
TECHNICAL HANDBOOK FOR
ENVIRONMENTAL HEALTH AND ENGINEERING
VOLUME IV - REAL PROPERTY
PART 33 - LEASING

CHAPTER 33-2.1 CAPITAL LEASES ANALYSIS

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33-2.1.A PURPOSE

The Indian Health Service (IHS) must ensure compliance with the Anti-Deficiency Act by following OMB guidelines to determine if an IHS direct lease (new, renewal, modified or amended) request should be classified as "operating" or "capital." It is the intent of the IHS not to intentionally or inadvertently enter into a capital lease. This chapter discusses capital leases and provides guidance on performing capital lease analyses.

33-2.1.B OVERVIEW

The IHS is required to follow Office of Management and Budget (OMB) guidelines on budget score-keeping. The IHS must ensure that there are no violations of the Anti-Deficiency Act due to improper budget scorekeeping.

The Anti-Deficiency Act prohibits Federal agencies from committing the Government to make future payments for goods or services unless full funding appropriations are provided (see 31 USC §1341(a) (1) (A), §1341(a)(1)(B), §1342 and §1517(a)). Sanctions can be applied to both the agency and the employee. Violations of the Act are subject to sanctions of two types:

- (a) Administrative - 31 USC §§1349(a) 1518, and
- (b) Penal - 31 USC §§1350, 1519

OMB Circular A-11, Preparation, Submission and Execution of the Budget, outlines how information from an agency's financial statement is used in the preparation of the annual budget. Capital leases need to be included in the budget submission.

OMB Circular A-94, Guidelines for Discount Rates for Benefit Cost Analysis of Federal Programs, is used in preparing the Capital Lease Analysis Worksheet.

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33-2.1.C DEFINITIONS

Direct Lease - Leases the IHS negotiates and executes directly with the lessor.

Discount Rate - the interest rate charged to commercial banks and other depository institutions on loans they receive from their regional Federal Reserve Bank's lending facility.

Estimated Economic Life - The number of years after which a capital good should be replaced in order to minimize the long-run annual cost of operation, repair, depreciation and capital.

Executory Costs - Those costs such as insurance, maintenance, and taxes incurred for leased property, whether paid by the lessor or lessee.

Fair Market Value - The price at which a property would sell. It is the price agreed upon between a willing buyer and seller, each of whom has a reasonable knowledge of all pertinent facts with neither being under any obligation to buy or sell.

Minimum Rent - The remainder of annual rent payments for leased property after deducting additional rent and executory costs.

Present Value Cost Factor - The calculated usable square foot value of a property based on the U.S. Department of Treasury discount rate at the time the lease was initiated.

Present Value Factor - The calculated usable square foot value of a property based on the U.S. Department of Treasury discount rate at the present time.

Real Property Lease Inventory (RPLI) - The IHS-wide asset management database and subsidiary ledger that accounts for Federally-leased real property for which the IHS has custody and accountability. The RPLI excludes GSA leased real property occupied by the IHS.

Remaining Economic Life - The economic life minus the number of years the capital good has been in operation. Capital improvements that add to the economic life should be factored into the calculation of the remaining economic life.

33-2.1.D REQUIREMENTS

OMB Circular A-11 sets the criteria used in evaluating leases. A lease is considered a capital lease when it meets one or more of the following criteria:

- ownership of the asset is conveyed to the Government at the end of the lease period; or
- lease contains an option to purchase the asset at a bargain price; or

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- the lease life exceeds 75% of the asset life; or
- the present value of the minimum lease payments exceed 90% of the assets fair market value at the inception of the lease; or
- the asset is constructed on Government land; or
- the asset is not general purpose in nature and was built to unique Government specifications; or
- there is no private sector market for the asset; or
- the Government must assume all the financial risks of ownership of the asset, even though they may not be at fault for loss of the asset.

All other leases are operating leases which are not discussed in this chapter.

Note: No-cost land leases and joint venture leases do not meet the above criteria and therefore are not subject to a capital lease analysis. For GSA assigned space, GSA is responsible for the entire lease action including the capital lease analysis.

33-2.1.E RESPONSIBILITIES

- 1) Headquarters Responsibilities. The Lead Realty Officer (LRO) is the IHS Headquarters official who has management oversight of the Real Property Lease Inventory, including the responsibility for the initial review of a Standard Form 81, Request for Space. The Director, Division of Facilities Operations is the IHS Headquarters official who is the agency representative responsible for certifying the lease request is accurate, complete and complies with all Federal laws and Executive Orders.

Headquarters (HQ) will provide direction on any lease that has been determined to be a capital lease. All lease requests must comply with IHS' established lease terms, square footage ceilings, rental cost limits and have the appropriate funding and approvals obtained from within IHS and Congress.

