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Ms Stephenie Fox
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Dear Ms Fox

EXPOSURE DRAFT 43 SERVICE CONCESSION ARRANGEMENTS: GRANTOR

The Heads of Treasuries Accounting and Reporting Advisory Committee welcomes the opportunity to provide comments to the International Public Sector Accounting Standards Board on Exposure Draft 43 *Service Concession Arrangements: Grantor*.

HoTARAC is an intergovernmental Committee that advises Australian Heads of Treasuries on accounting and reporting issues. The Committee is comprised of the senior accounting policy representatives from all Australian States, Territories and the Australian Government.

Service concession arrangements have existed in Australia for the past 20 years and their use is increasing. There is a growing need for authoritative accounting guidance for service concession grantors. HoTARAC therefore supports the ED's objective which aims to meet this need.

HoTARAC agrees with the ED's proposals that:

- where a grantor controls service concession property it should recognise that property as its asset;
- the meaning of the word "regulates" in IFRIC 12 needs to be interpreted more narrowly when applied in a public sector context; and
- a grantor's revenues arising from a service concession arrangement may need to be recognised on an annuity, rather than a straight line, basis due to the extended duration of the arrangement.

HoTARAC appreciates the difficulty in trying to address the accounting for the various forms of service concession arrangement that exist. However, HoTARAC has concerns with the proposed approach to grantor accounting as the proposal:

- relies on rules rather than an underlying principle to determine which party controls the concession property;
- is based on the IFRIC 12 model, which HoTARAC considers to be problematic;
- does not exactly mirror IFRIC 12 despite purporting to do so, which could result in non-recognition of the service concession property by both parties;
- does not adequately explain or justify the basis for recognising a grantor's performance obligation and does not require such obligations to be recognised in all cases where they arise; and
- does not deal with service concession arrangements that fail the proposed grantor control criteria.

HoTARAC observes that some existing service concession arrangements would fall outside the scope of the ED because, despite it having a residual interest in the service concession property, the grantor does not control or regulate the operator's pricing or to whom the operator must provide services. According to the criteria in the ED, the grantor would not control or regulate the service concession property during the concession period.

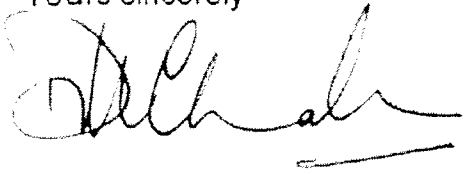
The proposal will effectively scope out service concession arrangements where the property is not grantor controlled during the concession period. This will leave a number of existing arrangements without authoritative accounting guidance. It is also likely to introduce divergent accounting for economically similar arrangements which does not seem to be a sensible outcome.

HoTARAC is aware of three service concession arrangements where the grantor refrained from stepping in when the operators ran into financial difficulty and had to sell their interests in the arrangements. The grantor's lack of exposure and obligation in such circumstances suggests an absence of grantor control. However, under the proposals in the ED, two of these arrangements would meet the criteria for grantor-recognition, while the other arrangement would not. This also seems to be a questionable outcome.

HoTARAC encourages the Board to continue its deliberations on this important topic and urges the Board to consider the issues provided Attachment 1.

If you have any queries regarding HoTARAC's comments, please contact Robert Williams from New South Wales Treasury on +61 2 9228 3019.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D W Challen', with a horizontal line underneath.

D W Challen

CHAIR

HEADS OF TREASURIES ACCOUNTING AND REPORTING ADVISORY COMMITTEE

21 May 2010

Encl

**DETAILED COMMENTS ON EXPOSURE DRAFT 43
SERVICE CONCESSION ARRANGEMENTS: GRANTOR**

An Approach Mirroring IFRIC 12 is Problematic

The Exposure Draft proposes to adopt an accounting approach for grantors which mirrors that adopted for operators under IFRIC Interpretation 12 *Service Concession Arrangements* issued by the International Financial Reporting Interpretations Committee.

HoTARAC considers the proposed approach, based on IFRIC 12, to be problematic as:

- both IFRIC 12 and the ED are narrow in scope, only addressing arrangements involving property that is grantor-controlled (in accordance with the criteria in IFRIC 12 and the ED);
- the ED does not articulate a clear conceptual basis for its proposals and the consequent accounting treatments;
- both IFRIC 12 and the ED are inconsistent with existing authoritative guidance on control of an asset;
- they adopt a rule-based approach;
- the control criteria is not neutral and it presupposes grantor control of service concession property; and
- neither IFRIC 12 nor the ED define Service Concession Arrangements or Control of an Asset which are arguably their core terms.

In addition, the ED does not exactly mirror IFRIC 12 despite claiming to do so.

The approach proposed by the ED is based on an unsatisfactory model. The control criteria purports to be grantor-based, however, is developed from the operator's viewpoint, without considering the grantor's perspective.

These matters are discussed below.

Too Narrow in Scope

HoTARAC considers that, despite its title and objective, the proposals only deal with service concession arrangements where property is grantor-controlled during and after the concession period. The service concession property could include:

- (a) grantor-controlled during and after the concession period;
- (b) operator-controlled during the concession period and grantor-controlled thereafter;
- (c) grantor-controlled during the concession period and operator-controlled thereafter; or
- (d) operator-controlled during and after the concession period.

It is disappointing that the ED only considers one of these cases. This is unhelpful to grantors involved in other forms of service concession arrangement. For example, HoTARAC is aware of several service concession arrangements in category (b).

HoTARAC suggests that, if the Standard resulting from the ED only deals with service concession arrangements where the property is grantor-controlled, its title and objective should be modified to make this limitation clear.

Not concept-based

The ED outlines criteria for determining whether a grantor controls, and should therefore recognise, a service concession asset (Paragraphs 10 and 11). The recognition criteria embodies the notion of control and is based on criteria set out in IFRIC 12.

HoTARAC agrees that control is a significant factor in determining the existence of an asset. The notion of control is embodied in the definition of asset (or assets) in IPSAS 1 and in the IASB and AASB *Framework for the Preparation and Presentation of Financial Statements*.

HoTARAC notes that authoritative accounting guidance provides various ways of determining control of an asset:

- IPSAS 23 *Revenue from Non-Exchange Transactions (Taxes and Transfers)* contains a definition for control of an asset. Similar guidance is given in IAS 38 *Intangible Assets*;
- IPSAS 13, IAS 17 and AASB 117 *Leases* adopt a risks and rewards approach to determine whether an entity should recognise an asset; and
- IFRIC 12 sets out criteria to determine whether a grantor controls the service concession infrastructure.

A rights and obligations approach might also be adopted if two parties control different aspects of the same asset.

The ED adopts the IFRIC 12 model without giving any conceptual reasons for choosing it. The model seems to have been adopted for consistency of grantor and operator accounting. Grantors and operators would both use the approach when determining whether the service concession property should be accounted for as an asset (Paragraphs BC 2 and BC 14). Although consistency is desirable, the ED would need to demonstrate that the proposed model is conceptually justifiable and superior to alternative models.

HoTARAC notes that IFRIC 12 introduced a new model for determining control that is not based on the models used by existing Accounting Standards or the IASB's Conceptual Framework. Therefore, HoTARAC has reservations about using the IFRIC 12 model as the basis for grantor accounting. HoTARAC also notes the widespread criticism of the IFRIC 12 model by respondents during its exposure period.

HoTARAC notes that the US Governmental Accounting Standards Board is presently deliberating on its own project on Accounting for Service Concession Arrangements. The Board, although adopting tests similar to those in IFRIC 12, has decided that the concession arrangements should be articulated as scoping criteria, rather than control criteria. This suggests that there is some doubt about whether the IFRIC 12 tests are a valid model for determining control.

The ED's Basis for Conclusions dismisses the risks and rewards approach, in a cursory (single-paragraph) analysis. It asserts that:

- the primary purpose of a service concession arrangement is to provide service potential rather than economic benefits;
- a control approach focuses on service potential rather than economic benefits;
- the risks and rewards approach focuses only on economic factors; and
- therefore, the risks and rewards approach cannot be used to determine control (Paragraph BC 11).

HoTARAC disagrees with these assertions, and considers that both economic benefits and the risks and rewards approach are relevant when assessing which party controls service concession property. In addition, the concepts of control and risks and rewards are complementary not competitive. The ED has not adequately justified the reasons for rejecting a risks and rewards approach in favour of the proposed approach based on IFRIC 12.

The ED does not consider the merits of using the existing definition of control of an asset in IPSAS 23. Further, the ED's Basis for Conclusions considers and dismisses the rights and obligations approach.

HoTARAC is concerned that the ED has not offered a conceptual basis for adopting its preferred model. The ED does not articulate any underlying principle for determining control.

In light of its concerns with IFRIC 12, HoTARAC considers that there is merit in considering approaches based on other existing authoritative guidance.

HoTARAC also suggests that, given that the IPSASB is seeking greater alignment between accounting and statistical frameworks, there is merit in considering the statistical framework before concluding on this project. Chapter 22 of the *System of National Accounts 2008* refers to service concession arrangements, control and risks and rewards.

Inconsistent with existing Standards

The ED's Basis for Conclusions notes that the main accounting issue in service concession arrangements is whether the grantor should recognise a service concession asset and a related liability (Paragraph BC 10). HoTARAC agrees that determining which party controls, and should therefore recognise the service concession property, is the fundamental accounting question.

It is noted that, although the ED (like IFRIC 12) does not define it, control of an asset is defined or described elsewhere in Accounting Standards. IPSAS 23 Paragraph 7 states that "control of an asset arises when the entity can use or otherwise benefit from the asset in pursuit of its objectives and can exclude or otherwise regulate the access of others to that benefit".

IAS 38 and AASB 138 *Intangible Assets* also contain similar guidance.

This definition of control is based on the benefits from, and access to, an asset. However, the grantor control criteria employed in the ED is focussed on access rather than benefits. It is not clear whether this was intentional. Nevertheless, HoTARAC is concerned that the ED ignores the existing authoritative guidance on control without giving any reason. Using the IPSAS 23 definition may give different outcomes.

HoTARAC urges the Board to explain the reasons for departing from existing guidelines.

Rule-based

In accordance with Paragraph 10, the ED proposes several criteria for determining whether a grantor should recognise service concession property as its asset:

The grantor shall recognise a service concession asset ... if:

- (a) The grantor controls or regulates what services the operator must provide with the asset, to whom it must provide them, and at what price; and
- (b) The grantor controls ... any significant residual interest in the asset at the end of the term of the arrangement.

This Standard applies to an asset used in a service concession arrangement for its entire useful life (a whole-of-life asset) if the condition in Paragraph 10(a) is met (Paragraph 11).

A grantor would recognise a service concession asset if it controls: the services provided with; the customers served by; the prices charged for use of; and (if not a whole-of-life asset) the residual interest in the service concession property.

These control criteria operate as a set of rules to determine whether the grantor controls the service concession property. As mentioned above, the proposal does not articulate any underlying principle. HoTARAC has a number of concerns with the proposed criteria.

In the absence of a clearly articulated underlying principle, rules can take a form over substance approach. Rules can be circumvented by structuring arrangements to achieve particular accounting outcomes. Principles are less susceptible to circumvention in this way.

Without any underlying conceptual basis for the control criteria, it may be difficult to determine whether a particular arrangement is within the scope of the ED. Could an arrangement be considered to be substantively within the scope of the ED even if it does not strictly satisfy all of the criteria? Would the mere inclusion of a recital clause in the preamble to a contract (mentioning that services are to be provided to the public) be sufficient as evidence that the grantor controls or regulates to whom the services are provided?

Further, the proposed rules may be difficult to apply in practice. It is unclear how strictly these rules should be applied. Where market forces rather than contractual specifications determine the extent of the service concession property's use, at least some of the grantor control criteria appear to be irrelevant. In HoTARAC's experience, some service concession arrangements do not specify which party controls or regulates the pricing of services. Such arrangements would arguably fail to meet the grantor control criteria and would be outside the scope of the ED.

While HoTARAC acknowledges that the ED's Basis for Conclusions (Paragraph BC 14) states that asset recognition is to be determined on all the facts and circumstances of the arrangement, the ED itself relies on rules for determining grantor control. It is difficult to take account of other facts and circumstances if an arrangement does not satisfy all of the prescribed rules.

Not neutral

Paragraph 10 of the ED proposes several control criteria to determine whether a grantor has a service concession asset.

