

GASB Statement No. 94 – Public-Private and Public-Public Partnerships and Availability Payment Arrangements – Implementation Questionnaire

Responses due on or before **June 30, 2023**.

Thank you for taking time to complete this questionnaire pertaining to the following Governmental Accounting Standards Board (GASB) statement. Agency management is responsible for ensuring proper accounting and reporting of Public-Private and Public-Public Partnerships (PPP) and/or Availability Payment Arrangements (APA) under GASB 94. Submission of this questionnaire serves as an *Acknowledgment of Review* of the agency's operations for potential arrangements.

Information

Name: _____

Number: _____

Answer the following questions regarding your agency, component unit or university.

GASB 94 examines arrangements between the state (the transferor) and a governmental or non-governmental entity (the operator) to provide public services. This is accomplished by the transferor allowing the operator to have control of the right to operate or use a nonfinancial governmental asset (like infrastructure or any other capital asset) for a period of time in an exchange or exchange-like transaction.

Note: For reporting purposes, a Public-Public Partnership is **not** between state agencies, between state universities, or between a state agency and a state university.

Some Public-Private and Public-Public Partnerships [PPP] meet the criteria for leases and should follow GASB Statement No. 87 – *Leases* and GASB Statement No. 96 – *Subscription-Based IT Arrangements*. This is if the underlying asset is an existing transferor asset; and the operator is not required to improve it.

Although GASB 94 supersedes GASB Statement No. 60 – *Accounting and Financial Reporting for Service Concession Arrangements*, it did not change the definition or criteria for Service Concession Arrangements (SCA) that were previously established. All SCAs are PPPs, but not all PPPs are SCAs.

The types of assets that may be subject to GASB 94 include (but are not limited to):

- Infrastructure
- Hospitals
- Student facilities for colleges and universities
- Sports facilities
- Recreational facilities
- Jails/prisons
- Wastewater treatment plants
- Museums

Software is **not** subject to GASB 94.

Service Concession Arrangement (SCA) is a Public-Private [or *Public-Public*] Partnership (PPP) if **all** the following criteria are met:

- The transferor conveys to the operator the right and related obligation to provide public services through the use and operating of the PPP asset in exchange for significant consideration (up-front or installment payments, new facility, improvements to existing facility).
- The operator collects and is compensated by fees from third parties.
- The transferor determines or has the ability to modify or approve the services the operator is required to provide, to whom the operator is required to provide the services, and the prices or rates that can be charged.
- The transferor is entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement.

Availability Payment Arrangements (APA) are arrangements in which a state agency *procures* a capital asset or service by compensating an operator for activities that may include designing, constructing, financing, maintaining; and operating an underlying nonfinancial asset for a period of time in an exchange or exchange-like transaction. In contrast to a PPP, the other party to an APA is receiving compensation from the state based entirely on the asset's availability and not the actual performance of a public service.

Example of a PPP Arrangement – existing capital asset

The state (the transferor), through Texas Department of Transportation (TxDOT), enters an arrangement with an operator, the Metropolitan Tollway Authority (MTA), involving the Pelton Tollway, a capital asset currently being reported by the state in the Tollway Authority enterprise fund at a carrying amount of \$1 billion.

TxDOT receives an up-front payment of \$3 billion from the MTA, in return for which the MTA receives the right to operate the tollway and receive and retain toll revenues for a period of 75 years. Upon receipt, TxDOT transferred the up-front payment from the Tollway Authority enterprise fund to the state's general fund. The arrangement meets all criteria to qualify as a service concession arrangement. The MTA is not a component unit in the state's financial reporting entity.

Example of a PPP Arrangement that is a SCA – no existing capital asset

The state (the transferor), through the Texas Department of Transportation (TxDOT), enters into a public-public partnership arrangement with an operator, the Local Tunnel Authority (LTA), in which the LTA has agreed to design and build a tunnel, the Geisman Tunnel, for TxDOT and then operate the tunnel for 40 years.

During the term of the arrangement, the LTA is entitled to collect and retain tolls generated by the tunnel. The arrangement meets all criteria to qualify as a service concession arrangement. The cost to the LTA to construct the tunnel is \$4 billion. The acquisition value of the tunnel when it is placed into service at the end of the current year is \$4.5 billion. The LTA is not a component unit in the state's financial reporting entity.

Example of a PPP Arrangement that is not a SCA – no existing capital asset

The state (the transferor), through the Texas Department of Transportation (TxDOT), enters into an arrangement during fiscal 20X1 with an operator, the County Bridge Authority (CBA), to design and build; and for 30 years operate the Balkan Bridge by collecting and retaining toll revenue.

