

Implementing the GASB Changes

The Role of Agency Chief Financial Officers

(Leases, Public-Private Partnership Agreements, Subscription-based IT Arrangements)

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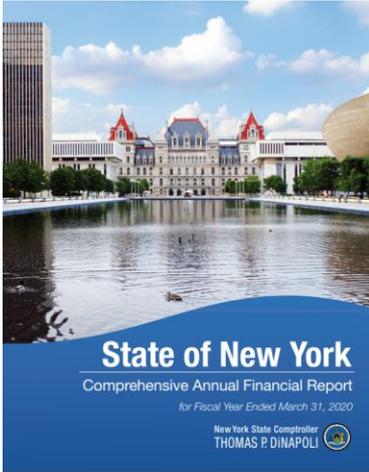
NYS COMPTROLLER

THOMAS P. DiNAPOLI

Overview



Why This Project is Important



- Every year, the State Comptroller is required to compile financial statements.
- These are audited to determine their conformity to GAAP.
- Based upon the data in the CAFR, as well as the audit opinion, credit rating agencies will make determinations on the riskiness of NY State debt.



GASB's Recent Activity

- GASB has issued:
 - GASB 87 Leases
 - GASB 94 Public-Private Partnership Agreements
 - GASB 96 Subscription-based IT Arrangements
- GASB 87 is effective FY 2022-23 and GASBs 94 and 96 are effective FY 2023-24
- Fundamentally changes how NYS looks at and reports on these agreements and your business processes around them



New Accounting and Reporting Requirements

Leases (GASB 87)

- Implementation Date
 - Year-end
3/31/2023
- All land, building, equipment, vehicle and embedded leases

Public-Private Partnership Agreements (GASB 94)

- Implementation Date
 - Year-end
3/31/2024
- Agreements between a government and an operator to provide public service by conveying control of an asset

Subscription-Based IT Arrangements (GASB 96)

- Implementation Date
 - Year-end
3/31/2024
- All agreements for government use of IT software on a subscription basis, similar to a lease

**We're all
in this together!**



What does this mean for your agency?

- In the Spring, we requested assistance from all agencies and provided training. An initial assessment of active leases as of March 2020 was due by June 1st. Unfortunately, the initial identification and assessment was incomplete, with many agencies not responding to our request. Business processes will need to be refined so leases and modifications can be identified and analyzed going forward.
- Our auditors have informed us that a substantial review of agency contracts will need to occur at the agency level. This is expected to be a very time consuming process.
- We are reestablishing the effort with additional training and tools to assist with the effort so that agency staff will understand the new requirements in order to analyze contracts and determine applicability on an ongoing basis. Expanded to identify agreements subject to GASB 94 and 96.
- We will be working with you to assist with the identifications and assessments and will be requiring a compliance assertion signed by Agency CFOs.



Types of Contracts



Leases

(GASB Statement 87)

- Definition
 - A contract (e.g., an agreement between two or more parties that creates enforceable rights and obligations) that conveys control of the right-to-use another entity's nonfinancial asset (the underlying asset) as specified in the contract for a period of time in an exchange or exchange-like transaction.
- How is this definition any different than the existing definition?



Leases

(GASB Statement 87)

Included*	Not Included*
<ul style="list-style-type: none">• Real Property	<ul style="list-style-type: none">• Short-term leases (12 months or less)
<ul style="list-style-type: none">• Equipment	<ul style="list-style-type: none">• Leases that transfer ownership
<ul style="list-style-type: none">• Vehicles	<ul style="list-style-type: none">• Leases of intangible assets
<ul style="list-style-type: none">• Servers	<ul style="list-style-type: none">• Leases of biological assets
<ul style="list-style-type: none">• Printers/Copiers	<ul style="list-style-type: none">• Leases of Inventory
<ul style="list-style-type: none">• Watercoolers	<ul style="list-style-type: none">• Supply Contracts (purchase power agreements)

**This is not an exhaustive list of examples.*



Public-Private Partnership (GASB Statement 94)

- Definitions

- **Public-private and public-public partnership arrangements (PPPs):** An arrangement in which a government (the transferor) contracts with an operator (a governmental or nongovernmental entity) to provide public services by conveying control of the right-to-operate or -use a nonfinancial asset, such as infrastructure or other capital asset (the underlying PPP asset), for a period of time in an exchange or exchange-like transaction.
- **Availability payment arrangement (APA):** An arrangement in which a government compensates an operator for services that may include designing, constructing, financing, maintaining, or operating an underlying nonfinancial asset for a period of time in an exchange or exchange-like transaction. APAs are considered a financing transaction.

