



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

October 2, 2015

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: MICHAEL BACU, CPPO
STATE CONTRACT PROCUREMENT ADMINISTRATOR
(302) 857-4522

SUBJECT: **AWARD NOTICE, Addendum #2 (Effective 6/21/2016)**
GSS15059-MMLPA
Master Municipal Lease/Purchase Agreement

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KEY CONTRACT INFORMATION**

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1. MANDATORY USE CONTRACT

REF: Title 29, Chapter 6911(d) Delaware Code. Every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

2. CONTRACT PERIOD

Each contractor's contract shall be valid through October 1, 2017. Each contract may be renewed for three (3) additional one (1) year period(s) through negotiation between the contractor and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

3. LESSEE

The Lessee is the State of Delaware, acting on behalf of various State Agencies, or if legislative authority is granted, Diamond State Port Corporation.

4. LESSOR

TD Equipment Finance, Inc.
2005 Market Street
Philadelphia, PA 19103

FSF # 0000087640

Contact: Ray Shilling, Vice President Equipment Finance Officer
Phone: 215-282-3849
Cell: 215-255-5406
Email: Raymond.shilling@td.com

OR

Banc of America Public Capital Corp.
1111 East Main Street
Richmond, VA 23219-3500

FSF # 0000024098

Contact: Charles T. Maguire, Senior Vice President
Phone: 804-788-3345
Fax: 804-262-8344
Email: Charles.maguire@baml.com

5. LEASE TERM

TD Equipment Finance and leases may be scheduled for two, three, four, five, six, seven, or ten years in duration. The Agency will have the flexibility to structure the payments monthly, quarterly, or semi-annually.

Banc of America leases may be scheduled for one, two, three, four, five, six, seven, ten or fifteen years in duration. The Agency will have the flexibility to structure the payments monthly, quarterly, or semi-annually.

6. TRANSACTION

The financing will be structured as a State of Delaware tax-exempt Lease Purchase transaction in the form of a Master Lease/Purchase Agreement. This is based upon the Lessee's compliance with the requirements of the Internal Revenue Code of 1986, as amended, relating to the Lessee's ability to enter into a Master lease/Purchase Agreement on a tax-exempt basis. The Lessee agrees to cooperate with the with Banc of America Leasing and Capital LLC in providing evidence as deemed necessary or desirable to substantiate such tax status.

7. AUTHORITY TO EXECUTE SCHEDULE

Prior to executing a Schedule funded by one of the contracted vendors, each requesting state agency, or Diamond State Port Corporation, must make an informal application to the Office of Management and Budget, Government Support Services. All requests must be forwarded to the department personnel designated on the Award Notice detailing the amount requested, purpose of procurement and essential use of equipment requested.

Once OMB-GSS approval has been received, an agency representative will be selected to execute a Schedule with the appropriate vendor. The agency representative must complete an C-2 Exhibit Agreement (see Item #21 – Procedures for Lease Purchase Financing), and have the C-2 signed by one of the following:

- Richard Cordrey – Fleet Administrator
- Catherine X. Oravez – Chief of Administration

8. MINIMUM PURCHASE

For TD Equipment Finance, the minimum amount to be financed on any transaction under this agreement will be \$5,000.00. In order to meet the \$5,000.00 minimum, the following guidelines will apply;

- One single piece of equipment must meet the \$5,000.00 minimum.
- Equipment purchased in multiple quantities may be financed provided each item will cost at least \$1,500.00 and the total of the item meets the \$5,000.00 minimum.

For Banc of America, the minimum amount to be financed on any transaction under this agreement shall be \$100,000.00.

For either vendor, prior approval must be obtained from the Secretary of Finance for any financing equal to or exceeding \$2,000,000 (two million dollars).

9. INTEREST RATE

Upon the final acceptance of each equipment Schedule by the Lessee, the Lessor will calculate the interest rate.

TD Equipment Finance

The interest rate chart below references the annual percentage rate calculation using a percentage of like term U.S. Treasury interest rate swaps as quoted in the Federal Reserve H.15 Statistical Release as of April 30, 2015. Rates are available through the Federal Reserve website, <http://www.federalreserve.gov/releases/H15/update>, for the one, two, three, four, five, six, seven, or ten year maturities. This index will be used to calculate rates at the time that an individual Lease Schedule is prepared. The multiplier is .690 of any change in the index.

