

GASB Statement No. 94

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

Purpose:

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 must complete the GASB 94 Questionnaire for each agreement. If after completing this analysis, you determine that your agency does have an arrangement that meets the GASB 94 criteria, contact Phil Nally at Phil.Nally@ky.gov or at 502-564-2994. in the Financial Reporting Branch of Statewide Accounting Services.

Background for GASB Statement No. 94:

Arrangements between governments and private entities or with 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 was effective for fiscal year 2023.

Definitions and Examples:

A **public-private or public-public partnership arrangement (PPP)** is 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 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" for SCA's above 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 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