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Subject: US DOL/OCFO Comments on FASAB ED, "Leases: An Amendment of SFFAS 5 . . . and SFFAS 6 . . ."
Date: Friday, January 06, 2017 2:27:16 PM

Below please find comments from the U.S. Department of Labor (DOL), Office of the Chief Financial Officer (OCFO), Division of Financial Reporting (DFR) on the exposure draft of proposed Statement of Federal Financial Accounting Standards, "Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government and SFFAS 6, Accounting for Property, Plant, and Equipment (September 26, 2016)." Comments were requested by January 6, 2017. DOL/OCFO/DFR is a Federal entity preparer.

Given the timing of when the ED was issued (close to end of fiscal year) and when comments were due (last pay period of the leave year), for future EDs please consider the timing for issue dates and comment deadlines. If the timing of an ED cannot be changed, providing reminders to Agencies during the comment period is helpful. In this way Agencies will be able to provide more timely and substantive comments.

We appreciate the opportunity to provide comments. If there are any questions, please contact: Cynthia Simpson, simpson.cynthia@dol.gov or Jennifer Maurer, Maurer.Jennifer@dol.gov
Both may be reached at 202-693-6800.

Regards,

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U.S. Department of Labor
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Division of Financial Reporting

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U.S. Department of Labor
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Comments on FASAB Exposure Draft, "Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government and SFFAS 6, Accounting for Property, Plant, and Equipment (September 26, 2016)"

Q1. The Board is proposing to define a **lease** as a contract or agreement that conveys the right to use a nonfinancial asset (the underlying asset) for a period of time in an exchange transaction. The current lease standards, Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of the Federal Government* and SFFAS 6, *Accounting for Property, Plant, and Equipment*, do not

specifically define a lease. SFFAS 5 and SFFAS 6 only define a capital lease as a “lease that transfers substantially all the benefits and risks of ownership to the lessee.” The Board believes that the more concise definition being proposed is broad enough to capture the diversity of federal leasing activities. The proposed lease definition is presented in paragraph 9 and further explained in paragraph A15.

Do you agree or disagree with the proposed definition of lease presented in paragraph 9 and further explained in paragraph A15? Please provide the rationale for your answer.

DOL/OCFO/DFR Response:

(1) DOL/OCFO/DFR disagrees with the use of “nonfinancial asset” in the definition of a lease. “Monetary assets” and “nonmonetary assets” are more appropriate terms and that the Board should use these terms (and the meaning for these terms) consistently throughout the accounting standards and the FASAB Handbook. The examples of assets as described in footnote 3 on Page 11 are examples of nonmonetary assets that exclude certain items, e.g., operating materials and supplies.

(2) For an intragovernmental lease, please specify if the “agreement” in the definition of lease includes a memorandum of understanding.

(3) Intragovernmental leases should exclude contracts/agreements for which the receiving entity would record an imputed financing source/imputed cost because the receiving entity does not fully reimburse the performing entity.

Q2. The Board is proposing that the **lease term** be determined as the period during which a lessee has a noncancelable right to use an underlying asset (referred to as the noncancelable period) plus each option period if it is probable, based on all relevant factors, that the lessee will exercise that option to extend the lease. The lease term proposal also provides guidance on the noncancelable period and on how specific provisions (such as fiscal funding/cancellation clauses and month-to-month lease holdovers) should be applied. The proposed lease term requirements are presented in paragraphs 14 – 18 and further explained in paragraphs A16 – A18.

Do you agree or disagree with the proposed guidance on determining the lease term as presented in paragraphs 14 - 18 and further explained in A16 – A18? Please provide the rationale for your answer.

DOL/OCFO/DFR Response:

(1) If one of the purposes of the standard is to report the Federal entity’s liabilities on the balance sheet for transactions that are off-balance sheet under current GAAP, then the definition of noncancelable period should also include language about the minimum period for which the Federal lessee has an obligation to make lease payments.

(2) In paragraph 17.a, use “lease incentive” instead of “economic incentive” for

consistency in the document.

(3) In paragraph 17.d, can the federal entity be a lessor? If not, language should be clear that it is for federal lessee.

(4) In paragraph 18, if a federal lessor has the option to terminate the lease (e.g., paragraph 15.c) then the need to reassess the lease term should not be limited to the actions of the lessee (e.g., in the current reporting period, the lessor may inform the lessee that it will terminate the lease in a future reporting period).

- Q3.** The Board is proposing that at the beginning of the lease term, a lessee should recognize a lease liability and a property, plant, and equipment right-to-use lease asset (the lease asset), except for intragovernmental and short-term leases. The proposed lease recognition requirements are presented in paragraph 19.

Do you agree or disagree with the proposed lessee recognition of a lease at the beginning of the lease term as presented in paragraph 19? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: Please refer to the response to question 2, item (1).

