

FASAB Exposure Draft: *Guidance on Recognizing Liabilities Involving Multiple Component Reporting Entities: An Interpretation of SFFAS 5*
Questions for Respondents due January 17, 2019

Please select the type(s) of organization responding to this exposure draft. If you are not responding on behalf of an organization, please select “individual.”

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Q1. The proposed Interpretation provides additional guidance regarding contingent liabilities when multiple component reporting entities are involved. Specifically, it provides clarification when one or more sub-component reporting entities are designated to manage litigation and/or pay any resulting liabilities on behalf of one or more other sub-component reporting entities. For example, a sub-component reporting entity may be designated to manage litigation of a certain type or within a certain geographic region for other sub-component reporting entities. The same or a different sub-component reporting entity may be designated to pay any resulting liabilities. In such cases, not all involved sub-component reporting entities would have the information needed to apply the provisions of Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities of the Federal Government*.

Generally, the sub-component reporting entity responsible for managing litigation would have the information needed to recognize contingent liabilities and should report information in accordance with SFFAS 5. Other involved sub-component reporting entities, including the sub-component reporting entity whose actions gave rise to the litigation, should not report information on contingent liabilities managed by another sub-component reporting entity.

Once a settlement is reached or a judgment ordered by a court, the liability should be removed from the financial statements of the sub-component reporting entity designated to manage the litigation and recognized in the financial statements of the sub-component reporting entity designated to pay the liability.

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- a. Do you agree or disagree with the guidance? Please provide the rationale for your answer.**

HHS follows and appreciates the argument that is being made in this interpretation of SFFAS 5, however, we respectfully disagree with the conclusion of assigning sub-component reporting of contingent legal liabilities to the component where the court proceedings and/or litigation is managed. We wonder if the situation where two or more sub-components share a legal liability, while a third sub-component handles the litigation, is common. We believe that the exposure draft is not clear and raises doubt over who should record the liability. HHS's Office of General Counsel handles all legal matters for the Department. It's clear to us which sub-component is responsible for a legal liability and therefore who should record and report the legal liability. We are reluctant to agree that an exception should be made to the long standing general rule of reporting liabilities by the component entity for which the future outflow or sacrifice of resources is probable and measurable.

Based on Section 4, quoting SFFAS 47, paragraph 10, FN 7, it appears that this standard also applies to components of the government-wide entity. Department of Justice litigates cases on behalf of HHS and many other agencies. The standard as written seems to imply that Justice could record the liability on behalf of HHS until the cases are settled.

Alternatively, do you believe the sub-component reporting entity whose actions gave rise to the litigation should be permitted to report the information in accordance with SFFAS 5? Please provide the rationale for your answer.

Yes, HHS believes that the subcomponent reporting entity whose actions gave rise to the litigation should be permitted to report the legal liability in accordance with SFFAS 5. At a minimum, they should not be prohibited from recording the legal liability. As an alternative, either sub-component could be permitted to report contingent legal liability. This would allow sub-components to communicate with the reporting entity to discuss who should record the contingent liability and the level of detail that should be disclosed by all involved parties.

- Q2.** The proposed Interpretation provides additional guidance regarding cleanup costs when multiple component reporting entities are involved. Specifically, for the purpose of meeting the SFFAS 5 liability recognition criterion that “[a] future outflow or other sacrifice of resources is probable,” the criterion should be considered met by the component reporting entity that recognizes the general property, plant, and equipment (PP&E) during its useful life. In that case, the liability should be reported on the balance sheet of the component reporting entity recognizing the general PP&E until the general PP&E and the associated liability are transferred to another entity for cleanup.

Do you agree or disagree with the guidance? Please provide the rationale for your answer.

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HHS agrees that a liability should be reported on the balance sheet of the component recognizing general PP&E until the general PP&E and the associated liability are transferred to another entity for cleanup.

Q3. The proposed Interpretation provides clarification and guidance regarding contingent liabilities and cleanup costs when multiple sub-component reporting entities are involved. When multiple sub-component reporting entities are involved, a component reporting entity may designate one or more sub-component reporting entities as responsible for various aspects (for example, management, payment) related to liabilities on behalf of one or more other sub-component reporting entities. As demonstrated with contingent liabilities and cleanup costs, not all involved sub-component reporting entities are likely to have the information needed to apply the provisions of SFFAS 5. Therefore, one sub-component reporting entity may be designated certain responsibilities (for example, management, payment) and should recognize and disclose information in accordance with SFFAS 5. In some instances, another sub-component reporting entity may be subsequently designated to recognize and disclose information in accordance with SFFAS 5 (for example, when another sub-component reporting entity becomes responsible for settling the liability).

a. Do you believe there are liability situations or examples when a similar condition occurs, other than contingent liabilities and cleanup costs? Please be specific and describe the situations or examples that should be addressed through additional guidance. Please provide the rationale for your answer.

HHS is not aware of any other liability situations or examples with similar characteristics.

b. Do you believe an additional general principle should be included to allow for cases other than contingent liabilities and cleanup costs in which a decision needs to be made regarding which component reporting entity should recognize the liability? If so, do you believe the general principle should read, “For liabilities involving multiple sub-component reporting entities, the liability should be recognized by the sub-component reporting entity designated to handle various aspects (for example, management, payment) on behalf of sub-component reporting entities”?

No, HHS does not believe a new general principle should be included.

Q4. Do you have any other comments or suggestions on the Interpretation? Please provide the rationale for your answer.

HHS recommends the Board provide a clear definition of “sub-component” and “management”. This will simplify understanding of the guidance.