	<u>2 YR</u>	<u>3 YR</u>	<u>4 YR</u>	<u>5 YR</u>	<u>6 YR</u>	<u>7 YR</u>	<u>10 YR</u>
\$10MM - \$50MM	1.19	1.28	1.37	1.51	1.63	1.77	2.02
\$5MM - \$10MM	1.19	1.28	1.37	1.51	1.63	1.77	2.02
\$1M - \$5MM	1.35	1.35	1.41	1.54	1.66	1.81	2.06
\$500K - \$1MM	1.52	1.55	1.51	1.64	1.76	1.91	2.16
\$5K - \$500K	1.52	1.55	1.51	1.64	1.76	1.91	2.16

Where the index does not contain a rate for a term identical to that requested by Lessee, Lessor shall obtain the rate by interpolating between the two closest terms available in the index.

Banc of America Public Capital Corp.

The interest rate chart below references the financing term and percentage rate calculation using a percentage of like term U.S. Treasury as quoted in the Federal Reserve H.15 Statistical Release available through the Federal Reserve website <http://www.federalreserve.gov/releases/H15> for the one, two, three, four, five, six, seven or ten year maturities at the time the Schedule is prepared. The chart provides a percentage rate calculation based on monthly, quarterly and semi-annual payment frequencies for payment in advance.

Rates based on Week Ending April 10, 2015 H15 Interest Rate Swaps [13] are as follows:

Term Years	Minimum Funding	Monthly Rate	Quarterly Rate	Semi-annual Rate
1	\$100,000	0.6794%	0.6987%	0.7276%
2	\$100,000	0.8152%	0.8413%	0.8800%
3	\$100,000	0.9744%	1.0010%	1.0399%
4	\$100,000	1.1330%	1.1522%	1.1856%
5	\$100,000	1.2660%	1.2908%	1.3228%
6	\$100,000	1.4005%	1.4178%	1.4444%
7	\$100,000	1.5151%	1.5327%	1.5626%
10	\$100,000	1.8004%	1.8150%	1.8372%
15	\$100,000	2.1940%	2.2029%	2.2229%

Index Language: Average Life Term H15 Swaps X 64.1% plus number of basis points on chart below
 Index location at the Federal reserve website: <http://www.federalreserve.gov/releases/h15/current/default.htm>
 Index is valid through April 30, 2016

Term Years	H.15 Term	H15 Interest Rate Swap %	X 64.1%	Plus Basis Point Spread (Monthly)	Plus Basis Point Spread (Quarterly)	Plus Basis Point Spread (Semi-annual)
1	1 yr	0.46	0.2949	38.45	40.3840	43.27
2	1 yr	0.46	0.2949	52.03	54.6440	58.51
3	2 yr	0.79	0.5064	46.80	49.4610	53.35
4	2 yr	0.79	0.5064	62.66	64.5810	67.92
5	3 yr	1.10	0.7051	56.09	58.5700	61.77
6	3 yr	1.10	0.7051	69.54	71.2700	73.93
7	4 yr	1.34	0.8589	65.62	67.3760	70.37
10	5 yr	1.52	0.9743	82.61	84.0680	86.29
15	7 yr	1.78	1.1410	105.30	106.1920	108.19

10. REPAYMENT SCHEDULE

Each Agency will have the ability to choose lease payments on a monthly, quarterly, or semi-annual basis at time of financing request.

11. LEASE CONTINUATION

The Original Term of each lease will begin on the Commencement Date of each Schedule and end on the on the fiscal year of the Lessee in effect at such Commencement Date. Lease Renewal Terms each having a duration of one year and a term coextensive with the Lessee's fiscal year shall automatically renew unless canceled by the Lessee.

12. LEASE PRE-PAYMENT

For TD Equipment Finance, there is no prepayment under the lease during the first twelve (12) months of any Lease Term, except for instances of damage, theft, chronic mechanical problems, etc. The Lessee will be required to identify reason for prepayment decision, or inability to continue lease. Partial prepayment of a Schedule will be calculated on a pro-rata basis based on original equipment cost relative to the individual lease transaction.

Otherwise, after the twelve (12) month restriction is passed, prepayments may be made on the Rental Payment dates specified in the appropriate Lease, upon not less than thirty (30) days prior written notice, and upon payment in full of the full of the Rental Payments then due.

For Banc of America, Lessee may prepay on the Rental Payment dates specified in the appropriate Lease, upon not less than thirty (30) days prior written notice, and upon payment in full of the full of the Rental Payments then due. No prepayment penalty will be assessed, and no time limitations have been established.

