

**From:** Masahudu, Osman -FS  
**Sent:** Friday, October 24, 2014 4:04 PM  
**To:** Savini, Domenic N  
**Cc:** Close, Kevin - OCFO; Mudahar, Simerjeet K -FS; Clarke, Rico -FS; McCrary, Gail - FS  
**Subject:** FASAB P3 Disclosure Requirements - USDA Forest Service Comments

Hello Dom,

Please see attached for Forest Service's consolidated comments on the P3 Disclosure Requirements Exposure Draft. Please let me know if you need clarification on any of our comments. Thanks for the opportunity.



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***USDA – Forest Service Response to questions 1-8***  
**FASAB Public Private Partnerships Exposure Draft Review**

**Q1 - Do you agree or disagree that the P3 definition proposed at paragraph 17 captures the most widely identified features of federal P3s (refer to paragraphs A7 – A9 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A1 – Forest Service agrees. Forest Service interacts with many private (non-governmental) partners to provide a service with shared risks and rewards. We ensure that these risks and rewards are sufficiently captured in our memoranda. In addition, Forest Service does not discount projects or transactions that do not share risks or rewards sufficiently. However, we evaluate projects to ensure they are designed to foster goodwill, encourage economic development, promote research and innovation, coordinate and integrate strategic initiatives.

**Q2a - Do you agree or disagree that the P3 definition helps identify risk-sharing arrangements or transactions that could possess significant risk (that is, fiscal exposure) to the federal reporting entity (refer to paragraphs 17, 18, A7- A9, and A10 - A12 for related comments)? Please provide the rationale for your answer.**

A2a – Forest Service agrees.

**Q2b - Do you agree or disagree that the P3 definition, while capturing P3s based on their most widely identified features, excludes contracts or other arrangements or transactions that are routine in nature and not generally identified as P3s for other purposes (refer to paragraphs 17, 18, A7- A9, and A10 – A12 for related comments)? Please provide the rationale for your answer.**

A2b – Yes, your definition makes special note of shared risk and reward, whereas traditional pay for service contractual arrangements do not include that shared element, all while still holding the contractor accountable as defined in the terms.

**Q2c -Are there any features other than those identified in the proposed P3 definition that would assist entities in identifying risk-sharing arrangements or transactions that could possess significant risk (that is, fiscal exposure) to the federal reporting entity (refer to paragraphs 17, 18, A7- A9, and A10 - A12 for related comments)? Please provide the rationale for your answer.**

A2c – Analyzing reputational risk to federal agencies with P3's from different sectors might be a project worth considering. P3's with for-profit entities while valuable for many reasons may carry more significant reputational risk than for example non-profit 501(c)3 organizations. Forest Service is not sure how type of risk is assessed or made clearer in the definition or not sure about the real "fiscal exposure" associated with such risks.

**Q2d - The scope of the ED excludes those informal arrangements or transactions that do not share risks or rewards and for example, are solely designed to foster goodwill, encourage economic development, promote research and innovation, coordinate and integrate strategic initiatives, etc. Do you agree with the exclusion? Is it clear what would be excluded by this provision? If not, what features, if any, differentiate them from those arrangements or transactions that do possess**

**significant risk (that is, fiscal exposure) to the federal reporting entity (refer to paragraphs 17, 18, A7-A9, A10 – A12, and A13 – A14 for related comments)? Please provide the rationale for your answer.**

A2d – Forest Service agrees that, shared risk and reward arrangements that open up the most significant fiscal exposure and therefore should warrant additional attention. Likely, the majority of what the Forest Service is currently calling P3 fall into this excluded category. Though, as an example in an increasingly important form of P3, the Forest Service partners with a utility company (or municipal agency) and perhaps a non-profit organization or company can invest in land management activities on public lands (that stay public) so as to reduce risk of damage to their infrastructure or “public” resource that directly contributes to their product/service offered to their customers. In that case, there is a sense of risk sharing and reward; although not involving transfer of real property that might not be longer than 5 years in length, and not sure about SPVs. Such arrangements largely foster goodwill and integrate strategic initiative. Forest Service exposure to fiscal risks is minimal in this example. Transfer of real property and assets seem to be a significant trigger of fiscal exposure or risk.