**APAs are different than PPPs in that the payments made by the government to an operator are based entirely on the asset's availability for use rather than on tolls, fees, or similar revenues or other measures of demand.*



Public-Private Partnership (GASB Statement 94)

- Definitions (continued)

- **A service concession arrangement (SCA) is a type of PPP that meets all of the following conditions:**

- The operator collects and is compensated by fees from third parties;
- The transferor determines or has the ability to modify or approve which services the operator is required to provide, to whom the operator is required to provide the services, and the prices or rates that can be charged for the services; and
- The transferor is entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement.



Public-Private Partnership (GASB Statement 94)

- Examples

- The State enters into an agreement with a developer to design/build/operate the construction of a building to be leased for office space for a period of time.
- The State enters into an agreement with a developer to oversee/manage the construction of a building, and when completed the building ownership transfers back to the State.
- The State enters into an agreement with a building authority to design/construct/operate a toll bridge.



Public-Private Partnership (GASB Statement 94)

- OSC is not expecting agencies to make a final determination as to the applicability of GASB 94, but only to identify arrangements that could meet the definition of a PPP or APA, and identifying those arrangements on the contract evaluation template.
- If an SCA is identified, you should start reporting it under GASB 60 immediately.
- Agencies should retain documentation in the GASB 87 contract evaluation template to identify arrangements that are subject to GASB 94.



Subscription-based IT Arrangements (GASB Statement 96)

- Definition

- A contract that conveys control of the right-to-use another party's (a SBITA vendor's) information technology (IT) software, alone or in combination with tangible capital assets (the underlying IT assets), as specified in the contract for a period of time in an exchange or exchange-like transaction.



Subscription-based IT Arrangements (GASB Statement 96)

- Hardware components and subscription-based components must be separated, which may require allocation of costs.
- Agencies should retain documentation in the GASB 87 contract evaluation template to identify arrangements that are subject to GASB 94.



Agency Role

Identifying Contracts and Reporting to OSC



Outline of Major Steps

- Initial agreement inventory (GASBS 87, 94 & 96)
- Analysis of GASB 87 contracts
- Implementation of new policies and procedures
- Reporting of agreement activity
- Review of assumptions



First Step:

Initial Inventory

- Review and identify all contracts that meet the GASB definition of a lease, PPP, or SBITA.
- CFO must sign a memo attesting the information provided is complete and provide detail as to the steps taken to identify the complete inventory.
- Per our external auditors, BFR will need to review agency work and interview agency staff.



First Step:

Initial Inventory

Important Notes

- Initial Inventory Completeness Kit
 - GASBS Contract Inventory Listing and Reporting Tool
 - Spreadsheet to capture all contracts/agreements that meet the GASBS definition
 - Steps to determine completeness and examples of documentation to maintain
 - Resource tool for agencies to ensure all contracts/agreements are identified
 - Steps to determine lease term and future payments (GASB 87)
 - Resource tool for agencies to calculate and document lease term and payments
 - Reasonably Certain Template
 - Resource tool to assist agencies in calculating lease term
 - GASBS Flowchart
 - Resource tool to assist agencies in identifying contracts/agreements that meet GASBS definition
 - Sample CFO Memo



First Step: Initial Inventory Important Notes

- Work will need to be completed and reviewed by a number of different individuals
- The CFO will need to identify appropriate staff for this project
 - Accountants
 - Procurement Professionals
 - Insurance/Maintenance, etc.
- Documentation is key!
 - Documentation should be clear enough that BFR or the external auditors should be able to re-perform
 - Each person should sign and date their work and their review



First Step: Initial Inventory Important Notes

- Open communication with BFR is key!
- We recommend:
 - Upon reviewing your completeness kit and developing your approach, you reach out to BFR to review your approach and how you are going to document
 - Once identification of inventory is complete, and before the memo is signed, discuss results with BFR
 - BFR can be a resource for complex contracts



First Step:

