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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 5.5. DEPARTMENT OF GENERAL SERVICES [14600 - 14985.11] (Part 5.5 added by Stats. 1965, Ch. 371.)

CHAPTER 9. Golden State Financial Marketplace Program (GS \$Mart Program) [14930 - 14938] (Chapter 9 added by Stats. 2013, Ch. 28, Sec. 16.)

14930. This chapter shall be known and may be cited as the Golden State Financial Marketplace Program or GS \$Mart Program.
(Added by Stats. 2013, Ch. 28, Sec. 16. (SB 71) Effective June 27, 2013.)

14932. The department is authorized to administer and maintain the GS \$Mart Program. The GS \$Mart Program is a financing program that is available for use only by state agencies, pursuant to Sections 14934 and 14936, to finance certain goods and services as set forth in those sections. The department may provide consultative services to facilitate a financing for a local agency or school district pursuant to Section 14937.

(Amended by Stats. 2019, Ch. 29, Sec. 99. (SB 82) Effective June 27, 2019.)

14934. (a) Notwithstanding any other law, state agencies that are statutorily authorized to acquire assets listed in subdivision (b) are hereby eligible to apply to the GS \$Mart Program to enter into agreements for financing those assets without further competitive bidding.

(b) Assets eligible for financing pursuant to the GS \$Mart Program include all of the following:

(1) Energy conservation measures as described in Section 4217.11 or energy savings contracts as described in Section 388 of the Public Utilities Code.

(2) Goods as defined in Section 10290 of the Public Contract Code.

(3) (A) Technology goods or services as described in Section 11532 or information technology as defined in subparagraph (B) that are capital assets eligible for tax exempt financing consistent with the Internal Revenue Code as confirmed by an opinion of bond counsel, as described in paragraph (3) of subdivision (a) of Section 14936.

(B) Information technology includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, including voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(c) State agencies may refinance any eligible asset through the GS \$Mart Program for the purpose of lowering financing costs or consolidating payments, or when refinancing will achieve an overall benefit and cost savings to the state.

(d) The department shall annually provide a report by September 1 of each year to the Joint Legislative Budget Committee, the Treasurer's Office, and the Department of Finance that shall include, but not be limited to, the following information for each financing entered into during the preceding fiscal year:

(1) Each state agency that entered into a GS \$Mart financing.

(2) The physical address at which the asset being financed is installed or located.

(3) The amount financed by each financing.

(4) The term of each financing.

(5) A description of the item, good, or service financed by each financing.

(6) The total amount of outstanding GS \$Mart financings.

(Amended by Stats. 2019, Ch. 29, Sec. 100. (SB 82) Effective June 27, 2019.)

14936. (a) The department shall develop a financing process that requires, but shall not be limited to, all of the following:

(1) Confirmation that the term of financing shall be limited to the average expected economic life of the asset or assets.

(2) Certification that the asset or assets to be financed are eligible under Section 14934.

(3) For tax-exempt financings, an opinion of counsel from a law firm admitted to the Treasurer's office most current approved bond counsel pool confirming that the assets subject to the financing qualify for tax exempt financing consistent with the Internal Revenue Code.

(4) The preparation and submission of payment schedules to the Controller for use by the Controller in transferring funds appropriated in the annual Budget Act to the state agency for payments due under the financing program.

(5) The use of standard financing terms and conditions, form certificates, and other form agreements. The standard financing terms and conditions, form certificates, and other form agreements, and any amendment of those standard terms and conditions, form certificates, and form agreements, shall be approved by the Department of Finance and the Treasurer's office before they are used.

(6) Prior approval by the Treasurer's office of the specific financial terms, including, but not limited to, the quotes received, the interest rate, and the payment term, for each financing over ten million dollars (\$10,000,000).

(7) Prior approval by the issuer of lease-revenue bonds on behalf of the state for any financing that affects a facility encumbered by issuer's lease-revenue bonds.

(8) (A) Notice to the Department of Finance and the Treasurer's office of each financing before seeking a request for a rate quote for that financing.

(B) The notice shall identify the following:

(i) The state agency seeking to enter into a GS \$Mart financing.

(ii) The assets to be financed.

(iii) The physical address at which the asset is located.

(iv) The estimated amount to be financed.

(v) The estimated closing date of the financing.

(b) The Controller may direct the transfer of funds according to the schedule or schedules submitted by the department pursuant to the GS \$Mart Program.

(c) The department, in consultation with the Department of Finance, shall be responsible for the continued development and administration of, at a minimum, financing applications, instructions, and application approval pursuant to the GS \$Mart Program.

(Amended by Stats. 2019, Ch. 29, Sec. 101. (SB 82) Effective June 27, 2019.)

14937. (a) Notwithstanding any other law, local agencies and school districts that are statutorily authorized to acquire goods, information technology, and related services pursuant to subdivision (b) of Section 10298 of the Public Contract Code and subdivision (b) of Section 10299 of the Public Contract Code, respectively, are eligible to use the preapproved lenders participating in the GS \$Mart Program.

(b) A local agency or school district using the preapproved lenders participating in the GS \$Mart Program may arrange for consulting services to be provided by the department, at current state price book rates, in order to facilitate the local agency or school district's financing of the assets authorized herein without further competitive bidding.

(c) For tax-exempt financings, a local agency or school district shall engage independent counsel in order to obtain an opinion confirming that the assets qualify for tax-exempt financing. The local agency or school district shall be solely responsible for compliance with any rules or laws necessary to maintain the tax-exempt status of those financings. The State of California and the GS \$Mart Program shall not have any responsibilities related to the tax exemption of financings authorized in this section.

(d) Neither the State of California nor the GS \$Mart Program shall be liable for or incur any financial responsibility in connection with any financing by a local agency or school district described in this section. Any such financing by a local agency or school district shall meet the following requirements:

(1) Not be a financial obligation or debt of the State of California.

(2) Be made on the basis of the credit worthiness and rating of the local agency or school district with repayment obligations being the sole responsibility of the local agency or school district.

(3) Not be characterized or use terms directly or indirectly indicating it is a financing pursuant to the GS \$Mart Program.

(e) Any financing authorized in this section by a local agency or school district shall be done on terms and conditions that set forth the provisions of this section. Those provisions shall be set forth in any request to lenders for quotes and in any contractual arrangements related to the financings authorized in this section.

(f) The department shall include in the report required by subdivision (d) of Section 14934 a summary of financings made pursuant to this section that includes the following information for each financing facilitated by the department during the preceding fiscal year:

(1) The name of the local agency or school district that entered into the financing.

(2) The amount of the financing.

(3) The term of each financing.

(4) A description of the goods, information technology, and related services financed.

(Added by Stats. 2019, Ch. 29, Sec. 102. (SB 82) Effective June 27, 2019.)

14938. As used in this chapter, "state agency" or "state agencies" means every state office, officer, department, division, bureau, board, and commission and the California State University and the Regents of the University of California.

(Added by Stats. 2013, Ch. 28, Sec. 16. (SB 71) Effective June 27, 2013.)