HoTARAC is concerned that the criteria has a grantor focus rather than a property focus. To assess control on the basis of whether the grantor meets the criteria appears to assume grantor control. The proposed criteria can never demonstrate operator control. The criteria can only indicate the presence or absence of grantor control.

HoTARAC also considers it inappropriate that the ED's proposed approach is based on IFRIC 12, which specifies operator accounting based, not on whether the operator itself controls the service concession property, but on whether the grantor (not subject to IFRIC 12) controls it. Given that IFRIC 12 does not consider the grantor's perspective, it seems inappropriate to use it as a basis for specifying grantor accounting.

HoTARAC suggests that a more neutral and straightforward approach should be used. The control criteria should determine which party controls the service concession property rather than focusing on whether a particular party has such control.

Core terms are not defined

The ED does not define Service Concession Arrangement or Control of an Asset, which are identified as the ED's core terms. While acknowledging that the ED describes the nature of a service concession agreement in Paragraphs 2 and 7, HoTARAC considers that it would be helpful if the core terms were explicitly defined.

A service concession arrangement might be defined as a binding arrangement under which a public sector entity (the grantor) conveys to another, usually for-profit sector, entity (the operator) the right to use a service concession asset to provide services directly to the public on behalf of the grantor.

As noted above, IPSAS 23 contains a definition for control of an asset, which may at least provide a useful starting point for determining control of a service concession asset.

Asymmetrical

The ED's proposals are intended to mirror the IFRIC 12 approach (Paragraphs IN2 and AG3 and Specific Matter for Comment). However, in at least two instances, the ED does not exactly mirror IFRIC 12 despite claiming to do so. Consequently, some service concession property might be recognised by neither party to the arrangement.

The first instance of asymmetry with IFRIC 12 relates to the meaning of the word “regulates”. Both the ED and IFRIC 12 indicate that grantor-control of a service concession asset would occur where the grantor controls or regulates what services the operator must provide with the asset, to whom it must provide them, and at what price (ED 48 Paragraph 10).

In the ED, “the term ‘regulate’ is not intended to convey the broad sense of ... sovereign or legislative powers ... Rather, it is intended to be applied in the context of the specific terms of the service concession arrangement” (Paragraph AG8).

This contrasts with IFRIC 12 that regulation “could be by contract or otherwise (such as through a regulator). ... the grantor and any related parties shall be considered together. ... the public sector as a whole, together with any regulators acting in the public interest, shall be regarded as related to the grantor ...” (IFRIC 12, Paragraph AG2)

The meaning of the term “regulates” is narrower in the ED than it is in IFRIC 12. HoTARAC considers that IFRIC 12 is too broad and needs to be narrowed. The power of government to establish the regulatory environment within which entities operate and to impose conditions or sanctions on their operations does not itself constitute control of the assets deployed by those entities (AASB 127, Paragraph Aus17.9(d) and IPSAS 6, Paragraph 37(a)).

However, this creates an inconsistency. The ED does not consistently mirror IFRIC 12. This inconsistency could result in neither party recognising the service concession property.

For example, an operator applying IFRIC 12 may conclude that service concession property is grantor-controlled by virtue of the grantor’s regulatory power arising from legislation, or through an independent price regulator established by legislation. However, a grantor applying the ED’s proposals may conclude that the same service concession property is not grantor-controlled because the grantor has no regulatory power under the specific terms of the service concession agreement. Thus, the property would not be recognised by each party.

HoTARAC considers that this outcome primarily arises from the failure of IFRIC 12 to consider the public sector grantor’s perspective.

The second instance of asymmetry relates to capital work-in-progress. The ED discusses the timing of recognition of a service concession asset constructed by the operator. Paragraph AG20 also notes that where the operator bears the construction risk, the grantor will normally recognise the asset (and by implication the related liability) when the asset is placed into use.

HoTARAC considers this to be problematic as the treatment proposed in the ED does not mirror that in IFRIC 12. Under IFRIC 12, the operator recognises an accruing receivable as the service concession asset is constructed. Under ED 43, the grantor’s corresponding payable would not be recognised until the asset is used. A further consequence is that neither of the parties would recognise the capital work-in-progress during the construction period.

Concluding remarks on the approach mirroring IFRIC 12

HoTARAC considers that the disadvantages of adopting an approach based on IFRIC 12 greatly outweigh any perceived advantages.

HoTARAC considers that there is merit in revisiting approaches based on other existing authoritative guidance. Available models for determining which party controls service concession property include the control of an asset definition in IPSAS 23, or a risks and rewards approach as used in IPSAS 13. In addition, a rights and obligations approach, apportioning the asset between the two parties merits further consideration. The IASB's thinking appears to be heading in this direction. Its recent Discussion Paper on Revenue Recognition contemplates measuring the rights and obligations in contracts with customers.

Paragraph 10 of the ED could be modified to simply require a grantor to recognise a service concession asset that it controls, with the remainder of that paragraph being provided as application guidance. This may avoid having a new set of black-letter control criteria.

Performance obligations exist independently of payment obligations

The ED proposes that when a grantor recognises a service concession asset it should also recognise a corresponding liability for its payment obligation and/or performance obligation to the operator (Paragraphs 19, 21 and 22). The liability is initially measured at the fair value of the asset (Paragraphs 15 and 20). The payment obligation represents amounts payable to the operator for the asset. The performance obligation represents the right granted to the operator to earn revenue from the service concession asset or from another revenue-generating asset (Paragraphs 22 and AG41).

Because the payment and/or performance obligations must initially equate to the value of the asset, it appears that the performance obligation is the difference between the value of the service concession asset and the value of any payment obligation. In effect, the ED proposes that a performance obligation is recognised only to the extent that the payment obligation falls short of the fair value of the service concession asset.

HoTARAC considers that the proposed recognition of a grantor's performance obligation is unclear and irregular.

Under most, if not all service concession arrangements, the grantor would have a performance obligation to the operator to continue to provide the granted concession rights during the concession period. If such an obligation is to be recognised, it would not make sense to only recognise it to the extent that the grantor does not have a payment obligation.

Consider two service concession arrangements where the operator constructs a service concession asset and operates it on behalf of the grantor, in exchange for the right to collect user charges. In Arrangement A, the operator recovers construction and operating costs solely from user charges. In Arrangement B, the operator recovers operating costs from user charges and construction costs from the grantor via a series of predetermined payments. The grantor would have an identical performance obligation under each arrangement, regardless of it having an additional payment obligation under Arrangement B. However, the ED would only recognise a performance obligation in Arrangement A. The liability under Arrangement B would be a payment obligation.

HoTARAC considers that, if the performance obligation exists, it should be treated similarly in all cases, regardless of whether the grantor has a payment obligation. The performance obligation should be recognised in full or not at all, not just sometimes.

Further, the proposal could benefit from a more comprehensive explanation of the nature of a grantor's performance obligation and how it relates to revenue recognition.

A grantor's performance obligation is not a provision

The ED requires the grantor to account for a performance obligation, where it is recognised, in accordance with Paragraph 22 IPSAS 19 *Provisions, Contingent Liabilities and Contingent Assets*. The ED notes that, "when the operator is compensated by being granted a right to earn revenues from either the service concession asset or another asset provided by the grantor, the [grantor's] liability is a performance obligation because the grantor is obligated to provide the asset to the [operator]. IPSAS 19 provides guidance for such circumstances" (Paragraph AG29).

HoTARAC finds this requirement and guidance to be problematic for the following reasons:

- it is unclear whether the performance obligation relates to the right to earn revenues (a licence) or the service concession asset or other asset provided by the grantor for the operator to use (a physical asset), or both;
- IPSAS 19 does not provide any specific guidance on performance obligations;
- IPSAS 19 Paragraph 18 defines liabilities as "present obligations of the entity resulting from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying future economic benefits or service potential". Given this, it is questionable whether the grantor in the contemplated arrangement would have any continuing liability as both the licence and the physical asset given to the operator at the start of the concession period would settle any present obligation of the grantor. Further, once the licence has been granted or the physical asset transferred to the operator, no further economic benefits or service potential would be required to flow from the grantor; and
- IPSAS 19 defines a provision as "a liability of uncertain timing or amount". In the contemplated arrangement, the ED would require the performance obligation to be initially measured at fair value (Paragraph AG41) and reduced as access to the asset is provided over the term of the arrangement (Paragraphs AG38, AG40). As the timing and amount of the performance obligation are determinable there does not appear to be any requirement for a provision.

HoTARAC suggests that Paragraphs 22 and AG29 be reconsidered and the basis for recognising a performance obligation be explained and justified. The US GASB has tentatively decided that a grantor (which it calls a transferor) should recognise a deferred inflow rather than a performance obligation (outflow) in the circumstances described above.

HoTARAC is also aware that the IASB is considering the nature and measurement of performance obligations as part of its Projects on Leases and Revenue Recognition. It may be prudent for IPSASB to await the outcome of those Projects before issuing a Standard in this area.

Some arrangements are not contemplated

The Implementation Guidance accompanying the ED provides a Table of references to Standards that apply to typical types of arrangements involving an asset combined with the provision of a service (Implementation Guidance and Paragraph BC3). However, the Table does not relate the arrangements classification to the presence or absence of the grantor-control criteria in the ED. Nor does it deal with some common forms of service concession arrangement.

The Table does not deal with Build-Operate-Transfer arrangements that do not meet the grantor-control criteria in the ED. While the table suggests that BOT arrangements would normally be within the scope of the ED, the absence of grantor-control would place them outside the scope. What Standard would apply in this case?

Also, the Table does not deal with operator-owned property that transfers to the grantor at the end of the concession period. While the Table suggests that arrangements involving operator-owned infrastructure would be outside the scope of the ED, it does not contemplate Build-Own-Operate-Transfer arrangements, where operator-owned property ultimately transfers to the grantor. These arrangements are common in Australia. Are BOOT arrangements also meant to be outside scope because the operator owns the underlying property? Would it make a difference if the property was constructed on land leased from the grantor?

Guidance on accounting for these forms of service concession arrangement would be helpful.

What if the grantor does not control the service concession property?

The ED notes that, in exchange for obtaining a service concession asset, a grantor may give an operator one or more of the following:

- a right to use the service concession asset (Paragraphs 23, AG38, AG42, AG43, BC17);
- a predetermined series of payments (Paragraphs 21, AG31);
- a right to earn revenues (Paragraphs 22, AG29, AG38, AG41, AG44, BC17); and
- access to another revenue-generating asset (Paragraphs 22, AG40, AG44, BC17).

HoTARAC agrees that a service concession arrangement is an exchange transaction, and that these are the typical types of consideration given by a grantor. Further, HoTARAC considers the fundamental consideration is the right to use the service concession property. This is the essence of a service concession. The other types of consideration, though often found, are not essential. Moreover, all of these types of consideration can occur regardless of which party controls the service concession property.

The ED's approach is premised on the grantor's liability arising in exchange for receiving the service concession asset at the start of the concession period, and the grantor gaining control of the asset at that time. The grantor receives a service concession asset as consideration for, and in advance of, providing access or another asset to the operator (Paragraph BC17).

However, HoTARAC has found that service concession arrangements can also take other forms and give rise to accounting issues not addressed in the ED. For example, in a Build-Own-Operate-Transfer arrangement, a grantor might only control the service concession property from the end rather than the start of the concession period. If the grantor does not control the service concession property during the concession period, the nature of the initial transaction might be an exchange of one right (service concession) for another (right to receive control of the service concession asset at the end of the service concession). An example of this is the exchange of rights with deferred settlement by one party.

HoTARAC has identified several examples of service concession arrangements in which the grantor does not control or regulate the pricing of services and/or to whom the operator must provide them. In such cases, the grantor controls a residual interest at the end of the concession period but, applying the ED's proposed grantor control criteria, does not control the use of the property during the concession period. Such arrangements would be outside the scope of the ED.

HoTARAC considers that the Standard arising from the ED should give specific guidance on how a grantor should account for arrangements where the grantor only has a residual interest in the service concession property. The Consultation Paper that preceded the ED proposed different accounting treatments, which depended on whether the grantor had full control, part control or no control during or after the concession period. The absence of such guidance in the ED is not helpful.