Initial Inventory

Completeness Steps

- Review Open Book New York
 - Search all active contracts for your agency
 - Review and determine if contracts fall under GASB 87, 94, or 96
- Examples of documentation to maintain
 - Screenshot or download of search of Open Book New York, including date
 - Initials of first and second level reviews for each contract listed indicating that it does or does not meet the GASBS definition



First Step: Initial Inventory Completeness Steps

- Vendor (Customer) List

- Obtain a current vendor list from accounts payable; review and determine if contracts fall under GASB 87, 94, or 96.
- Based upon your particular agency, remove vendors that do not relate to GASB 87, 94, or 96 and mark to exclude from further investigation.
- Review the remaining vendors and identify which vendors could be in the business of leasing, providing other types of subscription-based services, or providing public services.
- Review contracts of the identified vendors and determine if the contacts are lease agreements (GASB 87), subscription-based IT arrangements (GASB 96), or public-private partnerships (GASB 94).



First Step: Initial Inventory Completeness Steps

- Additional Steps
 - Recurring Payments (Receipts)
 - SFS Search of Account Codes
 - Insurance and Maintenance Records
 - Interviewing Agency Staff

Everything must be documented!



First Step: Initial Inventory

Review of Lease (GASB 87) Agreements

- Once all the agreements have been identified each agency must analyze the lease agreements (GASB 87)
- The analysis of GASB 94 & 96 will be done at a later date
- For each lease agreement (GASB 87), you must determine the following:
 - GASB 87 Lease Term
 - Start building your reasonably certain documentation for each lease
 - An initial review of lease payments



Determining Lease Term



The lease term is determined at the commencement date (i.e. the date the underlying asset is available to the lessee)!



Reasonably Certain – Agency Responsibility

- Reasonably certain is a high threshold of probability that must be met to include optional lessee payments in the measurement of lease assets and lease liabilities.
- Lessee has a compelling economic reason to exercise the renewal or purchase option (or not to exercise a termination option).
- Consider all economic factors relevant to the assessment.
 - Significant economic incentive (market rates)
 - Significant economic disincentive (cost to terminate)
 - Abandonment of significant leasehold improvements
 - Costs of identifying another suitable underlying asset
 - Costs of returning the underlying asset in a contractually specified condition or location
 - Condition of the asset
 - History of exercising the options to extend or terminate
 - The extent to which the asset underlying the lease is essential to the provision of government services



Reasonably Certain – Agency Responsibility

- Utilize a format that includes a structured and documented process
- OSC Resources – Reasonably Certain Template



Reasonably Certain Template

	A	B	C	D	E	F
3					Reasonably Certain Criteria - higher threshold than "more	
4	Reasonably Certain Yes - reasonably certain to exercise No - reasonably certain to not exercise	Type	Definition	Lease Component	Market-based factors, i.e. option period amounts are favorable with current market rates	Contract-based factors, i.e. Costs to terminate the lease (negotiation costs, relocation costs, substantial cancellation penalty, etc.) are a disincentive to negotiate another lease)
5	Yes - we are reasonably certain to exercise the option period and extend the lease term beyond the initial period	Option periods	Periods in a lease agreement that extend the lease beyond the initial lease period	Lease term	Rent costs during option period are 50% lower than current market rates	
6	No - we are reasonably certain to stay through the lease term and will not exercise the cancellation clause	Cancellation clause	A clause in a lease agreement that allows termination by either the lessee, the lessor, or both	Lease term		The termination penalty exceeds remaining rent payments owed.
7						



Initial Assessment of Payments – Agency Responsibility

- Once the lease term is established, assess future payments
 - Fixed Payments
 - Variable Payments with minimum payments
 - Other payments expected to be made



Outline of Major Steps

- Initial agreement inventory (GASBs 87, 94 & 96)
- Analysis of GASB 87 contracts
- Implementation of new policies and procedures
- Reporting of activity regarding agreements
- Review of assumptions



Next Steps and Additional Resources

- Agencies
 - Identify agency staff to involve and receive in-depth training
 - Look out for upcoming training
 - Once agency staff have been identified and trained, develop a plan for testing the inventory
 - Communicate your plan to BFR
- OSC
 - Provide a template and additional guidance to agencies for identification of population
 - Explore options for system to properly record lease information and calculate correct valuations
 - Update our web site to provide helpful resources and tools



Questions?

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