



Challenges of Scoring Enhanced-Use Leasing: An Energy Developer's Perspective

**The New Environment for PPPs
Implications for Energy & Federal Infrastructure
National Council for Public-Private Partnerships**

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What is Scoring and Why?

- **In 1988, the White House Domestic Policy Council issued a memo to all federal agencies outlining its position that “lease-purchase is a serious threat to controlling Federal spending.”**
- **OMB charged with developing federal budgetary policy and guidance to govern lease-purchase transactions and other similar long-term obligations.**
- **OMB issued Circular A-11, outlining criteria for determining whether a lease or other contractual commitment is an operating lease, a capital lease or a lease-purchase.**
- **A-11 mandates that if a lease or contractual commitment is “scored” as a capital lease or a lease-purchase, the federal agency must have sufficient budget authority in an appropriate authorization to fully fund the long-term commitment – whether actual or contingent.**

What is Scored?

- **DoD policy allows agencies to purchase energy services from an EUL development, utilizing a separate acquisition authority.**
- **OMB needs to know: How large a financial commitment is the purchasing agency making?**
- **The DoD agency must undertake a scoring analysis using the criteria in Appendix B, Circular A-11 to determine whether the transaction and its financing are based on an agency commitment, regardless of whether actual or contingent.**
 - **If the analysis does meet the criteria, the transaction may be scored as an operating lease (desired) and funded on an annual basis.**
 - **If the analysis does not meet the criteria, the federal risk may be scored as a capital lease (not desired), thus requiring full budget authority in year-one.**
- **Underlying EUL ground lease is not scored unless it is an integral part of the purchase of space/services**

What is the Definition of an Operating Lease *?

- **The present value of the contractual payments doesn't exceed 90% of the asset fair market value (construction cost), and**
- **Contract term is not greater than 75% of the economic life of the asset, and**
- **No bargain-price purchase option, and**
- **Ownership of asset remains with lessor and is not transferred to the Government, and**
- **Asset is a general purpose asset, not built for special purpose of the Government, and**
- **There is a private sector market for the asset**

*** OMB Circular A-11 Appendix B**

DoD's & Army's First Energy EUL Transaction

- **National Interagency Biodefense Campus, Fort Detrick, MD – DoD's and Army's first Energy EUL!**





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