



February 28, 2019

Mr. David Bean, Director of Research and Technical Activities  
Governmental Accounting Standards  
Board 401 Merritt 7  
P.O. Box 5116  
Norwalk, Connecticut 06856-5116

RE: Project No. 3-13 *Proposed Implementation Guide – Fiduciary Activities*

Dear Mr. Bean:

On behalf of the Association of Government Accountants (AGA), the Financial Management Standards Board (FMSB) appreciates the opportunity to provide comments to the Governmental Accounting Standards Board (GASB) on its Exposure Draft of a *Proposed Implementation Guide for Fiduciary Activities*.

The FMSB is comprised of 19 members (list attached) with accounting and auditing backgrounds in federal, state and local government, as well as academia and public accounting. The FMSB reviews and responds to proposed standards and regulations of interest to AGA members but does not represent all AGA members. Local AGA chapters and individual members are also encouraged to comment separately.

We appreciate the GASB's continued effort in setting and providing clarification of the standards relating to the State and Local Governments. We have reviewed the Exposure Draft and have a few comments.

*Question 4.11* Members expressed differing views in response to this question. Some agree with the board that seizure of these types of assets do meet the control test of paragraph 12 in Statement 84, and therefore must be treated as a fiduciary asset. However, in contrast to the final sentence of the answer that suggests a liability should be reported, these members suggest the criteria in paragraph 21 of Statement 84 has not yet been met, namely a verdict against the alleged perpetrator, and therefore a compelling event to disburse the resources has not yet occurred. Therefore, it would be premature to recognize a liability in the fiduciary fund. Accordingly, they suggest the final sentence of the answer read "... (financial asset and related fiduciary net position) should be reported...."

Some members disagree that the seizure of such assets – whether in the form of cash or noncash property – would meet criteria for reporting in a fiduciary fund. They suggest that these assets are in fact derived from a government-mandated non-exchange transaction (that is, seizure). While the assets belong to the defendant, the reason for the seizure was for the benefit of the government itself, which has a direct financial interest in the seized assets. Those members believe the seizure is a government-mandated non-exchange transaction for which revenue recognition has not yet been met. Accordingly, they believe that no financial transaction has occurred until a verdict is

rendered in favor of the government, at which point forfeiture revenues would be recognized and the valuation of property or assets would be estimated or realized and reported on the financial statements as the government's own revenue. Treating seized cash and property as a fiduciary activity prior to a judgment being rendered would create an undue burden to value and report on thousands of assets while awaiting a verdict. They believe that reporting seized assets awaiting trial would not meet concept statement criteria for the objectives or characteristics of financial reporting.

The topic that we have agreement on is that we note the question and answer only refers to "cash and other financial assets." We suggest a majority of seizures held by governments is in the form of nonfinancial assets. We urge the Board to address the seizure of nonfinancial assets at its earliest opportunity.

#### *Question 4.12*

We agree with this answer that performance bonds or deposits would not meet criteria for reporting as a fiduciary activity. This answer could be improved by providing the correct accounting for the transaction, similar to question 4.13. For example, this could be done by adding "... as a restricted asset and offsetting liability" to the end of the last sentence of the answer.

#### *Question 4.30*

We agree with this answer. However, a far more common situation is for a county government to provide accounting and treasury services for other governments pursuant to law. This question and answer would be more useful if it was explicitly inclusive of the more common situation. For example, the question could be revised to read: "A county government has custody of resources pursuant to state statute or a nontrust agreement with a separate government or an NFP ..." and so on.

#### *Question 4.36*

We agree with this question and answer. However, we are concerned that neither the question nor answer includes a definition of "shared revenue," nor is this answer contrasted against other common situations that might be confused with a shared revenue situation. We request the Board include either a narrow definition of "shared revenue" or contrast it to more common situations where one government collects a tax, fee or fine and must remit a portion of it to other governments in accordance with statutes, which we believe should be treated as a fiduciary activity.

There are relatively few shared revenue situations whereas there are numerous situations where one government collects revenue on behalf of other governments. In some of these situations, a government is statutorily mandated to collect a tax, fee or fine, of which a portion is collected on behalf of another government and must be remitted to them. For example, when (by law) property taxes or sales taxes or B&O taxes are collected by the county or state, in part for themselves and in part for other jurisdictions. Or when court fines are imposed by County or City courts and (by law) a portion of the fine amount for various offenses is remitted to the state. In other situations, one government contracts with another to collect funds for them in exchange for a charge for the service. For example, one city may contract with another to run their municipal court and collect and remit fines on their behalf in exchange for a charge for the service. We are concerned that these common situations might be confused with a "shared revenue" situation in the absence of a clear contrast.

Question 4.45

Since the leasehold tax is imposed on the Port's own revenue, wouldn't this simply be a liability of the Port? We are unclear how leasehold tax would not be considered to meet the criteria of 11b(1) since it is derived solely from the government's own source revenues – in this case, from lease revenues.

We appreciate the opportunity to comment on this document and will be pleased to discuss this letter with you at your convenience. If there are any questions regarding the comments in this letter, please contact

Lealan Miller, Chair at [lmiller@eidebailly.com](mailto:lmiller@eidebailly.com) or at 208-383-4756.

Sincerely,



Lealan Miller, CGFM, CPA  
Chair- AGA Financial Management Standards Board

cc: John H. Lynskey, CGFM, CPA, AGA National President

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