- 2) Area Responsibilities. The Area office is responsible for ensuring all leases submitted for headquarters review are operating leases. Prior to submission of a lease request to Headquarters, the Area office through the Area Realty Management Officer (RMO) will submit a draft lease request package to the Warranted Lease Contracting Officer (WLCO), who will prepare the capital lease analysis and determine if the lease package is complete and ready for submission to Headquarters. After the Area office and the WLCO agree the lease package is complete and that it is not a capital lease, the Area RMO will send the lease request package to Headquarters for review and approval. The lease package should include a copy of the Capital Lease Analysis Worksheet (Exhibit I) and determination.
- 3) Division of Engineering Services. The Warranted Lease Contracting Officer (WLCO) is responsible for performing the Capital Lease Analysis on each IHS direct lease, with the exception of no-cost

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land leases and joint venture leases. If the initial analysis determines the lease would be a capital lease, the WLCO should consult with Headquarters for further guidance. The WLCO is not authorized to negotiate or enter into a capital lease.

The complete initial analysis, based on available information and as possible, including capital lease worksheets and determination are forwarded to the Area RMO for inclusion in the lease request. The WLCO is also responsible for reviewing the lease package for completeness and will work with the Area RMO to assure the lease package is complete before it is sent to Headquarters for review and approval.

33-2.1.F CAPITAL LEASE ANALYSIS CALCULATION

This section will provide instructions on how to complete the required Capital Lease Analysis Worksheet (Exhibit I) on page 9 to determine whether the lease is a "capital" or "operating" lease. Once the analysis is completed and a determination is made, there may be limited situations where a modification is required.

It is essential that all necessary information is obtained prior to completing the Capital Lease Analysis Worksheet. Listed below are the resources required to perform the capital lease analysis.

- Capital Lease Analysis Worksheet (Exhibit I) is found on the DFO website. The website is located at:
<http://www.ihs.gov/nonmedicalprograms/dfo/rpdocs/forms/Leasing/Capital%20Lease%20Analysis%20Worksheet%204-23-2008.XLS>
- Bureau of Economic Analysis Rates of Depreciation (Exhibit II) is found at the Bureau of Economic Analysis (BEA) website. The website is located at:
[http://www.bea.gov/scb/account articles/national/wlth2594/tableC.htm](http://www.bea.gov/scb/account%20articles/national/wlth2594/tableC.htm)
- Present Value Cost Factors, (Exhibit III) is found on the DFO Website. The website is located at:
<http://www.ihs.gov/nonmedicalprograms/dfo/rpdocs/forms/Leasing/Capital%20Lease%20Analysis%20Worksheet.XLS>
- Discount rate information is found at the U.S. Treasury Internet Website. This website is located at:
<http://www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.ht>

Before beginning the process to complete the Capital Lease Analysis Worksheet (Exhibit I) it will be necessary to determine the current Treasury Discount Rate and run the Present Value Cost Factors that will be required to complete the analysis. The Present Value Cost Factors worksheet can be found on the DFO website under Realty. To determine the current Treasury Discount Rate go to the U.S. Treasury

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Website. After you determine the discount rate, it needs to be entered on the Present Value Cost Factors worksheet at the top of the page where it states Discount Rate. Once entered, the new rate will automatically adjust all the tables.

1) Capital Lease Analysis Worksheet

Step 1 - Lease Data:

In shaded areas of the header enter the data for Lease No., Location (city and state), predominate type of space (Office, Clinic, Storage, Etc.), and the date of the review.

Step 2 - Questions 1, 2, 3:

Enter a "Yes" or "No" response based on review of the lease file and solicitation documents.

Step 3 - Question 4:

Find the total estimated economic life for the building type from Exhibit II, Bureau of Economic Analysis, Rates of Depreciation, Table C., Private nonresidential structures. Enter no if the lease term is less than 75% of the economic life of the building; enter yes if the lease term is greater than 75% of the economic life of the building.

Step 4 Question 4a:

Enter a "Yes" or "No" response based on the remaining economic life of the building.

Step 5 - Question 4a, 1:

Enter the date (month and year) the facility was first placed in service (beneficial occupancy) by the lessor. For a lease construction project this will usually be the date construction was completed and the facility was ready for IHS to occupy.

Step 6 Question 4a, 2:

Enter the total estimated economic life for the building type from Exhibit II, Bureau of Economic Analysis, Rates of Depreciation, Table C., Private nonresidential structures.

Step 7 - Question 4a, 3:

Manually calculate the number of years since the building was first placed in service, and deduct from Estimated Economic Life entered for question 4a 2. The results will be entered in 4a 3. Enter the months as a decimal, for example, 32 years and six months is entered as 32.5 years.

Step 8 - Question 4a, 4:

Enter the effective date of the lease from the original lease document or supplemental lease agreement.

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Step 9 - Question 4a, 5:

Enter the lease term in years for the initial term in the first shaded field and the total number of years for all renewal options in the second shaded field.

The total lease term including renewal options will automatically be calculated.

Step 10 Question 5:

Enter a "Yes" or "No" response after determining the percentage for the minimum lease payments.

