



GASB Statement No. 94

Public-Private and Public-Public Partnerships and Availability Payment Arrangements

PURPOSE OF THIS DOCUMENT

This document is intended to provide basic information and assistance to agencies related to GASB Statement No. 94, Public-Private and Public-Public Partnerships and Availability Payment Arrangements so these arrangements can be identified and accounted for properly.

If your agency has any current agreements/arrangements that may meet the GASB 94 criteria for public-private and public-public partnerships (PPP), including service concession arrangements (SCA) and availability payment arrangements (APA), then you should walk through the questions in the Agency Initial Analysis spreadsheet. If after completing this analysis, you determine that your agency may have an arrangement that meets the GASB 94 criteria, contact your agency's statewide accounting consultant.

BACKGROUND FOR GASB 94

Arrangements between governments and private entities or other governments have become more prevalent. Those arrangements, often referred to as public-private or public-public partnerships (collectively, PPPs), generally result in the government transferring the obligation to provide certain public services to an external entity. One type of PPP is a service concession arrangement (SCA), which has specific criteria and accounting requirements. This Statement also provides guidance for accounting and financial reporting for availability payment arrangements (APAs) in which the government compensates the other party based on availability of an asset rather than performance.

The primary objective of this Statement is to improve financial reporting by addressing issues related to these arrangements. Establishing the definitions of PPPs and APAs and providing uniform guidance on accounting and financial reporting for transactions that meet those definitions will provide more relevant and reliable information for financial statement users and create greater consistency in practice.

GASB Statement No. 94 is effective for state fiscal year 2023.

DEFINITIONS AND EXAMPLES

A **public-private and public-public partnership arrangements (PPP)** is an arrangement in which a government (the transferor) contracts with an operator (a governmental or non-governmental entity) to provide public services by conveying control of the right to operate

or use a nonfinancial asset of the government, such as infrastructure or other capital asset (the underlying PPP asset), for a period of time in an exchange or exchange-like transaction.

A service concession arrangement (SCA) is a PPP in which:

- a. The transferor conveys to the operator the right and related obligation to provide public services through the use and operation of an underlying PPP asset in exchange for significant consideration, such as an up-front payment, installment payments, a new facility, or improvements to an existing facility;
- b. The operator collects and is compensated by fees from third parties;
- c. 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
- d. The transferor is entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement.

An **availability payment arrangement (APA)** is an arrangement in which a government procures a capital asset or service by compensating an operator for activities that may include designing, constructing, financing, maintaining, and operating an underlying nonfinancial asset for a period of time in an exchange or exchange-like transaction. In contrast to a PPP, the other party to an APA is receiving compensation from the government based entirely on the asset's availability and not the actual performance of a public service.

PPP EXAMPLE

A government enters into an arrangement with a developer (operator) for a term of 50 years. The developer will finance the demolition of an existing structure and construction of a new facility on the government's property. The new structure includes housing and dining facilities which the developer will operate, including setting the rates, and the developer will be compensated by the customers that utilize the facilities. This meets the criteria of a PPP, but not of an SCA since the developer has control over the rates that may be charged (criteria "c" is not met).

SCA EXAMPLE

A government agrees to allow a public or private entity (operator) to operate their toll-collecting function on the government's roadways. The operator provides an up-front payment of \$3 billion to the government in return for the right to operate the toll collection and to receive and retain toll revenues for a period of 50 years. Based on the facts in this example, this is a PPP that also meets the criteria for an SCA.

It is possible that this type of arrangement could exist and not qualify as an SCA. For example, if the operator provides an up-front payment of \$3 billion to the government in

return for the right to operate the tolls, and to set, collect and retain toll revenues, criteria “c” would not be met, and the PPP would not meet the definition of an SCA.

APA EXAMPLE

A government enters into an arrangement with a private corporation to design, build and finance the construction of a bridge. As part of the arrangement, the corporation will collect all tolls for the bridge for 40 years and remit the collections to the government. In exchange, the government will remit to the corporation \$20 million at the start of the project, \$20 million on the date the bridge is placed into service, and \$5 million annually for the length of the agreement (40 years), as compensation for designing, building and financing the bridge. In addition, the government will remit to the corporation \$200,000 per month for the length of the agreement, for the collection of the tolls.

Note the differences in the APA example and the SCA example shown above. The government is compensating the corporation (the operator) for operating the toll function by paying \$200,000 per month; whereas, in the SCA example, revenues collected are kept by the operator in exchange for the payment made to the government.