HoTARAC considers that arrangements giving rights to use service concession property or to earn revenue from such property are in the nature of licensing agreements. The grantor effectively licenses the operator to operate the service concession property to provide public services, or collect revenue from the public, or both. IFRIC 12 also acknowledges that a right to charge users is a licence (IFRIC 12, Paragraph 17). However, HoTARAC notes that the Standards on Leases (IPSAS 13, IAS 17 and AASB 117) all scope out licensing arrangements.

When determining how a grantor should account for the giving of the service concession in exchange for receiving a right to receive the service concession property at the end of the concession period, the Emerging Asset approach should be considered.

Under this approach, the grantor recognises both an asset and revenue that accrues over the concession period. This approach also reflects revenue arising from the granting of the concession on a systematic basis over the concession period and also the accruing right to receive the property over the same period. This approach is used in Application Note F *Private Finance Initiative and Similar Contracts* which forms part of the United Kingdom Accounting Standards Board's Financial Reporting Standard 5 *Reporting the Substance of Transactions*. The Emerging Asset approach has been used in Australia to account for the emerging value of the right. HoTARAC considers that this approach has merit and has previously endorsed it for use by Australian grantors.

It would be helpful if the Standard resulting from the ED addressed the accounting for service concession arrangements where the grantor's control of the underlying property is deferred until the end of the concession period.

Consistency and comparability are not achieved

The IPSASB believes that the ED will promote consistency and comparability in the reporting of service concession arrangements by public sector entities (Paragraph BC1).

HoTARAC observes that, in some cases, the ED may result in diverse accounting for substantively similar arrangements. For example, one Australian grantor has 14 service concession arrangements where a service concession is given in exchange for each operator building and operating the service concession property and transferring it to the grantor at the end of the concession period. All of the operators finance the arrangements solely from user charges collected from the public.

All of these arrangements are substantively similar and are presently accounted for consistently, as emerging assets. However, because of the specific terms of the contracts, just over one-third of them will fail the grantor control criteria. Those within the scope of the ED will be recognised as the grantor's physical asset at the start of the concession period. Arrangements not controlled by the grantor during the concession period in terms of the ED will be recognised as the grantor's physical asset only at the conclusion of the concession period. The grantor's interest in the latter group will be residual. In these arrangements, the accounting treatment will depend on whether the contract specifies the pricing; or that the services are to be provided to the public. If it does so specify, the grantor can demonstrate its ability to control or regulate the pricing and to whom the services are provided. Where the operator has an unrestricted choice as to pricing and to whom the services are provided, and the grantor has no contractual right to intervene, the property is not recognisable as a service concession asset under the ED.

Consider two service concession arrangements that only differ in their pricing terms. One specifies a cap on the prices the operator can charge the public for the services. The other does not specify any pricing restrictions but instead implicitly relies on market forces to keep the prices at a reasonable level. Under the ED, the grantor would control or regulate the prices in the first case but not the second. Therefore, the second arrangement would not be within the scope of the ED.

Also consider two service concession arrangements that only differ in their specification of the intended customers. One contemplates that the operator is to provide services to the public. The other does not specify any customers but instead implicitly relies on market forces to encourage the operator to provide services to any interested member of the public who is prepared to pay for the service. Under the ED, the grantor would probably be held to control or regulate to whom the services are provided in the first case but not in the second. Therefore, the second arrangement would not be within the scope of the ED.

HoTARAC considers it unfortunate that the ED is likely, in some cases, to introduce inconsistent accounting for substantively similar service concession arrangements and that it will not provide accounting guidance for the arrangements that fail its grantor control criteria. HoTARAC also considers it undesirable that different accounting outcomes could arise from the inclusion of an otherwise inconsequential phrase in a service concession arrangement.

Work-in-progress is not recognised

Paragraph AG20 of the ED discusses the timing of recognition of a service concession asset constructed by the operator. It notes that, where the operator bears the construction risk, the grantor will normally recognise the asset (and by implication the related liability) when the asset is placed into use. HoTARAC considers this to be problematical for the following reasons:

- Under accrual accounting principles, the grantor should recognise the asset and liability progressively as it is constructed rather than when it is complete, regardless of which party bears construction risk. A service concession asset is, by definition, grantor controlled and it is being constructed for the grantor pursuant to the contractual requirements of the service concession arrangement.
- As mentioned earlier, the treatment proposed in the ED does not mirror that in IFRIC 12. Under IFRIC 12, the operator recognises a cumulative receivable as the service concession asset is constructed. Under the ED's proposals, the grantor would not recognise the corresponding payable until the asset is placed into use. A further consequence is that neither of the parties would recognise the capital work-in-progress during the construction period.
- The deferred recognition of the liability could inappropriately encourage these types of transactions and provide financial engineering opportunities resulting in governments reporting lower levels of debt compared with more direct financing transactions that have similar economic or present-value impact. The financial implications could be significant given that these are typically high value contracts involving construction over several years.

HoTARAC suggests that, if a grantor is to recognise a service concession asset, the grantor should also recognise the associated work-in-progress and the related liability as they accrue.

Nature of grantor's residual interest

The ED notes that for the purpose of Paragraph 10(b), “the grantor’s control over any significant residual interest should both restrict the operator’s practical ability to sell or pledge the asset and give the grantor a continuing right of use throughout the period of the arrangement” (Paragraph AG9).

In other words, a grantor will not control a significant residual interest unless it also has a continuing right of use throughout the concession period.

HoTARAC considers that a fundamental feature of service concession arrangements is that they require the operator to use the service concession property to provide services to the public. It is hard to see how a grantor has a continuing right of use throughout the concession period if the operator has use of the property under a binding arrangement with the grantor. Instead of a right of use, the grantor may have a right to receive the service concession property at the end of the concession period.

HoTARAC suggests that this be explained in the resulting Standard.

Scope clarifications

HoTARAC generally supports the scope of the term “service concession arrangement” as described in the ED (Paragraphs 2, 7 and AG1).

However, HoTARAC observes that service concession arrangements do not always set the initial prices to be levied by the operator or mechanisms for adjusting such prices. There are several examples of Australian service concession arrangements which do not deal with pricing or whether the operator may set and vary the fees it charges its customers. Some arrangements go further and exempt the operator from regulation by the government’s independent pricing regulator. HoTARAC considers these to be service concession arrangements even though their features may be atypical.

Further, HoTARAC suggests that for clarity, arrangements where the grantor is the primary operator should be explicitly scoped out of the description in Paragraph 7.

Under some public-private partnerships in Australia, the public sector party controls the property (for example a hospital or school) as purchaser or lessee and is the primary provider of services using the property. The for-profit sector designs, finances and constructs the property and provides ancillary services (such as property maintenance), for an extended period. HoTARAC considers that such arrangements would be outside the scope of the ED because the public sector is the primary operator of the asset. However, it could be also argued that the for-profit sector is providing some level of indirect service to the public on behalf of the grantor by servicing the buildings, and that this aspect is a service concession arrangement.

HoTARAC suggests that the description of a service concession arrangement should explicitly exclude arrangements where the public sector party is the primary operator of the property, notwithstanding that the for-profit sector may provide some secondary services. The proposal might also specifically exclude arrangements where the public sector party purchases or leases the property. Such arrangements would be covered by existing standards on property, plant and equipment or leases.

Future economic benefits can be relevant

The ED's Basis for Conclusions, in discussing the rationale for adopting a control-based approach, notes that "the primary purpose of a service concession asset is to provide service potential on behalf of the public sector entity, and not to provide economic benefits such as revenue generated by these assets from user fees" (Paragraph BC11).

While HoTARAC acknowledges the importance of the concept of control in relation to asset recognition, it does not necessarily agree that service potential, rather than economic benefit, is the primary reason for undertaking service concession arrangements. Most service concession arrangements would not proceed without the assurance of a flow of future economic benefits. This is typically how service concession property is funded.

A control model based solely on a consideration of service potential without having regard to economic benefits may produce inappropriate outcomes. In many service concession arrangements, the operator has economic control, is exposed to most of the economic risks, and enjoys the majority of the economic benefits. There are several Australian cases of the grantor refraining from stepping in when the operator ran into financial difficulty and had to sell its interests in the arrangement. Arguably, these examples suggest operator control and the operator's exposure to the risks and rewards inherent in the service concession property.

Further, HoTARAC considers that both future economic benefits and service potential are relevant. The definition of assets encompasses both. HoTARAC therefore recommends that the conceptual rationale for preferring service potential over economic benefits be reconsidered.

No guidance for Government Business Enterprises

The proposals in the ED would not apply to Government Business Enterprises (Paragraph 5). The ED's Basis for Conclusions notes that the operator may be a GBE, that IPSASs are not designed to apply to GBEs and that International Financial Reporting Standards apply to GBEs (Paragraph BC 6).

However, there is no international guidance for a service concession grantor that is a GBE. Such entities are scoped out of IFRIC 12, which only applies to operators, and scoped out of the ED which would only apply to public sector entities that are not GBEs.

HoTARAC acknowledges that IPSASs are not normally intended to apply to GBEs. However, HoTARAC encourages the Board to consider making an exception in this case and extend the Standard resulting from the ED to GBEs that are service concession grantors.

Minor corrections and clarifications

HoTARAC notes the following matters in the ED that need to be corrected or clarified:

- In Paragraphs 8(c) and AG18, it seems illogical to treat parts of an upgraded asset differently; only recognising the upgraded portion as a service concession asset.

- The requirement in Paragraph 12 to reclassify but not recognise certain existing grantor assets as service concession assets seems to be internally inconsistent and needs to be clarified. This may also affect Paragraphs 8(d), 12 and the Implementation Guidance on page 31.
- It is unclear whether an asset reclassified under Paragraph 12 would also give rise to a corresponding liability under Paragraph 19.
- It would be helpful to have an example of when a service concession asset might be intangible, as contemplated by Paragraph 13.
- In Paragraphs 14(b) and AG22(b), the expression “Compensating the grantor ...” should be “Compensating the operator...”.
- In Paragraph 30, the intention of the word “prospectively” is unclear. Does it mean the standard would apply to (a) new arrangements commencing after the effective date or (b) existing arrangements but only from that financial year onwards?
- Paragraph AG12 is ambiguous. The conditions in Paragraph 10(a) could never be met if the asset (being a separate cash generating unit) is used wholly for unregulated purposes.
- In Paragraph AG29, the word grantor (where last used) should be operator.
- Given the adjacent guidance about the operator’s cost of capital (Paragraph 34) and the grantor’s incremental borrowing rate (Paragraph AG36), the first sentence of Paragraph AG35 might clarify whether it is referring to the grantor or the operator.
- Revenue recognition requirements are inconsistent. Paragraph AG38 requires a grantor to recognise revenue as the performance obligation liability is reduced but Paragraph AG39 prohibits a grantor from recognising revenue. Perhaps Paragraph AG39 should state that “The grantor does not recognise revenue that the operator collects, unless ...”
- Paragraph AG52 might be clarified to read: “The grantor’s finance charge ...”
- The proposed consequential amendments to Paragraph 27 of IPSAS 13 *Leases* incorrectly refer to a “service concession arrangement as defined in IPSAS XX (ED 43)” (Appendix B, emphasis added). However, ED 43 does not actually define service concession arrangement. The word “defined” should be replaced with “described”.
- In the illustrative examples, it would be helpful to have an example that includes a revenue-sharing arrangement.

24 May 2010

Ms Stephenie Fox
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Dear Ms Fox

IPSASB ED 43 – Service Concession Arrangements: Grantor

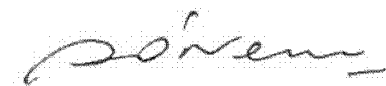
Attached is the Australasian Council of Auditors-General (ACAG) response to the Exposure Draft referred to above.

ACAG members are pleased that the IPSASB is addressing, through this Exposure Draft, the accounting treatment for Service Concession Arrangements for Grantors.

The views expressed in this submission represent those of all Australian members of ACAG.

The opportunity to comment is appreciated and I trust you will find the attached comments useful.

Yours sincerely



Simon O'Neill
Chairman
ACAG Financial Reporting and Auditing Committee

cc: Mr Kevin Stevenson, Chairman, Australian Accounting Standards Board

IPSASB ED 43 – Service Concession Arrangements: Grantor

ACAG has reviewed the exposure draft *Service Concession Arrangements: Grantor* issued by the International Public Sector Accounting Standards Board (IPSASB) and provides the following comments.

