September 11, 2019

Mr. David Bean, Director of Research and Technical Activities
Project Number 30-1
Governmental Accounting Standards Board
401 Merritt 7, P.O. Box 5116
Norwalk, CT 06856-5116

Submitted via email to director@gasb.org

Dear Mr. Bean:

Thank you for the opportunity to provide these comments regarding the proposed statement of the Governmental Accounting Standards Board (GASB, the Board), Public-Private and Public-Private Partnerships and Availability Payment Arrangements (ED, the ED). The Board is to be commended for recognizing public-private partnership arrangements (PPPs) are an increasingly more common alternative for governments to provide services more efficiently and more cost effectively. I appreciate this opportunity to respond and my comments reflect my views as a former government finance officer (who was involved in developing and managing PPPs) and a current academician responsible for teaching undergraduate and graduate level courses in governmental accounting and auditing.

General Comments

I agree with the approach the Board has taken to establish requirements for “PPPs” rather than “service concession arrangements (SCAs)” and to supersede all existing standards relating to SCAs. This approach better describes the substance of these arrangements rather than the more narrow concepts of SCAs.

PPPs are commonly used by all types and sizes of local governments which means the small or medium-sized government with limited staff or inadequate accounting expertise may find it challenging to implement the requirements of the proposed statement. I believe the level of analysis needed to determine whether a transaction is a PPP and if a PPP is a SCA or if the PPP is an availability payment arrangement (APA) will be significant. In addition, I do not believe this level of detail analysis results in any more meaningful information for users of the financial statements. Financial statement users may actually be confused by the various levels of distinction for reporting PPPs. Small and medium-sized governments (which are by far the more prevalent than large governmental entities) will require significant assistance from their auditor to implement and subsequently report PPPs. As such, these nonattest/nonaudit services have the potential to negatively affect the external auditor’s independence.

Consistency with Accounting for SCAs by Nongovernmental Operators

Generally governments enter into a PPP as the transferor when the goal is to provide public services more efficiently and/or effectively and as the operator when the goal is to make a profit. Similarly, a private sector entity will enter into a PPP as the operator when the goal is to make a
profit. Therefore, it stands to reason the proposed statement should attempt to align the accounting for governmental operators with the accounting for nongovernmental operators.

The Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2014-05, Service Concession Arrangements, in January 2014 primarily to provide standards for SCAs which did not at the time exist in the FASB literature. In developing ASU 2014-05 the FASB relied heavily on the guidance in GASB Statement No. 60, Accounting and Financial Reporting for Service Concession Arrangements to describe and define SCAs.

However, accounting for SCAs by a nongovernmental operator as required by ASU 2014-05 is significantly different than the guidance required of a governmental operator in GASB Statement No. 60 and the proposed statement. ASU 2014-05 clearly states a SCA is not accounted for as a lease but rather as required by various other FASB standards (such as revenue recognition under Topic 606 for fees collected and expenses for amounts paid up front and throughout the term). As such, the nongovernmental operator does not recognize the “infrastructure” as a capital asset. Under GASB Statement No. 60, governmental operators account for the “facility” as an intangible asset offset by a deferred inflow of resources. Measurement of the cost of the facility varies depending on the details of the payment arrangements. Under the proposed statement, a governmental operator in a PPP which is not a SCA will report the PPP as a lease. A governmental operator in a PPP which is a SCA will recognize an intangible right-to-use asset offset by a liability the amount of which will vary based on the “form” of the PPP. A number of users of governmental financial statements also use the financial statements of nongovernmental entities and these differences in recognition may be confusing for these statement users.

I strongly believe the proposed statement is excessively complex and, as such, will create, rather than eliminate, diversity in practice. The requirements of the proposed statement seem to focus on the various “forms” a PPP may take rather than the underlying “substance” of a PPP. Said another way, the proposed statement appears to be “rules” based rather than “principles” based. Specific areas which I believe are overly complex are discussed in the following section along with my other comments and concerns.

Use of Lease Accounting

I agree PPPs which are not SCAs should be accounted for as a lease but I also believe PPPs which are SCAs should account for the right-to-use aspect of the SCA as a lease and any service component of the SCA under existing GASB standards. This would eliminate confusion on the part of financial statement users and better represent the underlying substance of the PPP arrangement.

The definition of a PPP in paragraph 5 refers to the underlying PPP asset as “infrastructure or other nonfinancial asset” and this phrase is repeated throughout the proposed statement. This is not consistent with the definition in GASB Statement No. 87, Leases, which only references a “nonfinancial” asset. Infrastructure is simply a type of nonfinancial asset and as used in the proposed statement appears to be redundant. For this reason, and to be consistent with the definition of the right-to-use asset in GASB Statement No. 87, I believe the appropriate phrase for the proposed statement should be simply “nonfinancial asset”.
In the proposed statement, the accounting required in paragraphs 10 through 13 is almost verbatim the accounting required in GASB Statement No. 87 lessors. The substance of a PPP transaction is the same regardless of any underlying SCA – that is the operator has the right to use the underlying lease/PPP asset. I believe the requirements resulting for focusing on the form of the PPP result in unnecessary complexity (such as discussed in this paragraph) and will not result in any meaningful differential analysis by financial statement users.