- Q4.** The Board is proposing that a lessee should measure the **lease liability** initially at the present value of payments to be made for the lease term. In addition, the measurement of the lease liability should include the several types of payments that might be required by a lease. The proposed lease liability measurement and recognition requirements are presented in paragraphs 21– 29 and further explained in paragraphs A20 – A21.

Do you agree or disagree with the proposed lessee measurement and recognition of the lease liability as presented in paragraphs 21 - 29 and further explained in paragraphs A20 – A21? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: In paragraph 25, it is possible that a combination of these changes could have offsetting effects and the net effect may not significantly affect the amount of the lease liability. It is possible that the effects of paragraphs 25 through 29 are offsetting and the net effect does not significantly affect the amount of the lease liability. There should be an accounting standard as to whether remeasurement would be required in these cases.

- Q5.** The Board is proposing that the future lease payments should be discounted using the rate the lessor charges the lessee, which may be the interest rate implicit in the lease. If the rate cannot be reasonably estimated by the lessee, the lessee's incremental borrowing rate (the estimated rate that would be charged for borrowing the lease payment amounts for the lease term) should be used. The specific proposed requirement is presented in paragraph 23.

a. Do you agree or disagree that the rate the lessor charges the lessee, which

may be the interest rate implicit in the lease, should be used to measure the future lease payments as presented in paragraph 23? Please provide the rationale for your answers.

DOL/OCFO/DFR Response: No comment at this time.

- b. Do you agree or disagree that the lessee's incremental borrowing rate should be used to measure the future lease payments when the lessor rate cannot be reasonably estimated by the lessee as presented in paragraph 23? Please provide the rationale for your answers.

DOL/OCFO/DFR Response: No comment at this time.

Q6. The Board is proposing that the lessee should remeasure the lease liability at subsequent financial reporting dates if certain changes have occurred and are expected to significantly affect the amount of the lease liability. The Board is also proposing that the lease asset should generally be adjusted by the same amount when the corresponding lease liability is remeasured based on those changes. Additionally, if the change reduces the carrying value of the lease asset to zero, any remaining amount should be reported in the flows statement as a gain. The proposed lessee requirements for remeasurement are presented in paragraphs 25 – 29, 33, and further explained in paragraph A19.

- a. Do you agree or disagree with the circumstances when the lessee must remeasure the lease liability as presented in paragraph 25? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: Please refer to the response to question 4.

- b. Would the requirements triggering remeasurement cause undue costs? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: No comment at this time.

- c. Do you agree or disagree with the effect of the remeasurement on the carrying value of the lease asset as presented in paragraph 33 and further explained in paragraph A19? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: The proposed standard for remeasurement of the carrying value of the lease asset may be the only practical and expedient treatment. The Board should consider whether remeasurement should be made to a valuation allowance that is separate from accumulated amortization.

In paragraph 35.b, the Board should consider disclosure of the valuation allowance.

Q7. The Board is proposing that a lessee should measure the lease asset initially as the sum of (1) the amount of the initial measurement of the lease liability, (2) lease payments made to the lessor at or before the beginning of the lease, less any lease incentives received from the lessor, and (3) initial direct costs that are ancillary

charges necessary to place the lease asset into service. The proposed lessee lease asset measurement and recognition requirements are presented in paragraphs 30 – 34 and further explained in paragraph A22.

Do you agree or disagree with the proposed lessee measurement and recognition of the lease asset as presented in paragraphs 30 - 34 and further explained in paragraph A22? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: Please refer to the response to question 6.c.

- Q8.** The Board is proposing that at the beginning of the lease term, a lessor should recognize a lease receivable and deferred revenue, except for intragovernmental and short-term leases. The proposed requirements for the measurement and recognition of the lessor lease receivable and deferred revenue are presented in paragraphs 36 – 48 and further explained in paragraphs A23 - A24.

Do you agree or disagree with the proposed lessor measurement and recognition of the lease receivable and deferred revenue as presented in paragraphs 36 - 48 and further explained in paragraphs A23 - A24? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: No comment at this time.

- Q9.** The Board is proposing to define a short-term lease as a lease that, at the beginning of the lease, has a maximum possible term under the contract/agreement of 24 months or less, including any options to extend, regardless of its probability of being exercised. The proposed requirements for the measurement and recognition of a short-term lease are presented in paragraphs 59 – 61 and further explained in paragraph A25.

Do you agree or disagree with the proposed definition and measurement and recognition of a short-term lease as presented in paragraphs 59 - 61 and further explained in paragraph A25? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: In paragraphs 60 and 61, the accounting standard should describe the treatment of cases where the reduction of expense/lease income due to straight-line amortization of the rent holiday results in a negative amount of expense/lease income for the accounting period.