Overall comment

ACAG members are pleased that the IPSASB is addressing, through this Exposure Draft, accounting treatment for Service Concession Arrangements for Grantors. We consider such information to be of significant public interest.

Accounting by the grantor and operator

ACAG considers that it would make for a more efficient process if both the grantor and operator accounting treatments were considered simultaneously.

Application of IFRIC 12 and the Exposure Draft could potentially see there being no asset recorded to reflect relevant property (real or otherwise) by either party or, potentially, assets being recorded by both the operator and grantor.

Scope of the Exposure Draft

ACAG encourages the IPSASB to adopt a more conceptual approach in identifying the types of arrangements to be captured by the Exposure Draft.

Many forms of service concession arrangements exist. The Exposure Draft captures a narrow form of these. In Australia, service concession arrangements can relate to both government business enterprises and non-government business enterprises. As such, ACAG would prefer any service concession arrangement standards to extend to cover all types of government entities.

In addition, the rules-based nature of the Exposure Draft poses a risk that the wording in contracts determines the applicability of the standard, rather than the substance of the agreement. For example, if a contractual arrangement were silent on pricing or customers, it may not meet the criteria of paragraph 10. Alternatively, an identical arrangement with a more explicit contract may be captured by the Exposure Draft.

Recording of a Service Concession Asset

The Exposure Draft requires recognition of a service concession asset depending on control criteria related to the service provision rather than being tied to the physical or intangible asset. This is not consistent with the control criteria discussed in IPSAS 23. ACAG considers that the concepts used in the Exposure Draft should fit with the concepts applied across the suite of standards.

ACAG considers that control is the most appropriate and objective basis for determining whether the service concession asset should be recorded.

Measurement of Service Concession Assets

An existing asset of the grantor is only reclassified for reporting purposes as a service concession asset. However, any upgrade to that asset is recognized as a service concession asset and measured at fair value. This means that the same asset is separated into components with potentially different accounting treatments. The existing component may be measured at historical cost, while the upgrade is initially measured at fair value. Further, upgrading an asset may change its function or nature and extend its useful life. It is suggested that, following upgrade, the whole asset be revalued and treated as a service concession asset.

Definition and measurement of a Performance Obligation

The Exposure Draft requires a liability to be initially recognised at equal value to the fair value of the asset recognised. This liability comprises any financial liability stipulated, with the remainder made up by a performance obligation.

No definition of performance obligation has been provided, although it is discussed in paragraphs 22-23. In ACAG's view, the Exposure Draft's proposal to use performance obligation as a 'balancing item' is not conceptually sound. In substance, any performance obligation to the operator should not change depending on the value of related financial liabilities. Without a definition and explicit expression as to why this is a liability, it is difficult to link with IPSAS 19 'Provisions, Contingent Liabilities and Contingent Assets'.

In addition, it would provide more clarity as to the intention of paragraph 23 if such a definition were provided. Currently, the intention of paragraph 23 is somewhat ambiguous as to whether the asset which would be recognised as being of equal value to the performance obligation would be the tangible or intangible service concession asset (e.g. Property, Plant and Equipment) or an asset related to future payments from the operator.

The Application Guidance could be clearer as to the nature of the performance obligation. For example, paragraph AG3(b) could read 'The grantor recognises a performance obligation when, as compensation to the operator for providing the service concession asset, it grants the operator access...'

Definitions

As discussed above, ACAG believes the performance obligation should be defined. The extent to which the scope paragraphs limit the application of the Exposure Draft is also unclear. For example, does the reference to the service concession asset providing services "to the public on behalf of the grantor" in paragraph 7 narrow the scope of the Exposure Draft to exclude service concession arrangements where the services are provided directly to the government?

We believe the term service concession arrangement should be defined.

A service concession asset is defined in paragraph 3(c) as one recognised in accordance with paragraphs 10 or 11. However, paragraph 10 also includes an existing asset of the grantor which is *reclassified* as a service concession asset. Paragraph 3(c) should therefore read "...conditions for recognition or reclassification set out in...".

We consider that paragraph 14 does not fit under the heading ‘Recognition and Measurement of a Service Concession Asset’ and would be better suited as part of the ‘Scope’ section.

Terminology

Paragraphs 23 and AG43 refer to the operator’s ‘right to use’ the service concession asset. However, both this term, and the term ‘access’, are used interchangeably. It is suggested that it is more accurate to describe the operator’s ‘access’ to the service concession asset, as in paragraphs AG38 and AG42. ‘Right to use’ might suggest that the grantor passes control to the operator, whereas ‘access’ is more akin to making available for use but not giving control. Consequently, paragraph 8(b) would require amending. It reads “...operator gives the grantor access for the purpose of the service concession arrangement.” ‘Access’ in that case should read ‘control’.

Other issues

ACAG considers that paragraph 28 should be clearer as to whether or not there is a choice to disclose arrangements individually or in the aggregate.



Accounting Standards Board

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26 May 2010

Dear Stephenie

IPSASB Exposure Draft 43: *Service Concession Arrangements: Grantor*

1 The UK Accounting Standards Board's (ASB) Committee on Accounting for Public Benefit Entities (CAPE) welcomes the opportunity to comment on IPSASB's proposals in Exposure Draft 43 '*Service Concession Arrangements: Grantor*'. As the ASB noted in responding to the earlier Consultation Paper, accounting for service concession arrangements is a very significant reporting issue for the UK public sector. We believe the proposals will promote consistency and comparability in how service concession arrangements are reported by public sector entities.

2 We agree with IPSASB that the requirements for recognition in accounting by the grantor should 'mirror' IFRIC 12 '*Service Concession Arrangements*' and therefore should be based on a controls based approach.

3 We are, however, concerned by the requirement in paragraph 15 of the draft standard to measure the service concession asset at its 'fair value' which might be interpreted as a market-based exit value. We do not consider this to be appropriate in the public sector context, where service concession assets are often highly specialised and will not be traded on a market. We would suggest the measurement requirement should specifically refer to replacement cost.

4 We disagree with paragraph AG 33 of the standard which requires the finance charge to be determined based on the operator's cost of capital specific to the service concession asset (if it is practicable to determine it). We do not consider this is relevant and would suggest the grantor's borrowing rate provides a more appropriate interest rate. The standard should, in our view, explain the rationale for the selection of the required rate.

5 The Illustrative Examples charge depreciation on the service concession asset on a straight-line basis. This will not always be appropriate and it would be helpful to refer to alternative depreciation methods. This would emphasise that a method should be selected that reflects the pattern of the consumption of economic benefits or service potential, as required by IPSAS 17 '*Property, Plant and Equipment*'.

6 We agree the liability recognised may be a performance obligation, but would suggest this is not a straightforward issue. It might therefore be helpful to provide more explanation of the accounting for such obligations, perhaps in the Application Guidance or the Basis for Conclusions.

7 If you require any further information please contact me or Alan O'Connor a.oconnor@frc-asb.org.uk.

Yours sincerely



Andrew Lennard

Chairman, Committee on Accounting for Public-benefit Entities

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Dear Stephenie

Exposure Draft 43 Service Concession Arrangements: Grantor

Thank you for the opportunity to comment on the International Public Sector Accounting Standards Board (IPSASB) Exposure Draft ED 43 *Service Concession Arrangements: Grantor*.

CPA Australia, the Institute of Chartered Accountants in Australia (the Institute), and the National Institute of Accountants (the Joint Accounting Bodies) represent over 180,000 professional accountants in Australia. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally.

Australian grantors and operators have embraced service concession arrangements as an innovative way to provide infrastructure and deliver infrastructure-related services. Operators construct, manage and may control many of the major risks and benefits for 30 to 50 years associated with billions of dollars of investment in toll roads, airports, ports, railways, hospitals and water infrastructure. There may be some instances where control resides with the State.

In jurisdictions such as Australia where both private and public sector entities apply the full set of IFRS as adopted there has been a significant vacuum because of the IASB's decision to not take a holistic approach, and instead prescribe the accounting by the operator, and not specify the accounting required of the grantor, including Government Business Enterprises (GBE). The Joint Accounting Bodies understand that in Australia the grantor in the service concession arrangement is either a not-for-profit public sector entity or a GBE. We consider it appropriate that the IPSASB issue a Standard that fills the vacuum for not-for-profit public sector grantors. Accordingly, we consider it appropriate that the [proposed] Standard:

- addresses service concession arrangements from the grantor's perspective; and
- mirrors the principles set out in IFRIC 12 *Service Concession Arrangements* for accounting by the operator.

Representatives of the Australian Accounting Profession



cpaaustralia.com.au



The Institute of
Chartered Accountants
in Australia

charteredaccountants.com.au



nia.org.au

We note that the accounting for service concessions where a GBE is the grantor will remain unclear, since GBEs are rightly never within the scope of IPSAS and the IASB is yet to address the accounting for grantors. We encourage the IPSASB to work together with the IASB to address this anomaly.

We observe that the [proposed] Standard refers to assets used in a service concession arrangement as “service concession assets”, whereas IFRIC 12 refers to such assets as infrastructure. We understand that the reason for the changed words is to avoid confusion with terminology already used in the public sector. Our acceptance of the revised terminology is premised on the condition that the types of service concession arrangements within the scope of the [proposed] Standard mirror those within IFRIC 12.

If you require further information on any of our views, please contact Mark Shying, CPA Australia via email at mark.shying@cpaaustralia.com.au, Kerry Hicks, the Institute via email at kerry.hicks@charteredaccountants.com.au or Tom Ravlic, the National Institute of Accountants via email at tom.ravlic@nia.org.au.

Yours sincerely



Alex Malley
Chief Executive Officer
CPA Australia Ltd



Graham Meyer
Chief Executive Officer
Institute of Chartered
Accountants in Australia

Andrew Conway
Chief Executive Officer
National Institute of
Accountants



Management School.

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8th June 2010

Dean

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Dear Sir

Exposure Draft 43: Service Concession Arrangements: Grantor

I welcome the opportunity to comment on ED43. I should begin by stating that my comments here reflect personal views and observations and should not necessarily be taken to represent those of the University of Sheffield or any of the professional or academic organisations with whom I work.

I welcome the publication of EDE43 by IPSASB which represents an important step in the development of enabling accounting for Service Concession Arrangements (SCA) to be applied consistently internationally and across both grantors and operators. One of the key strengths of the proposals in ED43 is the attempt to mirror the equivalent accounting in IFRIC 12. Accounting for Private Finance Initiative (PFI) contracts in the UK has been bedevilled by contradictions between accounting for individual PFI contracts in the public and private sector. For example, various papers tabled at meetings of the Financial Reporting Advisory Board point to some PFI deals being on both the public and private sector balance sheet with others being on neither. Such inconsistencies suggest that accounting for PFI provides opportunities to arbitrage between different regulations, or the interpretation of regulations, which should be reduced by the application of these proposals.

I support the proposal that recognition of SCA assets be based upon the control-based approach rather than the risk-and-rewards approach. Experience in the UK in the application of the risks-and-rewards approach is that it has led to different interpretations of the appropriate balance of risks in determining the accounting treatment by both accounting preparers and audit firms; this is a major cause of the inconsistencies between sectors mentioned above. I make a simple point here: if the (private sector) contractor and the (public sector) grantor both believe that they do not carry the principle risks in the contract, then someone has got it wrong. Our recent experience of mismanagement in the banking sector suggests that, if in doubt, residual risk will land with the public sector and require taxpayers to pay the cost. An accounting approach which recognises that the public sector grantor both controls the strategic use of the asset and will foot the bill for its use is more likely to achieve

consistency between sectors and reflect the inherent risk that the public sector bears in entering into these arrangements.

I support the recognition criteria in paragraph 10 and its consistency with IFRIC12. It is pleasing to see that the residual interest test in the Discussion Paper has been amended to refer to interests which are significant. I suspect that the interpretation of 'control' is one area which IPSASB (and the IASB) will need to return in the future. It will be this interpretation which will be used by those promoting SCA to seek to move assets and obligations on or off balance sheets in ways which will meet the letter of the standard without always reflecting the substance of underlying schemes.

I support the proposals for the recognition of revenues and expenses in paragraphs 24 and 25. The allocation of SCA payments between capital repayment, service costs and finance charges is critical to the application of this proposed standard. The experience in the UK in developing accounting for PFI was that many argued that such allocation of payments was infeasible or inappropriateⁱ. I do not support that view but it may indicate that a number of different approaches may be adopted in the allocation of expenses so that details of the approach taken would be a useful addition to the disclosure requirements in paragraph 27.