MOST COMMON TYPES OF ASSETS UNDER GASB 94

The types of assets that may be subject to PPP arrangements or APA arrangements include (but are not limited to):

- Infrastructure
- Hospitals
- Student services for colleges and universities
- Sports facilities
- Recreational facilities
- Jails/prisons
- Wastewater treatment plants
- Museums

AGENCY INITIAL ANALYSIS

For each current agreement/arrangement, agencies will need to go through this list of questions and record the answers on the Excel file sent with this document. Once you get a “NO” answer on an agreement/arrangement, you can stop the analysis for that agreement. Be sure to document the reason for the “NO” answer as this will be part of the OFM and state auditor review.

Note that the APA analysis is separate from the PPP/SCA analysis and is on a separate worksheet in the Excel file. You may need to go through both worksheets for some arrangements.

| # | PPP and SCA Analysis Questions | If YES | If NO |
|---|--|---|-----------------------------------|
| 1 | Does your agency have a contract with an operator (governmental or non-governmental entity) to provide public services? | Continue to next question. | STOP. It is not a PPP/SCA. |
| 2 | Does the operator have the right to operate or use the agency's capital asset, including infrastructure? | Continue to next question. | STOP. It is not a PPP/SCA. |
| 3 | Is the contract for a specific period of time? | Continue to next question. | STOP. It is not a PPP/SCA. |
| 4 | Is there an exchange or exchange-like transaction? (i.e., Are both parties exchanging something of equal or almost equal values?) | This is (likely) a PPP. Continue to determine if it is an SCA. | STOP. It is not a PPP/SCA. |
| 5 | Has the operator provided your agency with significant consideration, such as an up-front payment, installment payments, a new facility, or improvements to an existing facility? | Continue to next question. | STOP. It is not an SCA. |
| 6 | Does the operator receive compensation from fees collected from third parties? | Continue to next question. | STOP. It is not an SCA. |
| 7 | Does the state have the ability to modify or approve (1) which services the operator is required to provide, AND (2) to whom the operator is required to provide the services, AND (3) the prices or rates that can be charged for the services? | Continue to next question. | STOP. It is not an SCA. |

| # | PPP and SCA Analysis Questions | If YES | If NO |
|----------|---|---------------------------------|--------------------------------|
| 8 | Is the transferor entitled to significant residual interest in the service utility of the underlying PPP asset at the end of the arrangement? | This is (likely) an SCA. | STOP. It is not an SCA. |

| # | APA Analysis Questions | If YES | If NO |
|----------|--|---------------------------------|--------------------------------|
| A | Does your agency have an arrangement to procure a capital asset or service in which your agency/the state compensates an operator for activities such as designing, constructing, financing, maintaining, or operating an underlying nonfinancial asset? | Continue to next question. | STOP. It is not an APA. |
| B | Is the agreement for a specific period of time? | Continue to next question. | STOP. It is not an APA. |
| C | Is there an exchange or exchange-like transaction? (i.e., Are both parties exchanging something of equal or almost equal values?) | Continue to next question. | STOP. It is not an APA. |
| D | Are the payments by your agency/the state based entirely on the asset’s availability for use rather than on tolls, fees, or similar revenues? (Availability for use may be based on specified criteria such as the physical condition of the asset, construction milestones, or the achievement of certain availability measures.) | This is (likely) an APA. | STOP. It is not an APA. |

ADDITIONAL INFORMATION REQUESTED

On the Excel file on which you are documenting the GASB 94 analysis, the fields with “YES” or “NO” answers have dropdown buttons for you to click. There are several fields on the far right asking for additional information, as follows:

- If you determine the arrangement does not meet the PPP/SCA or APA criteria or you are unsure, explain why. For the “unsure” response, the information you provide will help us help you. For the situations in which the arrangement does not meet the criteria, please explain which criterion is not met and the specifics about why it is not met. For example, if the criterion of an exchange or exchange-like transaction is not met, is the amount each party is receiving fixed? If so, provide those amounts. If not, explain it. This information will be useful when this standard is implemented, and the auditors review the analysis to determine if the state is accounting for various scenarios properly.
- Annual agreement amount. **This is only needed for the arrangements that fall under GASB 94.** For purposes of this exercise, this can be an estimated amount as we are trying to get an idea of the overall value statewide. Your arrangements may have multiple components, depending on the situation. Include all that are applicable.
- Agreement start and end dates in a Month/Year format and/or the commencement date plus the number of years in the term.
- If an arrangement meets the definition of a PPP, but is not an SCA, determine if it meets the GASB 87 definition of a lease. That is, a contract 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. Mark “YES” or “NO” for question 13.

Please note that when GASB 94 is implemented in FY23, there may be additional information needed for required financial statement disclosures that will be collected either through a new disclosure form or a similar spreadsheet.