- Q10.** The Board is proposing to establish distinct standards for intragovernmental leases. An intragovernmental lease is a contract or agreement that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration occurring within a consolidation entity or between two or more consolidation entities as defined under SFFAS 47, Reporting Entity. The proposed requirements for the measurement, recognition, and disclosure of intragovernmental leases are presented in paragraphs 75 – 95 and further explained in paragraphs A26 - A29.

Do you agree or disagree with the proposed definition, measurement, recognition, and disclosures of intragovernmental leases as presented in

paragraphs 75 - 95 and further explained in paragraphs A26 - A29? Please provide the rationale for your answer.

DOL/OCFO/DFR Response:

(1) For paragraph 75, please refer to the responses in question 1.

(2) For paragraph 83, the accounting standard should describe the treatment of cases where the reduction of expense due to straight-line amortization of lease incentives results in a negative amount of expense for the accounting period.

(3) For paragraph 85, the accounting standard should describe the treatment of cases where the reduction of expense due to straight-line amortization of lease concessions results in a negative amount of expense for the accounting period.

(4) For paragraph 86, a leasehold improvement may exist for a lease asset (e.g., paragraph 17.b); therefore, the definition of leasehold improvement should appear in a section of the standard applicable to both non-intragovernmental leases and intragovernmental leases. For non-intragovernmental leases, if remeasurement changes the carrying value of the lease asset, then the Board should describe the effect on the leasehold improvement. For non-intragovernmental leases, if impairment changes the carrying value of the lease asset, then the Board should describe the effect on leasehold improvement.

(5) For paragraph 90, the accounting standard should describe the treatment of cases where the reduction of rental income due to straight-line amortization of lease incentives results in a negative amount of rental income for the accounting period.

(6) For paragraph 92, the accounting standard should describe the treatment of cases where the reduction of rental income due to straight-line amortization of lease concessions results in a negative amount of rental income for the accounting period.

Q11. The Board is proposing that leases unexpired at the beginning of the reporting period in which the standard is implemented be recognized and measured using the facts and circumstances that exist at the beginning of the reporting period. The proposed implementation requirements are presented in paragraphs 99 -100.

Do you agree or disagree with the proposed prospective implementation approach as presented in paragraphs 99 - 100? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: We agree with the proposed prospective implementation approach for unexpired intragovernmental leases and that early adoption should not be permitted; same-year implementation for all Agencies is consistent with the treatment of intragovernmental activity and intragovernmental reporting.

For non-intragovernmental leases, lessee Agencies should be allowed flexibility in the

treatment of unexpired non-intragovernmental leases. For example, lessee Agencies should be allowed the option to continue their current accounting and reporting for unexpired non-intragovernmental leases that have a lease term (under existing GAAP) of between

-- greater than three years and

-- up to six years

from the beginning of the year in the year of implementation. The lessee Agency should be allowed to apply this option on a lease-by-lease basis. For unexpired non-intragovernmental leases with a lease term greater than six years from the beginning of the year in the year of implementation, the lessee Agency would be required to apply the new accounting standard. In this way, lessee Agencies would be required to apply the new accounting standard to new non-intragovernmental leases and significant unexpired non-intragovernmental leases and implementation costs would be lower because the number of leases would be lower. We agree that early implementation should not be permitted.

At this time, DOL/OCFO/DFR has no comments on implementation for non-intragovernmental leases of lessor Agencies.

Q12. The Board is proposing that the requirements of this Statement be effective for reporting periods beginning after September 30, 2018. The proposed effective date is presented in paragraph 101.

Do you agree or disagree with the proposed effective date as presented in paragraph 101? Please provide the rationale for your answer.

DOL/OCFO/DFR Response: To prepare the Financial Report of the U.S. Government, the U.S. Department of the Treasury issues guidance for reporting intragovernmental activity. The Board should consult with Treasury with regard to the effective date for intragovernmental leases to ensure that there is adequate lead time to develop guidance and systems and test processes and systems governmentwide for transition to the new accounting standard.

For a FY 2019 implementation date, Agencies would remeasure unexpired non-intragovernmental leases as of 09/30/2018 so as to report the adjustments to the beginning balance of cumulative results for first quarter comparative financial statements; this work would begin in FY 2018 and would not provide adequate lead time unless Agencies were provided flexibility in applying the standard to unexpired non-intragovernmental leases.

Edits

Edits for the document are provided below.

a. In the table of contents: Disclosure Requirements of lessees (lessees should be capitalized); "implementation" should be capitalized; Project history (history should be

capitalized)

b. Paragraph 15.a uses “initial lease period” when the rest of the proposed standard uses “initial lease term.”

c. Avoid the use of “only” if possible, e.g., paragraphs 16.c, 18, 64, 74.

d. Page 30, paragraph [29.], italicize “SFFAS X.”

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Comments on Other Aspects of the Proposal

In paragraph 64, if the lease asset is reclassified to the appropriate class of owned asset, then the lease liability should likewise be reclassified to the appropriate class of liability.