I do not support the transition arrangements in paragraph 30. If I understand this correctly, the proposals would allow those organisations which have not capitalised SCA assets previously to continue to do so for existing schemes. In the UK there are PFI schemes that run for 30 or more years; so the implication of paragraph 30 is that such organisations may continue to use inadequate accounting for many years ahead. The default position in paragraph 30 should be for public sector organisations to apply the new standard retrospectively from the effective date. Prospective application should only be allowed in very limited circumstances (e.g. of extreme cost or impracticality) and, in such circumstances, there should be detailed disclosures of those schemes which are not being accounted for retrospectively under the standard.

I trust that these comments will be useful in the development of the standard.

Yours faithfully



Ron Hodges
Professor of Public Services Accounting

ⁱ For example: see Hodges, R. and Mellett, H. (2002), 'Investigating Standard Setting: Accounting for the United Kingdom's Private Finance Initiative', Accounting Forum, vol. 26, no. 2 pp. 126-151.

IPSASB ED 43, Service Concession Arrangements: Grantor

response to exposure draft

14 June 2010

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

Our ref: Responses/100614 SC0136

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submitted electronically to www.ifac.org
14 June 2010

Dear Stephenie Fox

IPSASB ED 43, Service Concession Arrangements: Grantor

CIPFA is pleased to present its comments on the proposals in this Exposure Draft, which have been reviewed by CIPFA's Accounting and Auditing Standards Panel.

As we explained in the CIPFA response to the Board's 2008 Consultation Paper on Accounting and Financial Reporting for Service Concession Arrangements, we very much welcome the development of guidance on this issue by the International Public Sector Accounting Standards Board. Service Concession Arrangements are a truly international issue and are significant in many jurisdictions. The consultation on IFRIC Drafts D12-D14 attracted more than 70 responses from Europe, Asia, Australasia, Africa and North and South America.

CIPFA and other public sector stakeholders were very concerned about the exclusive focus on private sector financial reporting in the IFRIC drafts, and the guidance provided in IFRIC 12 does not address financial reporting by public sector grantors. The IPSASB guidance will fill a very pressing need.

In our view, ED 43 covers the issues that grantors need to address when accounting for service concession arrangements, in particular

- Scope of accounting for Service Concession Arrangements
- Asset recognition and measurement
- Liability recognition and measurement
- Recognition and measurement of related expenses and revenues
- Presentation and Disclosure

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

CIPFA strongly supports IPSASB's project to develop and maintain converged IPSASs on matters where IASB guidance is relevant, closely reflecting IFRS and related SICs and

IFRICs where possible, and providing interpretation or additional guidance where this is necessary. We therefore agree with the approach in the Exposure Draft.

I hope this is a helpful contribution to the finalisation of the Board's guidance in this important area. If you have any questions about this response, please contact Steven Cain (e: steven.cain@cipfa.org.uk, t: +44(0)20 7543 5794).

Yours sincerely

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Date
June 24, 2010
Reference number
39-607/2010
Our reference
Curt Johansson

Your date

Your reference number

The Technical Director
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Comments on ED 43 Service Concession Arrangements: Grantor

The Swedish National Financial Management Authority (ESV) appreciates the opportunity to comment on the ED 43 Service Concession Arrangements: Grantor.

ESV is the government agency responsible for financial management and development of GAAP for the Swedish central government. Full accrual accounting was introduced in 1993 and we hope that our experience will be a contribution in your work with various accounting issues.

Overall Opinion

Our overall opinion is that we support the approach in ED 43.

It has been criticized that governments in several countries have not in full disclosed future effects of public-private partnership (PPP)-contracts in the annual reports. It has been a general view that PPP-contracts merely are a way for government to get round budget restrictions. At the present PPP-contracts are not common in Sweden. The operators of service concession arrangements have practically always been Government Business Enterprises. ESV believes that it is likely that service concession arrangements will increase in number in the future and that the government will use arrangements with private enterprises. The standard is therefore important in the development of uniform accounting standards in Sweden.

We have however found that the standard is very extensive, which is strengthened by the fact that it refers to many other standards that are themselves extensive and complicated. In our opinion there will therefore emerge a need to further develop the standard in the future as more PPP-contracts are signed.

Specific Matters for Comment

Recognition and Measurement of a Service Concession Asset

Despite the proposed standard there may be difficulties to determine if a PPP-contract is a service concession arrangement. That is the case, for example when an

asset is a Service concession asset or a finance lease arrangement that should be disclosed as Property plant and equipment. It might also be difficult for the grantor to subdivide for example roads into components in a fair way, which could have the effect that service concession arrangement assets are not comparable to owned assets of the same kind.

Recognition and Measurement of Liabilities

The compensation from service concession arrangement contracts are often tied to indexes, for example changes in interest rates or traffic intensity. It may therefore be difficult to make reliable measurements of the liabilities. Even minimal changes in the estimations may affect the liability significantly as the contracts often are valid for 20-30 years. It is therefore extremely important to disclose information that explains the content of the arrangement.

Presentation and Disclosure

The need of information in the public sector usually differs from the need of information in the private sector. ESV is normally of the opinion that many IPSASs – when it comes to demand for presentation and particularly disclosure – are too demanding compared to information needs to be disclosed in the Swedish central government. PPP-contracts however are often extensive and difficult to interpret. An extensive presentation and disclosure of service concession arrangements is therefore of utmost importance when it comes to understand the implications of the arrangements. In particular there are often obligations that are difficult to interpret and that extend over decades. We therefore strongly support that the entity shall disclose information in respect of service concession arrangements according to paragraph 27.

Concluding Remarks

We hope the comments given will be useful in your continuing work with accounting standards. We would like to take this opportunity to express our support for the development of International Public Sector Accounting Standards.

Curt Johansson and Claes-Göran Gustavsson have prepared the comments given in this report.

Yours sincerely,

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June 23, 2010

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**Re: Comments on Exposure Draft 43 - Service Concession
Arrangements : Grantor**

Thank you for the opportunity to comment on Exposure Draft 43 (ED 43).
Please note that the comments below are views of PSAB staff and not
those of the Public Sector Accounting Board (PSAB).

Approach taken in ED 43

In general, we agree with the approach taken in ED 43 of mirroring the principles set out in IFRIC 12 but from the perspective of the grantor. This approach will allow more symmetry and consistency in the reporting of service concession arrangements between grantors and operators and between public sector entities and private sector entities.

Scope of ED 43

Paragraph IN4 provides a listing of assets used for public services that may meet the requirements of a service concession arrangement. The listing is largely consistent with paragraph 1 of the Background to IFRIC 12 although one exception is the inclusion of "intangible assets used for administrative purposes". In addition to not being consistent with IFRIC 12, no examples of "intangible assets used for administrative purposes" are provided.

The standard is appropriately directed at ensuring large-scale infrastructure projects involving private public partnerships are properly recorded in the financial statements of the operator or grantor. It is unclear what type of projects are intended to be captured by the inclusion of "intangible assets used for administrative purposes" and why the scope of ED 43 has been expanded to address such assets.

Reclassification of existing assets

Paragraph 8 (c) indicates "*Existing assets of the grantor which the operator upgrades for the purpose of the service concession arrangement. Only the cost of the upgrade is recognized as a service concession asset in accordance with paragraph 10, or paragraph 11 for a whole-of-life asset*)",

while paragraph 8 (d) indicates "*Existing assets of the grantor to which the grantor gives the operator access for the purpose of the service concession arrangement and of which the grantor retains control, as specified in paragraph 10 (or paragraph 11 for a whole-of-life asset). Such assets are reclassified as service concession assets in accordance with paragraph 12.*"

In accordance with paragraph 8 (c), the cost of the upgrade is subject to the recognition and measurement requirements of ED 43 however paragraph 8 (c) is silent on the presentation of the remaining (pre-upgrade) asset balance. A suggestion is to include similar to the last sentence in paragraph 8 (d), clarification that the remaining asset balance is to be reclassified as a service concession asset in accordance with paragraph 12.

Transition requirements

Paragraph 29 indicates "*An entity that has previously recognized service concession assets and related liabilities, revenues, and expenses shall apply this Standard retrospectively in accordance with IPSAS 3, –Accounting Policies, Changes in Accounting Estimates and Errors.*", while paragraph 30 indicates "*An entity that has not previously recognized service concession assets and related liabilities, revenues, and expenses and uses the accrual basis of accounting shall apply this Standard prospectively. However, retrospective application is permitted.*"

As indicated in the Basis of Conclusion, the general requirement of IPSAS 3 is that changes be accounted for retrospectively, except to the extent that retrospective application would be impracticable.

It is unclear why the general requirements in IPSAS 3 are not appropriate for an entity that has not previously recognized service concession arrangements in adopting ED 43. Paragraph 30 appears also to be inconsistent with BC 20 to BC 22 from the Basis of Conclusion. It is suggested that paragraphs 29 and 30 be combined and the general requirements in IPSAS 3 be applied in adopting ED 43.

Generally, we found ED 43 to be clear and concise, appropriately addressing the reporting for service concession arrangements by public sector grantors.

We hope that you find our comments and observations in this letter useful.

Yours truly,



Tim Beauchamp
Director
Public Sector Accounting



24 June 2010

Ms Stephenie Fox
Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street, 4th Floor
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CANADA

Dear Stephenie

ED 43 SERVICE CONCESSION ARRANGEMENTS: GRANTOR

The New Zealand Treasury is pleased to respond to the International Public Sector Accounting Standards Board's Exposure Draft 43 *Service Concession Arrangements: Grantor* (the ED).

Service concession arrangements have not been a feature to date of the New Zealand environment. Interest in these types of arrangements is growing however and a number of such arrangements are currently under active consideration. The issue of this exposure draft is therefore timely as there is a growing need for authoritative accounting guidance for service concession grantors. In fact the Exposure Draft has already provided the basis for advice to Ministers on the accounting for such arrangements.

We note the ED proposes to adopt an accounting approach for grantors which mirrors that adopted for operators under IFRIC Interpretation 12 *Service Concession Arrangements* (IFRIC 12) issued by the International Financial Reporting Interpretations Committee. We consider such an approach to be appropriate as it should result in a symmetrical treatment of transactions between counterparties. Further, Treasury considers that a control-based approach to the recognition of service concession assets will produce more consistent reporting than a risks/benefits approach.

However, we note that this is not the approach taken in the current leasing standards, although this is likely to be addressed by the IASB in their current project on leasing. We would therefore urge IPSASB to give priority attention to the IASB development of its leasing standard, with a view to quick adoption of any new standard, if it reduces the inconsistency of approaches, both between service concession and leasing arrangements, but also so that new gaps do not open up between lessor and lessee accounting when one of those parties is in the public sector.

In the interim, we suggest that a consequential amendment is needed to IPSAS 13 *Leases* to provide a scope exclusion for arrangements covered by this standard in the same way that IFRIC 4 specifically excludes service concession arrangements within the scope of IFRIC 12.

Treasury notes that the term *regulate* has a broad meaning in IFRIC 12 [IFRIC 12, paragraph AG2] and a narrower interpretation in the ED [ED, paragraph AG8]. Treasury strongly supports the narrower meaning, but notes that this inconsistency may result in some service concession property being recognised by neither party to the arrangement. Because Treasury considers that such an outcome primarily arises from a failure in IFRIC 12 we suggest that this be brought to the IASB's attention, noting the strong support for the IPSASB position by respondents to the consultation paper that addressed this issue.

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Our final general comment on the ED is that as it did not contain specific comment questions directed towards the major issues, we have some uncertainty that we have sufficiently analysed the issues it contains. Without the focus provided by specific questions, we believe that the IPSASB will have difficulty balancing the views and comments it receives. If only one or a small number of respondents raises a particular issue, the IPSASB will not have the benefit of knowing whether the concerns are widely held, or whether there is a wide awareness of the issue. To avoid accusations of due process failure, the Board may need to consider re-exposing its judgements on the comments it receives.

Treasury has two specific concerns with the proposals in the ED. These are:

- That the guidance for the recognition point of the asset is inappropriate; and
- That the guidance on the initial measurement of the value of the asset is confusing and ignores the possibility of subsidies or non-exchange elements

That the guidance for the recognition point of the asset is inappropriate

Treasury does not consider that the guidance for the recognition point of the asset is appropriate. AG20 states that the recognition of a constructed asset, (and by implication the corresponding liability), where the construction risk is borne by the operator, will normally be when the asset is placed into use.