Additionally for both finance companies:

The lessee will build equity in the equipment with each lease payment and will have the option to purchase the Equipment on any payment date at the applicable purchase option price provided in the lease agreement. The lessee will own the Equipment after the last lease payment.

Upon receipt of a State warrant for payment, the Lessor shall immediately release the lien on the equipment or property and provide the title or a letter indicating the equipment or property is released, in five business days or less.

Lease payment schedules shall be calculated to include a \$1.00 (one dollar) buy-out concurrent with the last lease payment.

13. LESSEE'S RESPONSIBILITIES

All responsibilities imposed by the ownership of possession of the equipment including but not limited to, taxes, insurance and equipment maintenance, shall be borne by the Lessee.

14. NET LEASE

All obligations, costs and responsibilities associate with ownership of the equipment will be borne by the Lessee including, but not limited to, insurance, maintenance and applicable taxes.

15. FEES/EXPENSES

There will be no fees for lease origination or documentation on this transaction. However, the Lessee and/or each State Agency will be responsible for any fees and expenses incurred by the Lessee in completing this transaction, including the attorney's fees.

16. TITLE/SECURITY

The Lessee will retain title to the equipment throughout the term. The Lessor will retain a first priority security interest in the equipment until Lessee has performed all duties required under the lease. For

For TD Equipment Finance, Certificates of Title shall show the lienholder as follows:

TD Equipment Finance, Inc.
1006 Astoria Blvd
Cherry Hill, NJ 08034

For Banc of America, Certificates of Title shall show the lienholder as follows:

Banc of America Public Capital Corp
555 California Street, 4th Floor
Mail Code CA5-705-04-01
San Francisco, CA 94104

Titles must be provided to the appropriate vendor with ten (10) business days of issuance.

17. PROOF OF INSURANCE

The Agency (Lessee) may be required by the Lessor to provide proof of insurance which shows the equipment or property is protected from loss. It will be the obligation of the Agency to contact the

Insurance Coverage Office to obtain a letter from the Risk Manager which states the extent of the coverage on the equipment or property. Insurance inquiries should be directed to:

State Risk Manager
Insurance Coverage Office
Duncan Center, 3rd Floor
500 West Loockerman Street
Dover, DE 19904
Phone: (302) 739-3651

18. TAX EXEMPT

The State of Delaware and any agency eligible to obtain financing under the terms and conditions of this contract, is tax exempt and shall not be required to pay any tax, fee or charge above and beyond payment of principal and interest, with the possible exception of costs associated with an escrow account.

Federal Form 8038G must be completed and filed with each Lease/Purchase Agreement. It is the responsibility of the Agency (Lessee) to make sure this form is properly completed and filed with the successful vendor.

19. OPINION OF COUNSEL

Prior to each lease acceptance, all lease documents are to be reviewed by the agency's (lessee's) Deputy Attorney General or legal counsel. In addition to this, an "Opinion of Counsel" statement must be submitted verifying that the agency legally meets the terms and conditions of the lease agreement.

20. ASSIGNMENT BY LESSOR

No assignment, transfer or conveyance shall be permitted without written notification to Government Support Services. After notification, and on specific conditions, the Lessor may assign its right, title, or interest to equipment covered by a lease or group of leases to one or more assignees.

21. PROCEDURES FOR LEASE PURCHASE FINANCING

Prior to executing a Schedule with an awarded vendor, each state agency (or Diamond State Port Corporation) must receive prior approval from Government Support Services. Once approval has been granted, either the requesting agency or GSS shall work with the designated finance vendor to complete the required MMLPA paperwork.

Exhibits included in the documentation package may include the following (specific to the awarded vendor):

- (1) Schedule of Property (Exhibit A) – list of equipment to be purchased.
- (2) Certificate for Schedule (Exhibit C-2) – identification of, and authorization of a state agency representative to execute a Schedule
- (3) Opinion of Counsel to Lessee (Exhibit D) – standard format for legal counsel to approve legitimacy of lease transaction.
- (4) Acceptance Certificate (Exhibit E) – form the state agency must sign upon receipt and acceptance of leased equipment.

Award Notice

Contract No.GSS15059-MMLPA

- (5) Memorandum of Understanding (Exhibit G) – standard MOU format for Diamond State Port Corporation to utilize lease Agreement
- (6) Essential Use Certificate (Exhibit H) – state agency certification that equipment is essential use