

Leases Implementation Guidance Updates: Amendments to Technical Release 20

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Please provide your name.

Name: Donald Wood, Director of Financial Reporting and Analysis

Please identify your organization, if applicable.

Organization: U.S. Department of State

Please email your responses to fasab@fasab.gov. If you are unable to respond by email, please call (202) 512-7350 to make alternate arrangements.

This proposal would amend Federal Financial Accounting Technical Release (TR) 20, *Implementation Guidance for Leases*, by:

- incorporating minor conforming amendments related to Statement of Federal Financial Accounting Standards (SFFAS) 61, *Omnibus Amendments 2023*,
- inserting additional leases implementation guidance questions and answers within the related topic areas, and
- providing clarifying amendments / technical corrections on certain existing questions and answers under TR 20.

QFR 1 Do you generally support the proposed conforming amendment in paragraph 5? Please explain the reasons for your position. Please also explain any alternatives or additional candidates that you propose and the authoritative basis for such alternatives.

QFR 1 Response:

The U.S. Department of State (the Department) agrees with the draft amendment in paragraph 5 and appreciates the opportunity to review the proposal.

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QFR 2 Do you generally support the proposed updates (that is, new questions and answers) in paragraphs 6-10? Please explain the reasons for your positions, the paragraph number(s), and/or topic areas of the proposals that are related to your positions. Please also explain any alternatives you propose and the authoritative basis for such alternatives.

QFR 2 Response:

The Department supports the proposed updates and agrees with the lease treatment provided in the draft responses. However, the Department does not agree with portions of the rationale for the conclusions under paragraph 6, updates to 8A of TR 20.

Paragraph 6, 8A states “No, this contract does not convey control or meet the definition of a lease. Paragraph 2 of SFFAS 54 provides that the underlying asset should be identified either through explicit specification in the contract or implicit specification at the time the underlying asset is made available for use. The contract in this scenario does not specify, either explicitly or implicitly, the underlying asset.” In reviewing this question against the definition provided in paragraph 2 of SFFAS 54, it appears that the underlying asset is identified and is explicitly stated as the “right to use a fiber optic cable”. SFFAS 54 guidance does not provide for definitions or tests of “identified” assets as outlined by FASB under ASC Topic 842 (taking into account substitution rights for example). Therefore, based on the current language, any asset provided under a contract could be considered an identified underlying asset under SFFAS 54, even when a generic asset (i.e., a general vehicle type versus a specific vehicle by VIN) is provided for a period in exchange for consideration (as long as the other criteria for control and economic benefits is met).

Rather, it is the lessor’s inability to “control the use”, specifically the “right to control access to the economic benefits” of the stated asset that prevents this scenario from being a reportable lease under SFFAS 54.

We recommend FASAB remove the language pertaining to the identification of the underlying asset.

QFR 3 Do you generally support the clarifying amendments / technical corrections in paragraph 11-13? Please explain the reasons for your positions, the paragraph number(s), and/or topic areas of the proposals that are related to your positions. Please explain any alternatives or additional clarifying amendments / technical

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correction candidates that you propose and the authoritative basis for such alternatives and/or candidates.

QFR 3 Response:

The Department appreciates FASAB's consideration of the uniqueness of the overseas lease process, and the clarification provided in paragraph 13, related to TR 20 question 91. We have reviewed the proposed clarifying amendments/technical corrections for paragraphs 11-13 and have the following comments:

Paragraph 11, amending paragraph 17 of TR 20, states that the disclosure for right-to-use assets expenses (what would be included in the lease expense) should include "expenses by lessees (par. 54.e) include amounts incurred during the fiscal year for the amortization of the lease assets, as initially capitalized in accordance with paragraph 49, and interest expense." However, in reviewing SFFAS 54, paragraph 54c, "the amount of lease expense recognized for the reporting period for variable lease payments not previously included in the lease liability" should also be reported as part of lessee expenses within the lease activities disclosure. The Department recommends that FASAB update paragraph 11 to include the expenses referenced under paragraph 54C of SFFAS 54.

Further, the Department has a few recommended changes to the current language outlined in the question and answer for paragraph 13 as follows (recommendations to provide clarity):

If Agency ABC is acting in an agent capacity (i.e., similar to a broker), Agency ABC is providing a service to Agency XYZ. **Under this arrangement**, Agency ABC does not provide **rental** consideration to the lessor or receive **rental** consideration from Agency XYZ. **Rather**, the lease payments are made to the non-federal lessor directly from Agency XYZ's budgetary resources. In such circumstances, Agency XYZ would account for the lease (as lessee) and record the lease liability with the non-federal lessor, along with the corresponding lease asset.

If Agency ABC is acting in a principal capacity, Agency ABC is generally responsible for an original lease with the non-federal lessor and a sublease with Agency XYZ. In such circumstances, Agency ABC would provide **rental** consideration to the original lessor and receive **rental** consideration from Agency XYZ relating to a sublease agreement. Accordingly, if Agency ABC is acting in a principal capacity, Agency ABC would record the lease liability with the non-federal lessor, and account for an intragovernmental sublease with Agency XYZ in accordance with paragraphs 87-88 of SFFAS 54.