- The asset is being constructed for the grantor pursuant to the contractual requirements of the service concession arrangement. Under accrual accounting principles, the grantor should recognise the asset under construction, (and the associated increasing obligation), as the asset is being constructed in accordance with the contract, rather than when it is complete. Recognition should occur at this point regardless of whether or not the grantor faces the construction risk. Any argument that the cost cannot be reliably measured at an earlier point is not credible. Because the grantor does not bear the construction risk, the cost to the grantor is fixed. Because the likelihood of delivery on time or of any delays will be known, the percentage of completion will be known.
- The treatment in AG20 does not mirror the treatment in IFRIC 12, the basis on which the Board agreed to prepare this standard. Under IFRIC 12 the operator recognises a growing receivable as the service concession asset is constructed. Under AG20 the "mirror" payable will not be recognised until the asset is placed into use. A further consequence is that the capital work-in-progress is not recognised by any party while the asset is being constructed.
- The deferral of recognition of the liability will inappropriately incentivise these types of transactions and provide financial engineering opportunities for Governments to report lower levels of debt in comparison to more direct financing transactions that have similar economic or present-value impact. The financial implications can be significant as these arrangements are for large amounts and often involve construction period covering a number of years.

Treasury recommends that AG20 be reworded so that costs are normally recognised as they accrue.

Initial measurement of the value of the asset

Treasury notes that the ED proposes that when a grantor recognises a service concession asset it should also recognise a corresponding liability, initially measured at the fair value of the asset.

The fair value of the asset is determined to be the fair value of the asset portion of the payments if the asset and service portions are separable, and by estimation if they are not (refer paragraphs 15 to 17). These paragraphs make no reference to the inclusion of any performance obligation in determining the fair value of the asset. The paragraphs do however

suggest that the fair value should be determined from the future payment stream. From the future payment stream a liability is calculated, and from that the fair value of the asset is determined.

However the implementation guidance takes a different approach. It works in the opposite direction. In the implementation guidance, the fair value of the asset is determined by reference to its construction costs, separating out base layers and surface layers for the road it uses as an example. Such components of the road do not have separate fair values. The impact of taking the approach set out in the implementation guidance seems to be to assume that fair value is equivalent to initial construction cost.

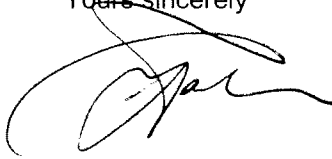
The implementation guidance in the first example then compares this initial construction cost or “fair value” to the future payment stream and derives a finance cost that will convert the payment stream into an equivalent value liability. The second example uses the initial construction cost or “fair value” to determine the equivalent value performance obligation. In the third example, of a combined payment stream and performance obligation, a judgement is required as to how much of the operator’s compensation comes from the grantor payment stream and how much from the toll revenue. Once that is done, similar comparisons as in the first two examples are carried out to derive “equivalent value” liabilities.

Treasury has two main comments to make on this:

- It is confusing. The logic in the implementation guidance does not follow the logic in the standard. In particular:
 - if the fair value is to be determined from the cost of its components, the standard should state that a cost base is being used. This is Treasury’s preference. It would be helpful to have guidance as to whether public sector comparators may be used as a replacement cost valuations, or whether efforts should be made to determine the private sector costs.
 - if the fair value is to be determined from the compensation provided, the standard needs to explicitly state this. Treasury considers this approach less preferable because although it is in accordance with the IASB’s developing fair value measurement guidance, there would be less comparable results given the judgements necessary. To overcome this, guidance would be necessary as to how to determine the liability, including how to determine the finance rate to bring the compensation (payment streams, and right to charge over a period) to a present value, and the implementation guidance needs to be adjusted accordingly.
- It ignores the possibilities of subsidies. For example, consider the situation if the value of the tolls in Example 3 was twice as large (i.e. CU200 in each of years 3-10 rather than CU100 in each of years 3-10). The value foregone by providing the access to that asset, and presumably the performance obligation is therefore much more significant than in the example. The accounting would be either:
 - exactly the same as currently in Example 3 if the same judgement was made as to the payment stream/performance obligation ratio. The change in economic substance would not be reflected in the accounting; or
 - if a different ratio was applied, a higher finance cost would be applied to the payment stream. The larger foregone value is reflected in a higher interest cost.

Neither approach would reflect the economic substance that half the toll revenue reflects an effective subsidy the grantor is making to the provider. Treasury suggests that the standard needs to recognise such eventualities. Guidance similar to that provided in AG-82-83 of IPSAS 29 or paragraphs 27-29 of IPSAS 17 need to be inserted.

Yours sincerely

A handwritten signature in black ink, appearing to be 'H. Packer', written over the words 'Yours sincerely'.

Hugh Packer
Manager, Fiscal Reporting

23 June 2010

Uploaded to "Comments Letters"

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Dear Sir or Madam

Proposed International Public Sector Accounting Standard: Service Concession Arrangements: Grantor

The Audit Commission welcomes the opportunity to comment on the Exposure Draft, "Proposed International Public Sector Accounting Standard: Service Concession Arrangements: Grantor."

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services in England to deliver better outcomes for everyone. We appoint auditors to over 700 major public bodies that are moving to prepare accounts under IFRS. Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, auditing the £200 billion spent by 11,000 local public bodies. As a force for improvement, we work in partnership to assess local public services and make practical recommendations for promoting a better quality of life for local people.

The Commission's Response

We support the Board's proposal to codify the accounting for service concession arrangements from the grantor's perspective as a new IPSAS. The approach taken by the Board, to mirror the principles set out in IFRIC 12 for accounting by the operator, is consistent with the approach taken in the UK by the Government Financial Reporting Manual (FReM).

We have one specific comment.

Recognition and Measurement of Liabilities (paragraphs 19 to 23)

We note that the proposed standard does not explicitly state that guarantees made by the grantor as part of the arrangement should be accounted for as financial liabilities in accordance with IPSAS 29 or IPSAS 19 but instead refers to such matters in paragraphs AG56 to AG59 of the Application Guidance. We believe that, for completeness, the recognition and measurement arrangements for guarantees should be referred to in the main body of the standard, with further detail included in the Application Guidance as appropriate.

Yours sincerely

Stephen Warren
Head of Professional Standards



Paris, 25 JUIN 2010

Comité consultatif sur la normalisation des comptes publics

Le Président

Subject: IPSAS Board exposure draft on concession arrangements (ED 43 “Service concession arrangements”)

The French *Cour des comptes* took cognizance of the IPSAS Board exposure draft regarding public service concession arrangements with interest.

The exposure draft proposes that IFRIC 12, which is applicable to the financial statements of operators (private companies) be “mirrored” by grantors (public sector entities). In any event, the *Cour des comptes* is very pleased that the international public sector standardisation body has considered the various forms of delegation of public services to third parties.

Considering the long-standing importance of public service delegations in France -- concessions representing a special form of such delegations -- it seems relevant to respond to this exposure draft based on the four items below:

- the notion of “concession” covers various organisational modes;
- the notion of control by the public-sector grantor, which should be better characterised, requires the recognition of a concession asset in its financial statements, as proposed by the IPSAS Board;
- the question of the initial measurement methods applied to concession assets needs to be discussed;
- the notion of performance obligation needs to be clarified.

1. The notion of “concession” covers various organisational modes

In France, the notion of public service delegation covers the contracts by which a public law entity entrusts a public service (for which it is responsible) to a public or private operator whose compensation is substantially dependent on the operation or management of the service.

Strictly speaking, concession arrangements are one of the forms of public service delegation¹, but there are also other modes of management by third-parties, including leasing (*affermage*) and private management of public property (*régie intéressée*).

The public-private partnership (PPP) is a mode of financing through which a public authority uses a private sector provider to finance and manage facilities that ensure or contribute to the public service. In consideration, the private sector partner receives payment from the public sector partner and/or from the users of the service it manages. In that sense, the accounting standard applicable to concession arrangements may also apply to a PPP.

1.1. Concession arrangement features

A concession arrangement differs from a lease (*affermage*) by the fact that the operator (often a private company) assumes both the current operating and maintenance costs and the investment costs. Generally, the operator is paid directly by the user at a rate set in the concession arrangement contract, which is subject to revision on the basis of a rate-change formula proposed in the contract. Even though other sources of financing may be authorised, case law² considers that a contract qualifies as a concession arrangement when the remuneration is “substantially ensured through the operating results of the service”.

In this type of contract, the local authority grantor is often released from the responsibility for any investment-related financial expenses. In exchange, it must accept a concession arrangement term that is generally longer than that of a lease (*affermage*) (the maximum term is set at 20 years by law for drinking water, sanitation, and household and other waste collection and treatment).

The localities and their groupings often use concession arrangements for the management of drinking water and sanitation services. Under the current accounting standards applicable to them, the methods for taking into account the underlying assets related to local concession arrangements are very diverse. Those standards are in the process of being redesigned. The use of leases (*affermage*) and private management of public property (*régie intéressée*) is practiced by local authorities more often than by the Central Government.

¹ Law of February 6, 1992 relative to the territorial administration of the French Republic.

² Decision/order of the Council of State of 1996, Bouches du Rhône Prefect

The comments below relative to concession arrangements and PPPs refer for the most part to the financial statements of the Central Government and to the enacting regulations.

Based on the Law of 18 April 1955 concerning the status of highways, the French Central Government was able to grant concession arrangement contracts lasting more than 30 years for the construction and operation of highway portions to companies, in which the public sector held a majority stake, through a single tender procedure, by extending, on an as-needed basis, the term of their current concession arrangement contracts. The proceeds received from the oldest operation of highways thus served to finance the construction of the new sections.

After an Order issued on 28 March 2001 and ratified by the Law of 5 November 2001, any highway section or highway work for which interim proceeds are insufficient to break even may be subject to public tenders as part of a procedure for the award of the concession and the new highway sections are then covered by a special concession arrangement contract.

Since fiscal year 2009, the Central Government has been recognising under assets the property, plant and equipment related to the largest public service concession contracts, in the amount of €130bn, primarily under:

- highway concessions (€125.4bn);
- railway concessions (€4.7bn);
- airport concessions (€1.2bn);

The Central Government records, as an offsetting entry, in an account dedicated to liabilities in its balance sheet, the obligations that it still has with respect to the operators (close to €40bn), notably those affording an operator the right to enjoy the profits from the management of the public service over a defined period of time.

1.2 Lease (affermage) features

Lease (*affermage*) contracts are used primarily by local authorities and their groupings. This type of contract is frequently used for the management of drinking water and sanitation services, as an alternative to the concession arrangement contracts.

The delegating local authority provides the capital, the lessee (often a private company) covers the current operating and maintenance costs. The lessee is paid directly by the user at a price agreed beforehand in the lease (*affermage*) contract and subject to revision. To cover the capital needed for the maintenance of the assets, each year the local authority votes on one portion of the rate that will be attributed thereto (the “surcharge”). The lessee is charged with collecting this portion from the user and with paying it to the local authority within a time period set in the contract (generally either three or six months).

1.3 Private management of public property (régie intéressée)

Private management of public property (*régie intéressée*) is another management

mode in which a public law entity causes the operation of a public service by a third-party assignee. The local authority however preserves the financial responsibility of operations and assumes the risks thereof.

It preserves a substantial right to be informed about the management of the service, since the manager is only an associate and not an operator under a concession arrangement. The latter has nevertheless the right to be invited to contribute in the decision-taking process and sometimes benefits from certain autonomy of management.

The IPSAS Board exposure draft, which is centred on the issue of recognition of concession assets in the financial statements of the grantor, in France concerns the concession-arrangement and PPP contracts. The lease (*affermage*) or private management of public property (*régie intéressée*) contracts are part of a different economy; the recognition of the risks and benefits that pertain thereto, both for the public entity and for the third-parties involved is governed by other accounting standards than those addressed by the consultation or by IFRIC 12. They have therefore been excluded from the *Cour des comptes*' comments listed below in response to the exposure draft.

