

Dear Chairman and Members of the FASAB:

In full disclosure, I have had the pleasure and honor to serve on several FASAB Task Force Standards initiatives, as well as an Instructor for the various Standard(s) training programs. I have participated in the same position when Executive Order 13327 – Federal Real Property Asset Management was issued and served as an Instructor for that initiative as well. Lastly, I served as a Task Force Member and Instructor for the GASB for Statement 34/35 and I am current GASB Capital Asset Committee representative/participant.

I just wanted to comment in advance of next week's Board meeting regarding Public Private Partnerships, from an Asset Management & Valuation point of view in that I work with State & Local Governments, as well as Public & Private Institutions of Higher Education throughout the United States.

My goal by participating with the FASAB and GASB is to promote transparency to providers, users, and the taxpayers. If there is any lack of transparency, along with the providing of erroneous, or incomplete financial reporting documentation that cannot be relied upon, is of paramount concern, should economic risks and financial cost estimates cannot be relied upon, for financing, or public disclosure, then the Public's confidence in Government is truly at risk.

The topic of Public/Private Partnerships is more at the forefront at many conferences throughout the United States. Frankly, it has become a surprise to many users and there is a great deal of concern from an implementation and financial reporting standpoint. For instance, with Institutions of Higher Education, it all started out with outsourcing Campus Bookstore's, then Dining, then Housing and the list goes on. Many of these Institutions participate in Organized Research Activities and are required to submit a Facilities & Administrative Cost Proposal to their cognizant agency being the Office of Naval Research (ONR) or the U.S. Department of Human Services, Division of Cost Allocation Services (DHHS-CAS), in compliance with the Office of Management and Budget 2 CFR, Part 200; *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Of course, these Public/Private Institutions of Higher Education have compliance requirements for either GASB or FASB. GASB Statements 34/35 is of paramount importance to State & Local Governments and Public Institutions of Higher Education in that many institutions currently have campus like settings that have their own infrastructure/utilities which require GASB 35 financial reporting requirements for infrastructure assets. Many of these institutions with underlying infrastructure assets are now being presented with opportunities to enter into P-3's, thus a challenging environment for sure, as to how best to proceed with such offerings. If these Institutions move forward with such an opportunity, what are their financial reporting requirements?

It is important to note, that the primary concern with these transactions, is the lack of knowledge, training and implementation methodology for Financial Reporting as to how P-3's is to be reported and not data availability per se. Another prominent issue is how the P-3 transactions impact the overall compliance with the external Financial Reporting requirements relative to the State and Federal Governments.

State & local Governments are required to prepare and submit their Statewide Cost Allocation Plans (SWCAP's). These Statewide Cost Allocation Plans are a mechanism by which the State identifies summaries and allocates statewide indirect costs. These SWCAP's also include financial and billing information for billed central services directly charged to agencies, or programs through internal service funds. These plans provide management with important data about cost utilization that they can use in making decisions. These plans demonstrate the cost objects that absorb most

of the costs and aids in determining if the department is profitable in order to justify the allocated costs.

Many State and Local Governments are struggling with adopting Public Private Partnerships for everything from Toll Roads, Highways, Bridges, Tunnels and Water/Sewage Distribution and Collection Systems. Recently, a "State University" issued a Request for Proposal (RFP) to enter into a possible a Public Private Partnership (P-3) relationship for operating the overall University System, with multiple campus settings throughout the State, as the State government could not financially commit to funding the University, the physical plant improvements, as well as infrastructure improvements.

Due to the lack of State funding to operate and perform improvements for the University, together with declining enrollment, which can be attributed to the recent COVID Pandemic, campus security and lack of campus physical improvements are certainly of concern not only to the University, but to faculty, staff and current and perspective students and their families.

While I currently am not involved as a consultant in the Federal Government Community, the same issues are prevalent in this community as well. P-3's is being considered in an effort to continue overall operations, improving physical plant, as well as infrastructure related assets. Many of these assets are in some instances, in need immediate improvement, financial/operational improvement and strong oversight and management of the overall Government properties. Many Departments and Agencies, both at the Federal and State/Local Governments and Public Institutions of Higher Education communities, are currently experiencing changes in work force, via retirements/funding issues and the like, thus P-3's is becoming a perceived alternative source to funding/improving and continuing their current operations.

One of my major concerns with SFFAS 49, is Paragraph 24 b:

In part, "Disclosures **should be** provided for the initial period and all annual periods thereafter where an entity is party to a P3 arrangement/transaction. The following information **should be** disclosed:

b. A description of federal and non-federal funding of the P3 over its **expected life**, including the mix and, **where available**, the amounts of such funding. **For any amounts that are not available, the disclosures should indicate such.**"

In my professional opinion, Paragraph 24 b., creates a rather significant window, or loophole, as the purpose/intent of the P-3 transaction must provide "complete and full disclosure" of all financial information, as well as any other "known facts and circumstances", surrounding the overall transaction, to the prospective P-3 participant, and more importantly the citizens/taxpayers.

By stating the wording as highlighted above, in itself, indicates that this information is "optional" versus "required," which in fact, questions the overall validity, as well as the perceived weakness of the Disclosure in itself. The above highlighted wording should be changed to "must" vs "should be," "where available" and "are not available" should be stricken. "**Expected** life" should be its "estimated remaining useful life."

In addition to the above, by publicly disclosing that both public and private funds (Dollars), have not been identified, tracked and properly reported upon by the Governmental entity, immediately raises concern, as well as faith in our Government as to the accountability for proper Asset Management and Financial Reporting within the United States Government Departments and Agencies, as well as to the citizens of the United States.

Of note, when my clients submit their “Statewide Cost Allocation Plans,” or their “Facilities and Administrative Cost Proposals” to their respective Government Cognizant Agency and Auditors for review. Their accuracy in financial reporting governance, is by Penalty of the Law, (lying under oath in some instances) and does not allow for such disclosure “windows” or “loopholes,” as previously discussed and highlighted above, by simply noting that cost, funding, or supporting documentation was not available.

Lastly on this issue, from a State/Commonwealth, as well as Public Institutions of Higher Education perspective, full disclosure is not suggested, rather required, including upon award, full life cycle costing is required and is subject to audit review. Of note, State Governments, as compared to the Federal Government Departments/Agencies, specific to SFFAS 49, it is very clear that there are certainly inconsistencies on the Federal side, as to asset stewardship, transparency and financial reporting and accountability.

From the P-3 investor/developer side of a potential P-3 transaction, one would probably withdraw their interest in pursuing such a P-3 opportunity, that could potentially be for a period of 75-years, without knowing the full costs of the transaction, especially with the noted potential loopholes and perceived lack of transparency, as identified/highlighted above relating to paragraph 24 b.

Moreover, if the aforementioned concerns are true, and accurate Financial information is misrepresented, then the Government/Department/Agency working with a potential Public/Private Partner in the initial discussions phase, which then move towards serious discussions for implementation of a P-3 transaction, this lack of transparency, and perceived loopholes, might shield the incumbent contractor, but more importantly, may place other potential contractors that may be in a position to execute the overall P-3 project more efficiently and cost effectively, at an unfair disadvantage.

Please note, this response is based upon my personal observations and not representative of my Firm, or its employees.

Many thanks in advance for your time and consideration of my independent thoughts presented herein.

With appreciation,

Kevin J. McHugh
FASAB Task Force Member
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