In return for transfer of ownership of the bridge at the end of the 30 years, the state conveys to the CBA the right to operate the bridge and to set, collect; and retain toll revenues. Construction of the bridge is 30 percent completed at the end of the current year and will be completed and placed into service at the end of fiscal 20X2. The cost of construction of the bridge for the CBA is \$1.2 billion, and the bridge's expected useful life is 40 years. The CBA's estimated carrying value of the bridge at the end of the arrangement is \$300 million ($\$1.2 \text{ billion} \times 10 \text{ years of remaining service} / 40 \text{ years expected useful life}$).

The arrangement does not meet the criteria of an SCA because the CBA has the authority to set the prices for tolls. The CBA is not a component unit in the state's financial reporting entity.

Example of an APA

The state enters an arrangement with a private corporation to design, build and finance the construction of a bridge. As part of the arrangement, the corporation will collect all tolls for the bridge for 40 years and remit the collections to the state. In exchange, the state will remit to the corporation \$20 million at the start of the project, \$20 million on the date the bridge is placed into service, and \$5 million annually for the length of the agreement (40 years), as compensation for designing, building and financing the bridge. In addition, the state will remit to the corporation \$200,000 per month for the length of the agreement, for the collection of the tolls.

<p>Note: The state is compensating the corporation (the operator) for operating the toll function by paying \$200,000 per month; whereas, if an SCA, revenues collected are kept by the operator in exchange for the payment made to the state.</p>
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GASB 94 Questionnaire

Agency Name: _____

Agency Number: _____

Agency Contact: _____

Agency Email: _____

Each agency **submitted** this questionnaire to serve as the **Acknowledgment of Review** of the agency's operations as of June 30, 2023.

Agencies with qualifying arrangements **must**:

- Complete one questionnaire for each PPP / SCA / APA
- Provide a copy of the supporting documentation for each PPP / SCA / APA

Determine if a PPP Arrangement Exists

- 1) Is the operator in the agreement required to provide a public service?
 - Yes – continue to next question.
 - No – this is not a PPP, continue to question 10.

- 2) Is this an exchange or exchange-like transaction?
 - Yes – continue to next question.
 - No – GASB 94 does not apply, continue to question 10.

- 3) Is the contract for a specific period of time?
 - Yes – continue to next question.
 - No – GASB 94 does not apply, continue to question 10.

- 4) Does the operator have the right to operate or use the agency's capital asset (including infrastructure)?
 - Yes – continue to question 5.
 - No – this is not a PPP, continue to question 10.

Determine if the PPP Arrangement is an SCA

- 5) Does the agreement meet the definition of a lease?
 - Yes - if the arrangement meets the definition of a lease and the transferor's existing asset is the only underlying asset; and the operator is not required to makes improvements. Treat as a lease where GASB 87 applies. Continue to question 10.
 - No – likely a PPP, determine if an SCA. Continue to question 6.

- 6) Has the operator provided your agency with significant consideration, such as an up-front payment, installment payments, a new facility, or improvements to an existing facility?
 - Yes – continue to next question.
 - No – this is not an SCA, treat as a PPP **

- 7) Does the operator receive compensation from fees collected from third parties?
 - Yes – continue to next question.
 - No – this is not an SCA, treat as a PPP **

8) Does the agency have the ability to modify or approve which services the operator is required to provide; to whom the operator is required to provide the services; and the prices or rates that are charged for the services?

- Yes – continue to next question.
- No – this is not an SCA, treat as a PPP **

9) Is the transferor entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement?

- Yes – this is likely an SCA ** Arrangement Name Transferor
Operator: _____
General Description: _____

- No – this is a PPP [inventory as a PPP] ** Arrangement Name
Transferor Operator: _____
General Description: _____

**Please provide a copy of the agreement for the SCA / PPP.

Determine if an APA exists

10) Is your agency procuring a capital asset or service by compensating an operator for activities that may include designing, constructing, financing, maintaining, or operating an underlying nonfinancial asset?

- Yes – continue to next question.
- No – this is not an APA. STOP questionnaire.

11) Is this an exchange or exchange like transaction?

- Yes – continue to next question.
- No – this is not an APA, STOP questionnaire.

12) Is the contract for a specific period of time?

- Yes – continue to next question.
- No – this is not an APA. STOP questionnaire.

13) Are payments by the agency based entirely on the asset’s availability for use rather than on tolls, fees, or similar revenues or other measures of demand? Availability for use may be based on specified criteria such as the physical condition of the asset, construction milestones, or the achievement of certain available measures.

- Yes – this is an APA ***
Arrangement Name _____
Transferor _____
Operator _____
General Description _____

***Please provide a copy of the APA agreement.

- No – this is not an APA. STOP questionnaire.

Please return completed questionnaire(s) and copies of agreements to FRS@cpa.texas.gov.

Thank you for completing the questionnaire.