2. Control is one of the defining criteria for recognition of assets under a concession arrangement or of property that is part of a PPP

The IPSAS Board proposes to apply the criterion of asset control to determine whether concession assets should be recognised in the financial statements of the grantor. This criterion does seem relevant in the case at hand. It is consistent with the conceptual framework of the regulatory standards of the Central Government applied in France, based on which highway, railway and port concession arrangements were recognised in the Central Government financial statements for the first time in 2009.

The objective of those contracts is indeed to provide a potential of services rather than to provide the grantor revenues originating from the users of the concession assets.

The *Cour des comptes* considers that the existence of control should be assessed with respect to the following three factors: the return to the grantor of all or part of the assets mobilised for the performance of the service, the terms for the performance of the service, and the grantor's control over the rates applied.

Defining control may nevertheless prove to be a delicate matter, notably in the cases in which the authority-grantor only partially regulates the rate or the service -- which would be insufficient to establish clearly the level of control -- or in the cases in which rate regulation is determined through a concession arrangement contract, but is also first and foremost done by a public authority in a sector that is different from that of the grantor.

Thus, in France, water dams are not recognised in the financial statements of the Central Government, but are recognised in the financial statements of the operator

(*Electricité de France, EdF*).

The analysis of control must be done in-depth with respect to all the building blocks comprising the delegation and oversight of the service.

3. Initial measurement

The IPSAS Board proposes to measure concession assets at fair value at the time of their initial recognition. Then, at period-end, the existing IPSAS would apply, i.e., primarily measurement at historic cost.

In the case at hand, the term “fair value” needs to be clarified: If it refers to the cost of concession assets, such measurement is not generally a problem, but if fair value is understood as market value, then it seems to contradict the provisions of IPSAS 17 according to which *"an item of property, plant and equipment which qualifies for recognition as an assets should initially be measured at its cost"*.

Incidentally, the market value of concession assets is not always known, considering that for this type of property (highways, ports, airports, water-supply systems, etc.) market value is rarely revealed through transactions on active markets.

In France, the concession arrangement contracts awarded by the Central Government are measured at replacement cost under assets, or failing that, at their net book value. Ports are valued at historical cost and airport concessions in 2009 were valued, as an exception, on the basis of the net book values of those assets. In 2010, airport concessions may however very well be measured at market value.

The *Cour des comptes*, at the regulatory level, considers two types of measurement methods to be the most well-founded: replacement cost, and when possible, market value. It does however favour the first one, which corresponds closely to the concept of replenishment of the potential of a service which is why concession arrangements exist in the first place.

It is therefore preferable to leave certain flexibility on this point in the future IPSAS.

4. The notion of performance obligation proposed by the IPSAS Board

According to the IPSAS Board proposal, the concession assets recorded under assets in the grantor's balance sheet would be offset by the recognition of a liability in the same amount.

Such debt would be a “classic” financial liability if the contract provides for payments corresponding in part to the payment for the concession of an existing asset, which is the case of most PPP contracts.

On this point, the IPSAS Board proposal does not raise any problem.

Conversely, this debt would be representative of a “performance obligation” when there is no payment. The “performance obligation” recognised under liabilities, would represent the fact that the grantor compensates the operator by transferring thereto the right to receive revenues from the operation of the asset. The performance obligation would be amortised through profit and loss over the term of the concession contract.

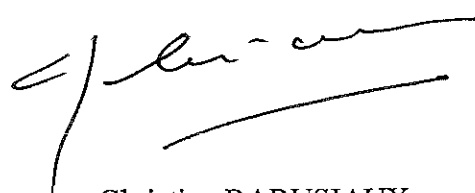
In France, a different solution has been applied. It impacts the financial statements in the same direction, but it is based on a different concept: as a conservative measure -- pending regulatory clarification -- an offsetting entry for property, plant and equipment is recognised under “other non-financial debt”. These non-financial liabilities translate the residual obligation for the grantor to afford the grantor the possibility to enjoy the profits from the management of the public service over a given period of time. In other words, this is an “intangible liability” which materialises the restrictions that the grantor imposes on the enjoyment of the asset it controls. These other non-financial debts are written-back on a straight-line basis over the term of the concession arrangement.

The question raised however is what is the nature of such liability: Unlike debts, be they financial or not, this liability does not result in a final outflow of funds; it is instead extinguished by a straight-line amortisation and is of a particular nature. According to the IPSAS Board, such liability must be recognised in accordance with the terms of IPSAS 19 “Provisions, contingent liabilities and contingent assets” (which is itself based on IAS 37, currently undergoing a complete overhaul), which however does not explicitly recognise as liabilities any obligations which would not be subsequently extinguished by an outflow of funds.

The value of these intangible liabilities is represented, absent any special and explicit standards, by the original value of the concession assets. On this point, the *Cour des comptes* agrees with the IPSAS Board proposal.

This overall mechanism retraces for the grantor the diverging development paths of assets and liabilities recorded in concession-arrangement and PPP contracts.

Nevertheless, the content of the notion of performance obligation proposed in the exposure draft should be clarified, certainly for the purpose of reconsidering its name, which fails to properly reflect the reality of an obligation that weighs on the grantor and likewise to draw the corresponding consequences within the conceptual framework and the regulatory mechanism of the IPSAS, which are in the process of being defined.



Christian BABUSIAUX



À Paris, le

25 JUIN 2010

Comité consultatif sur la normalisation des comptes publics*Le Président*

Objet : exposé sondage de l'IPSAS Board sur les concessions (ED 43 « Service concession arrangements »)

La Cour des comptes française a pris connaissance avec intérêt de l'exposé sondage de l'IPSAS Board relatif aux concessions de service public.

Cet exposé sondage propose de transposer « en miroir », du côté des concédants (publics), l'interprétation IFRIC 12 applicable aux comptes des concessionnaires (entreprises privées). En tout état de cause, la Cour se félicite que soit pris en compte par le normalisateur international du secteur public les formes diverses de délégations de service public à des tiers.

Compte tenu de l'importance ancienne des délégations de service public en France, dont les concessions constituent une forme particulière, il lui paraît pertinent de répondre à cet exposé sondage selon les quatre points suivants :

- la notion de « concession » recouvre des modes d'organisation différents ;
- la notion de contrôle par l'entité publique délégante, qui doit être mieux caractérisée, commande la comptabilisation d'un bien concédé dans ses comptes, comme le propose l'IPSAS Board ;
- la question des modes d'évaluation initiale des actifs concédés doit être discutée ;
- la notion d'obligation de performance doit être clarifiée.

1. La notion de « concession » recouvre des modes d'organisation différents

En France, la notion de délégation de service public recouvre les contrats par lesquels une personne morale de droit public confie un service public dont elle a la responsabilité à un délégataire public ou privé dont la rémunération est substantiellement liée à l'exploitation ou la gestion du service.

Au sens strict, la concession est l'une des formes de délégation de service public¹, mais d'autres modes de gestion par un tiers existent, parmi lesquels l'affermage et la régie intéressée.

Le partenariat public-privé (PPP) est un mode de financement par lequel une autorité publique fait appel à un prestataire privé pour financer et gérer un équipement assurant ou contribuant au service public. Le partenaire privé reçoit en contrepartie un paiement du partenaire public et/ou des usagers du service qu'il gère. En ce sens, le PPP peut relever de la même norme comptable que les concessions.

1.1. Caractéristiques de la concession

La concession se distingue de l'affermage par la prise en charge par le concessionnaire (souvent une société privée) non seulement des frais d'exploitation et d'entretien courant mais également des investissements. Le concessionnaire se rémunère généralement directement auprès de l'utilisateur par un tarif fixé dans le contrat de concession, révisable selon une formule de variation proposée dans le contrat. Bien que d'autres sources de financement puissent être autorisées, la jurisprudence² considère que la qualification de concession est présumée lorsque la rémunération est « substantiellement assurée par le résultat d'exploitation du service ».

Dans ce type de contrat, la collectivité délégante est souvent déchargée de toute charge financière d'investissement. En contrepartie, elle doit accepter une durée de concession généralement plus longue que pour un affermage (la durée maximale est fixée à 20 ans par la loi dans le domaine de l'eau potable, de l'assainissement, de la collecte et du traitement des ordures ménagères et autres déchets).

Les communes et leurs groupements recourent souvent à la concession pour la gestion des services d'eau potable et d'assainissement. En l'état du référentiel comptable qui leur est applicable, les modalités de prise en compte des actifs sous jacents liés aux concessions locales sont très diverses. Ce référentiel est en cours de reconception. Le recours à l'affermage et à la régie intéressée est davantage le fait des collectivités territoriales que de l'Etat.

Les observations ci-dessous relatives aux concessions et PPP se réfèrent pour

¹ Loi du 6 février 1992 relative à l'administration territoriale de la République

² Arrêt du Conseil d'Etat de 1996, Préfet des Bouches du Rhône

l'essentiel aux comptes de l'Etat et à son dispositif normatif.

Sur la base de la loi du 18 avril 1955 portant statut des autoroutes, l'Etat a pu concéder pendant plus de 30 ans la construction et l'exploitation de sections d'autoroutes à des sociétés, dans lesquelles les intérêts publics étaient majoritaires, sur une procédure de gré à gré, moyennant un allongement, en tant que de besoin, de la durée de leur contrat de concession en cours. Les recettes tirées de l'exploitation des autoroutes les plus anciennes servaient ainsi à financer la construction des nouvelles sections.

Depuis une ordonnance du 28 mars 2001 ratifiée par la loi du 5 novembre 2001, toute section ou ouvrage autoroutier dont les recettes prévisionnelles sont insuffisantes pour lui permettre d'atteindre l'équilibre peut se voir octroyer des concours publics dans le cadre de la procédure d'attribution de la concession et les nouvelles sections font l'objet d'un contrat de concession spécifique.

Depuis l'exercice 2009, l'Etat comptabilise à l'actif les immobilisations corporelles liés aux contrats de concession de service public les plus significatifs, pour un montant de 130 Md€, principalement au titre :

- des concessions autoroutières (125,4 Md€) ;
- des concessions ferroviaires (4,7 Md€) ;
- des concessions aéroportuaires (1,2 Md€).

L'Etat enregistre, en contrepartie, dans un compte dédié au passif de son bilan, les obligations qu'il conserve vis-à-vis des concessionnaires (près de 40 Md€) notamment celle de laisser au concessionnaire la possibilité de jouir de la gestion du service public pendant une période déterminée.

1.2 Caractéristiques de l'affermage

Les contrats d'affermage sont principalement utilisés par les collectivités locales et leurs groupements. Ce type de contrat est fréquemment utilisé pour la gestion des services d'eau potable et d'assainissement, comme une alternative aux contrats de concession.

La collectivité délégante assure les investissements, le fermier (souvent une société privée) supporte les frais d'exploitation et d'entretien courant. Il se rémunère directement auprès de l'utilisateur par un prix convenu à l'avance dans le contrat d'affermage, et révisable. Pour couvrir les investissements nécessaires au maintien du patrimoine, la collectivité vote chaque année une part du tarif qui lui reviendra (la « surtaxe »). Le fermier est chargé de recouvrer cette part auprès de l'utilisateur et de la restituer à la collectivité dans un délai fixé par le contrat (généralement trois ou six mois).

1.3 La régie intéressée

La régie intéressée constitue un autre mode de gestion dans lequel une personne morale de droit public fait assurer le fonctionnement d'un service public par un délégataire tiers. La collectivité conserve néanmoins la responsabilité financière de

l'exploitation et en assume les risques.

Elle conserve un droit de regard important sur la gestion du service, le gérant n'étant qu'associé, et non concessionnaire. Ce dernier a néanmoins la possibilité d'être invité à collaborer aux prises de décisions et peut parfois bénéficier d'une certaine autonomie de gestion.

L'exposé sondage de l'IPSAS Board, centré autour de la question de la comptabilisation du bien mis en concession dans les comptes du concédant, concerne en France les contrats de concession et de PPP. Les contrats d'affermage ou de régie intéressée relèvent d'une autre économie et la prise en compte des risques et avantages y afférents, tant dans l'entité publique que chez le tiers relèvent d'autres normes comptables que celles visées par la consultation ou IFRIC 12. Ils sont donc exclus des observations de la Cour figurant ci-dessous en réponse à l'exposé sondage.

