGULATION**

1. Any anticipated installment-purchase agreement over \$100,000 should be included in the District's annual budget and Debt Management Policy (DMP). Unless the obligation has a non-appropriation, or non-funding, clause for a failure of the Board of Trustees (Board) to appropriate money for the ensuing fiscal year for payment of the amounts then due, the transaction constitutes debt and should also be reported as debt in the District's statements of indebtedness and its financial statements.
2. If a new installment-purchase agreement meeting the above criteria is needed during the fiscal year after the annual budget is prepared and filed, the District may amend its debt management policy.
3. A common type of installment-purchase agreement is the lease financing of printing equipment, fleet, heavy equipment or other equipment in which the District would own the equipment at the end of the lease term.
4. The lease financing is typically offered directly by the manufacturer of the equipment or through a financing company arranged by the manufacturer. The Office of Business and Finance will evaluate the costs of manufacturer-provided lease financing against estimated costs of a District-issued financing, including the costs of issuance. The Office will also evaluate the ability to cash-fund the purchase of equipment within existing budget appropriations.
5. The District may also consider the issuance of installment-purchase agreements, including lease-revenue bonds or certificates of participation, for the financing of equipment or facilities. This type of financing also constitutes debt and therefore counts against the District's debt limit unless the obligation has a non-appropriation, or non-funding, clause for a failure of the Board to appropriate money for the ensuing fiscal year for payment of the amounts then due or is under \$100,000. Such transactions are not general obligations of the District.
6. NRS 350.089 provides that installment-purchase agreements over \$100,000 must first be approved by the Department of Taxation.
  - a. Nevada Administrative Code (NAC) 350.110 requires a notice providing certain details of the financing be published in a local paper at least 10 days prior to the public hearing and the adoption of the resolution.

- b. An authorizing resolution must be approved by the Board and then submitted, along with materials listed in NAC 350.120, to the Department of Taxation.
  - c. Upon approval of the transaction by the Department of Taxation, the Board must subsequently approve a bond resolution setting the terms of the installment purchase agreement.
7. NRS 350.014(1) requires the submission of proposed installment-purchase agreements with a term of more than 10 years to be approved by the appropriate debt management commission.

**LEGAL REQUIREMENTS AND ASSOCIATED DOCUMENTS**

- 1. This Administrative Regulation reflects the goals of the District’s Strategic Plan, and aligns/complies with the governing documents of the District, to include:
  - a. Board Policy 3100, Financial Services.
- 2. This Administrative Regulation complies with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), to include:
  - a. NRS Chapter 350, Municipal Obligations
  - b. NAC Chapter 350, Municipal Obligations

**REGULATION HISTORY**

Date	Revision	Modification
11/17/2021	1.0	Adopted