Step 11 Question 5a:

Enter in the first shaded field the total annual rent for the initial term of the lease. If lease contains a negotiated Basic Rent increase/decrease for renewal term(s) enter new total annual rent in second shaded field. If the basic rental rate does not change, enter original annual rent in this field.

Step 12 - Question 5b:

Enter total annual payments for services from the lease or other supporting documents. Disregard any escalation clauses for additional rent (services) contained in lease.

Step 13 - Question 5c:

Enter total annual payments for executory (ownership) costs, the lease or other supporting documents. Disregard any provisions for tax or insurance adjustments.

Responses to questions 5d and 5e are automatically calculated.

Step 14 - Question 5f:

To determine the Present Value Cost Factors to be entered refer to the copy of Exhibit III, Present Value Cost Factors worksheet that was printed at the start of the evaluation process.

To determine the factor for the initial term refer in Table A at the top of the sheet. Select the number across the column that corresponds to the total years for the initial lease period.

For renewal term(s) use Table B at the bottom of the sheet. Select from the top line of Table B across the column that reflects the number of years in the initial term. Then go down the left column of Table B to the point that corresponds to the total number of years in renewal options.

Exhibit I, Capital Lease Analysis Worksheet example depicts factor 7.82 from Exhibit III, Present Value Cost Factors, Table A, and factor 2.74 from Table B.

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Responses to questions 5g and 5h are automatically calculated.

Step 15 - Question 5i:

Present value factors used to answer question 5i is based on the estimated economic life for the building (same response used for question 4a 2).

Methods used to calculate the response to these two entries will vary from case to case based on the terms and conditions for each lease and the total economic life of the building.

Exhibit I, Capital Lease Analysis Worksheet example uses 7.82 factor for the initial 10 year lease (Exhibit III, Present Value Cost Factors, Table A). This leaves a remaining life of 26 years to calculate.

Next, go to the top of the Table B, across the column to 10 years; then go down the left column to the point that corresponds to the remaining life of 26 years and enter the factor of 9.28 in the remaining data field in the capital asset Lease Analysis Worksheet.

Responses to questions 5j, 5k, and 5l are automatically calculated.

Step 16 - Questions 6, 7, and 8:

Enter a "Yes" or "No" response based on review of solicitation documents and the lease file.

Step 17 - Analysis Results

- A "Yes" response to questions 1, 2, 3, 4, or 5 makes the lease a capital lease.
- A "No" response to questions 6, 7, and 8 makes the lease a capital lease.
- Exception - If the response to question 4a is "yes," a "Yes" response to questions 4 or 5 is disregarded.

2) Present Value Cost Factors

- In shaded area at the top of Exhibit III, Present Value Cost Factors enter the current US Treasury Discount Rate as a decimal figure, e.g.(5.5% = 0.055).
- For review of existing leases use the Discount Rate in effect at the time leases were originally negotiated or signed. For review of new leases use the current discount rate in effect at the time the lease is first analyzed.

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- Print a copy for use later to determine Present Value Cost Factors for Questions 5f of the Capital Lease Analysis Worksheet.
- 3) Capital Lease Determination. The WLCO will notify Headquarters if the evaluation determines the lease is a capital lease and Headquarters will provide guidance to the WLCO regarding further action. The Area RMO will include the completed worksheets with the lease request package and forward to the HQ Lead Realty Officer. HQ will review and approve the lease request in accordance with Technical Handbook, Chapter 33-3.1, "Lease Priority System." All LPS lease requests should be forwarded to DFO in accordance with Chapter 33-3.1.

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Exhibit I Capital Lease Analysis Worksheet

The link Capital Lease Analysis Worksheet can be found on the Division of Facilities Operations Website at the following URL:

<http://www.ihs.gov/nonmedicalprograms/dfo/rpdocs/forms/Leasing/Capital%20Lease%20Analysis%20Worksheet%204-23-2008.XLS>

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Exhibit II Bureau of Economic Analysis Rates of Depreciation

Below is a sample of building service life (economic life) information found on the Bureau of Economic Analysis (BEA) website. This information can be used for the capital lease analysis worksheet. To locate additional service life information on the website, access Table C. BEA Rates of depreciation, Service Lives, Declining-Balance Rates, and Hulten-Wykoff categories. The website is located at: http://www.bea.gov/scb/account_articles/national/wlth2594/tableC.htm

Private nonresidential structures

<u>Type of asset</u>	<u>Service Life (years)</u>
Industrial buildings	31
Mobile Offices	16
Office Buildings	36
Commercial warehouses	40
Other commercial buildings	34
Hospital and institutional buildings	48

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Exhibit III Present Value Cost Factors

The Present Value Cost Factors may be found on the Division of Facilities Operations Website at the following URL.

<http://www.ihs.gov/nonmedicalprograms/dfo/rpdocs/forms/Leasing/Capital%20Lease%20Analysis%20Worksheet.XLS>