February 22, 2019

Via Electronic Mail

Director of Research and Technical Activities
Project No. 3-13
Governmental Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

RE: Response to GASB Exposure Draft – *Fiduciary Activities Implementation Guide*

Dear Mr. Bean:

The Office of the Washington State Auditor appreciates the opportunity to give input on the GASB’s proposed Preliminary Views – *Fiduciary Activities Implementation Guide* (Project No. 3-13). In our constitutional role as the auditor of public accounts for the State of Washington, our Office performs the financial audit of the State of Washington and annually performs or reviews over 800 financial audits of the State’s agencies and all types of local governments, along with their component units. Overall, we appreciated this important guidance and found that it addressed most of the situations we have in Washington State. Our comments on specific questions are as follows:

**Question 4.11**

We disagree that such assets – whether in the form of cash or noncash property – would meet criteria for reporting as a fiduciary fund. Specifically, assets are in fact derived from a government-mandated non-exchange transaction (that is, seizure). In addition, while the assets belong to the defendant, the reason for the seizure was for the benefit of the government itself, which has a direct financial interest in the seized assets. Rather, we believe evidence and seized property is a government-mandated non-exchange transaction for which revenue recognition has not yet been met. Accordingly, we believe that no financial transaction has occurred until a verdict is rendered in favor of the government, at which point forfeiture revenues would be recognized and the valuation of property or assets would be estimated or realized and reported on the financial statements as the government’s own revenue.

We noted that the question and answer only refers to “cash and other financial assets.” While governments may seize cash and other financial assets for potential forfeiture, the
vast majority of seizures held by governments is in the form of noncash property. Since the answer does not expressly describe an exception for noncash property, it would imply that noncash property would be treated similarly. If the Board does not intend for noncash property to be treated the same, we urge that a separate question be added to clarify.

Treating seized cash and property as a fiduciary activity prior to a judgment being rendered would create an undue burden to value and report on thousands of assets while awaiting a verdict. Moreover, we do not believe that reporting seized assets awaiting trial would meet concept statement criteria for the objectives or characteristics of financial reporting.

**Question 4.12**

We agree with this answer that performance bonds or deposits would not meet criteria for reporting as a fiduciary activity. This answer could be improved by providing the correct accounting for the transaction, similar to question 4.13. For example, this could be done by adding “… as a restricted asset and offsetting liability” to the end of the last sentence of the answer.

**Question 4.25**

We agree that a government’s compliance with general laws or public policies when holding funds would not be considered administrative involvement. This question could be strengthened if it also mentioned that the county withholds any garnishments on wages, since this is a common practice.

**Question 4.30**

We agree with this answer. However, a far more common situation is for a county government to provide accounting and treasury services to other governments pursuant to law. This question and answer would be more useful if it was explicitly inclusive of the more common situation. For example, the question could be revised to read: “A county government has custody of resources pursuant to state statute or a nontrust agreement with a separate government or an NFP …” and so on.

**Question 4.31**

The Board may wish to consider clarifications to 4.31 to directly define “derived from” and reinforce the rationale that holding the resources is the service itself rather than being derived from the service. Also the last sentence could be clarified since the fees would be reported in the fiduciary fund as deductions. For example:

A – Resources would be “derived from” the provision of goods or services if they are received in exchange for the accounting and treasurer services (or any other services) provided by the county to the NFP. In this case, the service being provided by the county is associated with the holding of the resources. Therefore the resources held by the county represent the service itself rather than being derived from it. The resources held by the county were not received in exchange for the accounting and treasurer services (or any other services) provided by the county to the NFP. However, any fees earned and held by
the county, which do derive from the provision of treasury services to the NFP, should be reported as revenue not be reported in the fiduciary fund financial statements of the county.

**Question 4.36**

We agree with this question and answer. However, we are concerned that neither the question nor answer includes a definition of “shared revenue,” nor is this answer contrasted against other common situations that might be confused with a shared revenue situation. We request that the Board include either a narrow definition of “shared revenue” or contrast it to more common situations where one government collects a tax, fee or fine and must remit a portion of it to other governments in accordance with statutes, which we believe should be treated as a fiduciary activity.

In Washington, there are relatively few shared revenue situations whereas there are numerous situations where one government collects revenue on behalf of other governments. In some of these situations, a government is statutorily mandated to collect a tax, fee or fine, of which a portion is collected on behalf of another government and must be remitted to them. For example, when (by law) property taxes or sales taxes or B&O taxes are collected by the county or state, in part for themselves and in part for other jurisdictions. Or when court fines are imposed by County or City courts and (by law) a portion of the fine amount for various offenses is remitted to the state. In other situations, one government contracts with another to collect funds for them in exchange for a charge for the service. For example, one city may contract with another to run their municipal court and collect and remit fines on their behalf in exchange for a charge for the service. We are concerned that these common situations might be confused with a “shared revenue” situation in the absence of a clear contrast.

**Question 4.45**

Since the leasehold tax is imposed on the Port’s own revenue, wouldn’t this simply be a liability of the Port? We are unclear how leasehold tax would not be considered to meet the criteria of 11b(1) since it is derived solely from the government’s own source revenues – in this case, from lease revenues.

Thank you for the opportunity to provide our comments. Any inquiries may be directed to me at (360) 902-0471.

Sincerely,

Mark Rapozo, CPA
Assistant Director of Local Audit