**Transferor Recognition and Measurement**

The requirements in paragraph 14 through 17 relating to underlying PPP assets which are newly purchased or constructed/improved by the operator are also very similar to those in GASB Statement No. 87. These requirements in these paragraphs are also excessively complex and potentially confusing for financial statement users. As stated previously, the intent of a government in entering into a PPP is the same as it relates to the right-to-use aspect of the PPP regardless of whether the PPP is a SCA or not. Delineating specific and separate guidance based on the form of the PPP adds unnecessary complexity which necessitates additional time to account for a report the PPP. If the approach outlined in the preceding section to treat all PPPs as a lease is used, the guidance in these paragraphs is unnecessary.

If a lease approach is not considered appropriate for PPPs which are SCAs, I would suggest the Board reconsider the requirement in paragraph 16a relating to measurement of the receivable for the underlying PPP asset. Based on my experience, I do not believe the government transferor will be able to obtain the operator’s estimated carrying value of the newly purchased or constructed/improved underlying PPP asset as of the future transfer of ownership date. Measurement of the underlying PPP asset should be consistent regardless of whether or not the PPP is a SCA; therefore, the requirements in paragraph 15 should be applicable to PPPs that are and are not SCAs.

Requirements in paragraphs 18 through 28 are also unduly complex and could also be confusing to financial statement users because they are also almost verbatim from the GASB Statement No. 87. My recommendation above to account for all PPPs as a lease regardless of whether or not it is a SCA is also my recommendation for this aspect of the proposed statement.

**Notes to Financial Statements – Transferors**

Because I believe all PPPs should be accounted for as leases regardless of whether or not the PPP is a SCA, the disclosures required in paragraphs 29 and 30 are not necessary as disclosures required in GASB Statement No. 87 would be required. However, if a lease approach is not considered appropriate, I do not believe the information required in paragraph 29d provides any benefit to users of the financial statements.

**Governmental Operator Recognition and Measurement for PPPs**

In the proposed statement, the accounting required in paragraphs 31 through 46 is almost verbatim the accounting required in GASB Statement No. 87 for lessees. The substance of a PPP
transaction is the same regardless of any underlying SCA – that is the operator has the right to use the underlying lease/PPP asset. I believe the requirements resulting from focusing on the form of the PPP result in unnecessary complexity (such as discussed in this and previous paragraphs) and will not result in any meaningful differential analysis by financial statement users.

If a lease approach is not considered appropriate for PPPs which are SCAs, I would suggest the Board reconsider the requirement in paragraph 36 relating to discount rate to be used in measuring the future PPP payments. Based on my experience, the governmental operator may not be able to obtain the interest rate the transferor is charging the governmental operator. Therefore, I believe the Board should consider expanding the requirement to include the governmental operator’s incremental borrowing rate if the transferor’s rate is not available.

Notes to Financial Statements – Governmental Operators

Because I believe all PPPs should be accounted for as leases regardless of whether or not the PPP is a SCA, the disclosures required in paragraph 47 are not necessary as disclosures required in GASB Statement No. 87 would be required. However, if a lease approach is not considered appropriate, I do not believe the information required in paragraph 47e provides any benefit to users of the financial statements.

Arrangements with Multiple Components, PPP Modifications and Terminations

Again, if all PPPs are reported as leases regardless of whether they are or are not also a SCA, the requirements in paragraphs 50-64 are not relevant. Consideration of all PPPs as leases is far less confusing than the requirements in these paragraphs as they are almost verbatim those in GASB Statement No. 87.

Accounting and Financial Reporting for APAs

If an APA has multiple components one or more of which relate to a right-to-use situation, that portion of the transaction should be accounted for as a lease and for the reasons stated previously in this comment letter. If a lease approach is not considered appropriate, I agree with the accounting in paragraph 66 relating to infrastructure or other nonfinancial assets (see previous comment regarding use of the term “infrastructure”) in which ownership of the asset transfers to the government at the end of the contract term. I also agree with the accounting in paragraph 67 relating to services provided under an APA.

However, I believe separately identifying and defining APAs provides no additional benefit to users of the financial statements. APAs are simply another form of PPP the substance of which is the same regardless of the form of the PPP. As such, I believe users of the financial statements will not reach any different conclusions through this additional level of detail and the cost of providing this additional level of analysis exceeds the minimal incremental benefit to users of the financial statements.
Proposed Effective Date

The proposed effective date is extremely aggressive. Governments have dealt with the retrospective implementation of a number of complex standards (pensions, other post-employment benefits, and fiduciary activities) over the last several years. Currently governments are preparing to retrospectively implement the requirements of Statement No. 87 which is likely to require a significant commitment of capital and human resources for many governments. The accounting and financial reporting changes relating to PPPs, SCAs, and APAs are also likely to require significant time to implement properly and still issue financial statements on a timely basis. An extended effective date would allow governments to have two years rather than one year to effectively implement this proposed statement. As such, I think the proposed effective date should be no earlier than for fiscal years beginning after June 15, 2022.

Concluding Remarks

Overall, I am confused as to why this ED approached PPPs from a form over substance perspective. It appears a significant amount of staff and Board time was spent on the project when simply concluding all PPPs, regardless of form, are leases would have been a more efficient method of providing guidance to account for and report PPPs.

As always, thank you for the opportunity to respond to this due process document. Should you have any questions regarding the above, please contact me at (321) 277-1536 or lkmdennis@gmail.com.

Sincerely,

Lynda M. Dennis, CPA, CGFO, PhD