

Financing Leases

Lease financing agreements meeting certain criteria must be approved by the Comptroller's Office. Tenn. Code Ann. § 9-24-101 et seq. This approval requirement applies to individual lease financing agreements with principal amounts greater than \$100,000 and to individual lease financing agreements that are \$100,000 or less if the principal amount, together with the principal amount of all exempt lease financings issued by the public entity in the same fiscal year exceeds \$100,000. A lease is defined as an agreement for the use of property under which a public entity is the lessee, and a lease financing includes one of the following elements: (a) rental payments include an identifiable interest component; or (b) the local government has the right to purchase the property that is subject to the lease at a price that is not based upon the fair market value of the property at the time of the purchase.

✓ STEP ONE – Submission Requirements for Approval – Financing Lease

Local governments seeking approval to enter into Financing Leases shall submit the following information electronically to the Division of Local Government Finance in the Comptroller's Office at LGF@cot.tn.gov:

1. Request Letter

The letter requesting approval to enter into a Financing Lease shall be from and signed by the local government's chief executive officer or designee.

2. Plan of Lease Financing

The Plan of Lease Financing is a certified copy of the draft lease agreement that includes the following key elements:

- Lease information summary sheet available on our website: tncot.cc/debt.
- Not to exceed dollar amount.
- Schedule of estimated annual principal and interest requirements.
- Detailed estimated costs of issuance, including one-time fees and recurring administrative or similar fees paid over the life of the lease.
- Lease terms that are reasonable and comparable to debt being issued in the current markets.
- Interest rates and other borrowing costs from two additional lenders for the same amount and maturity of the proposed lease financing.
- A weighted average maturity of the lease principal payments that does not exceed the estimated weighted average life of the property being financed – Tenn. Code Ann. § 9-24-104(a)(2). A weighted average life calculator is available on the Comptroller of the Treasury's website at tncot.cc/debt – select the "Tools" tab.
- A lease term that does not exceed the maximum term of debt that could be issued by the public entity to finance the proposed project – Tenn. Code Ann. § 9-24-104(a)(3).
- Description of the project(s) to be financed with the following minimum information:
 - Estimated useful life (or lives).

- Authorizing law to incur indebtedness for the project [Tenn. Code Ann. § 9-24-104(a)(3)].
 - The lease is payable from all or any portion of the revenues of the public entity, pursuant to applicable law [Tenn. Code Ann. § 9-24-104(a)(4)].
 - Not to exceed interest rate that is less than the state usury maximum (Tenn. Code Ann. § 47-14-103).
3. Initial Resolution
 If the lease is payable from or secured by property taxes, and the term of the lease exceeds the maximum term of a capital outlay note that may be issued for the same project, the entity must adopt and publish an initial resolution with respect to the lease financing consistent with Tenn. Code Ann. Title 9, Ch. 21, Pt. 2, as applicable with respect to the type of property that is being financed [Tenn. Code Ann. § 9-24-104(a)(5)]. A statement that the local government complied with this provision, as applicable, should be included in the request letter.
4. Balloon Indebtedness
 Is the lease considered balloon indebtedness as defined in Tenn. Code Ann. § 9-21-133?
- If it is balloon indebtedness, a separate request to issue balloon debt is required pursuant to “State Funding Board Guidelines for Comptroller Approval of Balloon Indebtedness.”
 - If it is not balloon indebtedness because it meets an exception, please include the nature of the exception.

✓ STEP TWO – Approval by the Comptroller’s Office – Financing Lease

1. The request will be reviewed within 15 days of receipt by the Division of Local Government Finance in the Comptroller’s Office. If the submission is incomplete, the 15-day review period will not begin until the needed information is received.
2. Approval can only be granted if the issuance of the lease, as compared to debt being issued in the current markets, is in the best interest of the local government pursuant to Tenn. Code Ann. § 9-24-104. When making this determination, the Comptroller’s Office will consider the following:
 - Do the lease terms appear reasonable and comparable to debt being issued in the current markets?
 - Does the weighted average maturity of the lease principal payments exceed the estimated weighted average life of the property being financed? Tenn. Code Ann. § 9-24-104(a)(2).
 - Does the term of the lease not exceed the maximum term of debt that could be issued by the public entity to finance the proposed project? Tenn. Code Ann. § 9-24-104(a)(3).



3. Once the review process is complete, the local government will receive a letter via e-mail from the Division of Local Government Finance indicating approval or non-approval.
4. The approval is valid for six months after the date of the letter. If the Financing Lease is not issued within that time, a new plan of lease financing must be prepared and submitted to the Comptroller's Office for approval. Please notify LGF@cot.tn.gov as soon as possible if a decision is made not to issue the Financing Lease.

✓ **STEP THREE – Submission Requirements after Approval – Financing Lease**

1. Debt Report
Pursuant to Tenn. Code Ann. § 9-21-134, a Debt Report shall be completed and filed with the governing body of the local government no later than 45 days after the issuance of the Financing Lease and a copy (including attachments, if any) shall be filed with the Division of Local Government Finance in the Comptroller's Office. The form should be completed using the Comptroller's online application located at tncot.cc/debt-report.
2. Annual Budget Approval
Within 15 days of adoption, the local government's annual budget, including supporting schedules, shall be submitted to the Division of Local Government Finance in the Comptroller's Office at.