**Q2e - Do you agree or disagree with the one member’s concern that the definition of P3s is not confined solely to P3 arrangements or transactions and is not sufficiently clear to facilitate consistent application of the standard (refer to paragraphs A31-A41 for the Alternative View)? Please provide the rationale for your answer.**

A2e – The definition is fine. Confines to P3’s.

**Q3a - Do you agree or disagree that only those P3s (identified pursuant to the above definition) possessing risk-based characteristics (that is, conclusive or suggestive characteristics) should be subject to the disclosure requirements proposed at paragraphs 21 – 24 (refer to paragraphs A13 – A14 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A3a – Agree. To require more disclosure for seemingly less risk (fiscal exposure) would trigger burdensome and unwarranted reporting requirements.

**Q3b - Do you believe that there are other arrangements or transactions besides P3s for which the risk-based characteristics are present and therefore disclosure should be required? Please provide the rationale for your answer.**

A3b – None

**Q3c - Do you believe that when the final Statement becomes effective, the entities with which you are associated have P3s that are subject to disclosure pursuant to the proposed requirements (refer to paragraphs A1, A4, A6(a), A10 – A12 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A3c – No, as previously noted of the four Definitional Features Indicative of Risk (Fiscal Exposure), only point 3 is regularly encountered and when it is largely to foster goodwill, promote economic development, and integrates strategic initiatives and therefore does not appear to trigger the disclosure requirements.

Definitional Features Indicative of Risk (Fiscal Exposure) - (1) agreements covering a significant portion of the economic life of a project or asset, and/or lasting more than five years, (2) financing provided in whole or shared in part by the private partner, (3) conveyance or transfer of real property, personal property, or multi-sector skills and expertise, or (4) formation of SPV's.

**Q4 - Do you agree or disagree with the risk-based characteristics, their related classification as either conclusive or suggestive, and their proposed application at paragraphs 19 and 20 (refer to paragraphs A15 – A16 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A4 – Agree. The conclusive characteristics are straight forward and reasonable (transferring an asset, setting up an SPV/trust, formal arrangement is established at conception for longer than 5 years, and exempted from FAR). The suggestive characteristics largely appear reasonable as well though appropriately require judicious use prior to automatically triggering additional disclosure requirements.

**Q5 - Do you agree or disagree with the component entity report disclosures proposed at paragraph 23 (refer to paragraphs A25 – A27 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A5 – Generally agree. Components a-c is standard elements of institutional MOUs and other subsidiary agreements and reports already typically developed to frame a P3. Components d and e however do not typically figure into, nor might they be needed for Forest Service P3, and so may require undue extra effort. Though as previously noted, most Forest Service P3's would likely be exempt from the reporting requirements as proposed in the standard.

**Q6a - Do you agree or disagree with the Board's position as stated above and included at paragraph A24 (refer to paragraphs A22 – A24 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A6a – Agree. All sounds reasonable.

**Q6b - Do you agree or disagree with the one member's concern that (1) disclosure of remote contingencies is not limited to the terms of contractual arrangements, (2) the concept of "significant exposure" is not sufficiently clear to result in consistent disclosures, and (3) risks related to entity operations or performance (referred to in the Alternative View as business risks) would be included in the risk disclosures (refer to paragraphs A31-A41 for the Alternative View)? Please provide the rationale for your answer.**

A6b – Generally disagree, though perhaps spelling out a bit more "significant exposure" might be helpful.

**Q7 - Do you agree or disagree that entities should be permitted to aggregate or group disclosures as proposed at paragraph 21 (refer to paragraphs A28 – A29 for a detailed discussion and related explanations)? Please provide the rationale for your answer.**

A7 – Wholeheartedly agree that aggregating any required disclosures by logical category is the appropriate way to get the information needed to manage risk without placing undue burden on the agency.

**Q8 - Please provide any comments or suggestions you have regarding the goals for this project, other issues identified in the basis for conclusions, or areas which have not been addressed.**

In reference to one of your conclusive characteristics, our understanding is that all Grants & Agreements fall outside of Federal Acquisition Regulations, meaning, if this exposure draft is adopted, virtually all Grants & Agreement arrangements would be required to disclosure all risks associated with those arrangements – a serious reporting burden for Forest Service and hopefully many other Departments and agencies. Forest Service has solid set of authorities, policies and practices for our Grants & Agreements. Forest Service is not, as the conclusive characteristics indicates at any increased risk because, we have established safeguards such as effective contract resolution mechanisms for any potential risks.