2. Le contrôle est un critère déterminant pour comptabiliser un bien mis en concession ou faisant l'objet d'un PPP

L'IPSAS Board propose de retenir le critère du contrôle de l'actif pour déterminer si le bien concédé doit être comptabilisé dans les comptes du concédant. Ce critère paraît en effet en l'espèce pertinent. Il est cohérent avec le cadre conceptuel du référentiel normatif de l'Etat appliqué en France, qui a conduit à comptabiliser pour la première fois en 2009 les concessions autoroutières, ferroviaires et portuaires dans les comptes de l'Etat.

L'objectif de tels contrats est en effet de fournir un potentiel de services et non de procurer à l'entité concédante des revenus provenant des utilisateurs des actifs concédés.

La Cour considère qu'il convient d'apprécier l'existence du contrôle au regard de trois éléments : le retour au concédant de tout ou partie des actifs mobilisés par l'exécution du service, les conditions d'exécution du service, et la régulation des tarifs par le concédant.

La détermination du contrôle peut néanmoins se révéler délicate, notamment dans les cas où il existe une régulation seulement partielle du tarif ou du service par l'autorité concédante, insuffisante pour établir clairement le degré de contrôle, ou bien dans celui où la régulation n'est pas seulement déterminée dans le cadre du contrat de concession mais est d'abord le fait d'une autorité publique sectorielle distincte du concédant.

Ainsi, en France, les barrages hydrauliques ne sont pas comptabilisés dans les comptes de l'Etat, mais dans ceux du concessionnaire (Electricité de France).

L'analyse au regard du contrôle doit être menée de manière approfondie au regard de l'ensemble des éléments constitutifs de la délégation et de l'encadrement du service.

3. La question de l'évaluation initiale

L'IPSAS Board propose d'évaluer les biens mis en concession à leur juste valeur, lors de leur première comptabilisation. Ensuite, à l'arrêté des comptes, ce sont les IPSAS existantes qui s'appliqueraient, à savoir essentiellement une évaluation au coût historique.

Le terme de « juste valeur » en l'espèce devrait être précisé : s'il s'agit du coût des biens concédés, une telle évaluation ne pose généralement pas de problème, mais si la juste valeur est assimilée à la valeur de marché, alors cela paraît contradictoire avec les dispositions de la norme IPSAS 17 qui prévoient qu'« *une immobilisation corporelle qui remplit les conditions de comptabilisation en tant qu'actif doit être évaluée à son coût* ».

Au demeurant, la valeur de marché des biens remis en concession n'est pas toujours connue, dans la mesure où pour ces types de biens (autoroutes, ports, aéroports, réseaux d'adduction d'eau, etc.) elle est rarement révélée par des transactions sur des marchés actifs.

En France, les concessions accordées par l'Etat sont valorisées à l'actif au coût de remplacement, ou à défaut à la valeur nette comptable. Les ports sont évalués au coût historique et les concessions aéroportuaires sont valorisées, à titre exceptionnel, en 2009, à partir des valeurs nettes comptables de ces biens. En 2010, les concessions aéroportuaires pourraient cependant être évaluées en valeur de marché.

La Cour, sur le plan normatif, considère comme les mieux fondés deux types de méthodes d'évaluation : le coût de remplacement, et lorsqu'elle peut exister, la valeur de marché. Elle privilégie toutefois la première, qui correspond étroitement au concept de reconstitution du potentiel de service qui est la raison d'être des concessions.

Il est donc préférable de laisser une certaine souplesse sur ce point dans la future norme IPSAS.

4. La notion d'obligation de performance proposée par l'IPSAS Board

Selon la proposition de l'IPSAS Board, en contrepartie de l'inscription à l'actif de son bilan des actifs concédés, le concédant comptabiliserait une dette de même montant.

Cette dette serait un passif financier « classique » dans le cas où le contrat prévoit des paiements correspondant pour partie au règlement de la valeur de l'actif constitué et concédé, ce qui est le cas de l'essentiel des contrats de PPP.

Sur ce point, la proposition de l'IPSAS Board ne pose aucun problème.

En revanche, cette dette serait représentative d'une « obligation de performance » lorsqu'il n'y a aucun paiement. Cette « obligation de performance »,

comptabilisée au passif, représenterait le fait que le concédant dédommage (« compensates ») le concessionnaire en lui conférant le droit de percevoir des revenus d'exploitation de ce bien. L'obligation de performance serait amortie en résultat sur la durée du contrat de concession.

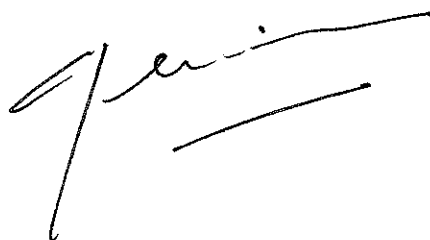
En France, une autre solution a été appliquée. Son impact sur les comptes est de même sens, mais elle repose sur un autre concept : la contrepartie des actifs corporels est comptabilisée, à titre conservatoire en attendant une clarification normative, en « autres dettes non financières ». Ce passif non financier traduit l'obligation résiduelle pour le concédant de laisser au concessionnaire la possibilité de jouir des bénéfices de la gestion du service public pendant une période donnée. En d'autres termes, il s'agit d'un « passif incorporel », qui matérialise les restrictions que s'impose le concédant sur la jouissance de l'actif qu'il contrôle. Ces autres dettes non financières font l'objet d'une reprise linéaire sur la durée de la concession.

La question posée est néanmoins celle de la nature de ce passif : contrairement aux dettes, financières ou non, ce passif ne se traduit pas par un décaissement final, mais est éteint par un amortissement linéaire et est d'une nature particulière ; l'IPSAS Board considère que ce passif doit être comptabilisé selon les termes de la norme IPSAS 19 « Provisions et passifs éventuels » (elle-même fondée sur IAS 37, en cours de révision complète) qui ne reconnaît pourtant pas explicitement comme des passifs des obligations qu'une sortie de ressources ne viendrait pas ultérieurement éteindre.

La valeur de ce passif incorporel est représentée, en l'absence de normes explicites et spécifiques, par la valeur d'origine des actifs concédés. Sur ce point, la Cour rejoint la proposition de l'IPSAS Board.

Ce dispositif d'ensemble retrace pour le concédant l'évolution divergente de l'actif et du passif inscrite dans les contrats de concession et de PPP.

Il convient néanmoins de préciser le contenu de la notion d'obligation de performance proposée dans l'exposé sondage, sans doute d'en revoir la dénomination, impropre à traduire la réalité d'une obligation pesant sur le concédant, et d'en tirer les conséquences dans le cadre conceptuel et le dispositif normatif des IPSAS en cours de définition.



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28 June 2010

IPSASB Exposure Draft: Service Concession Arrangements: Grantor

Dear Ms Fox,

The global organization of Ernst & Young is pleased to comment on the above Exposure Draft.

General comments

The exposure draft addresses accounting for service concession arrangements (SCAs) by the grantor. For many countries, such arrangements are a means to ensure large-scale infrastructure projects. However, in many jurisdictions there is no sufficient guidance for public sector entities on how to account for SCAs. Therefore we welcome the initiative of the International Public Sector Accounting Standards Board (IPSASB).

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

IFRIC 12 addresses accounting by the operator, usually a private sector entity, and does not provide guidance for the grantor. By contrast, the scope of the exposure draft addresses accounting by the grantor, usually a public sector entity.

The main accounting issue in SCAs is whether the grantor should recognize a service concession asset and a related liability. Given the limited scope of IFRIC 12, it follows that developing an IPSAS can't be a pure conversion project. However, the guidance in IFRIC 12 is sufficiently precise to allow a mirror.

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As expressed in the Basis for Conclusions (see para. BC2) the rationale for this decision was that this approach requires both parties to the same arrangement to apply the same principles in determining whether the asset used in a SCA should be accounted for as an asset thus minimizing the possibility for an asset to be accounted for by both of the parties, or by neither party.

The approach is compatible with the strategy of the IPSASB, whereby a similarity to the IFRS is intended. Specific public aspects which would require derogations from IFRS, are not obvious. Therefore, we agree with the approach as used by the IPSASB.

Although we agree in general that it is preferable to achieve consistency with the principles already established in IFRIC 12, we would like to mention some reservations regarding the scope of the proposed standard. In some countries relatively comprehensive guidance exists on how to account for SCA. These countries are concerned that the very narrow scope of the proposed standard is likely to detract from the value provided currently by the broader guidelines and practices that are available, and may create new uncertainties in dealing with particular aspects of these arrangements. Some respondents believe that a more comprehensive and robust guidance than IFRIC 12 is required in the public sector environment. In this context it is remarkable that the Exposure Draft has been issued as a proposed standard rather than an interpretation as the IASB did with IFRIC 12. The conversion of an interpretation into a standard (by mirroring only the principles and not the format) therefore seems to be inconsequent. We suggest discussing the need of a scope enlargement after the approval of the proposed standard.

Other Matters

1. ED 43.IN4 provides some background in respect of the types of assets involved in service concession arrangements, and lists a number of examples of assets in this regard. Although the Exposure Draft does not specifically refer to these assets as infrastructure, IFRIC 12 upon which this is based refers to the term "infrastructure" a number of times. Some respondents noted that it is not entirely clear whether non-infrastructure assets such as movables, computer equipment, motor-vehicles, and land and buildings are intended to be covered by this standard. Clarification within the introduction or in the scope paragraph on precisely the types of assets included in the scope of this standard may be useful.
2. ED 43.2 and 3 deal with the terminology used in the standard. It is not clear why these terms are not formally defined in the standard, since defining them may significantly reduce uncertainty in practice.
3. The Exposure Draft is unclear on when precisely the assessment of whether a service concession asset should be recognised should occur. Since the ED is dealing with contractual arrangements (in some cases quite similar to lease agreements), it may be useful to provide explicit guidance on whether the assessment of the recognition criteria is to be performed on inception of the agreement, or continuously throughout the

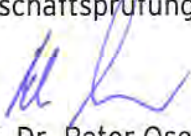

term of the arrangement (at each reporting period end), or at the termination / expiry of the arrangement.

4. There is some uncertainty about the meaning of ED 43.11, which states that "the Standard applies to an asset used in a service concession arrangement for its entire useful life (a "whole-of-life-asset") if the condition in paragraph 10(a) is met." We presume the term "whole-of-life-asset" would be consistent with the concept of "economic life" rather than a subjective determination of the useful life of the asset, and that the reference to "useful life" is either incorrect or has a different intended meaning. It is our understanding that the second recognition criteria paragraph 10(b), (control of any residual interest in the asset) would not apply to a whole-of-life-asset since the residual value of such an asset is likely to be insignificant, but this is not entirely clear from the current wording of the Exposure Draft.
5. There are some reservations that the original service concession asset should be measured only at fair value as required by ED 43.15. This is a deviation from existing IPSAS, for example IPSAS 16 and 17, which allow the assets to be recognised at cost. The cost can also be determined using discounted cash flows to recognise any deferred payments.

We would be pleased to discuss our views with the Board or staff at its convenience.
Please contact Thomas Müller-Marqués Berger at +49 711 9881 15844.

Yours sincerely,

Ernst & Young GmbH
Wirtschaftsprüfungsgesellschaft


Prof. Dr. Peter Oser
Thomas Müller-Marqués Berger

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28 June 2010

Dear Stephenie

EXPOSURE DRAFT ON SERVICE CONCESSION ARRANGEMENTS: GRANTOR

The Public Sector Committee of The Institute of Chartered Accountants of Scotland (ICAS) welcomes the opportunity to comment on IPSASB's Exposure Draft on "Service Concession Arrangements". The Public Sector Committee is a broad based committee of ICAS members with representation across the public services.

The Institute's Charter requires its Committees to act primarily in the public interest, and our responses to consultations are therefore intended to place the general public interest first. Our Charter also requires us to represent our members' views and protect their interests, but in the rare cases where these are at odds with the public interest, it is the public interest which must be paramount.

Overall comments

We agree with the overall approach towards accounting for service concession arrangements by the grantor, which is to mirror the principles in IFRIC 12 for accounting by the operator. The basis of conclusions clearly sets out how and why the proposed standard has been developed and we welcome the inclusion of application guidance, implementation guidance and illustrative examples to accompany the standard. However, there is no explicit reference within the Exposure Draft to the performance of a regulatory impact assessment which examines both the costs and benefits of a standard to reporting entities. We recommend that in updating its strategy, IPSASB considers how to address this aspect of standard setting more explicitly, including the potential for undertaking post-implementation reviews.

The effective date of the proposed standard has still to be announced. We believe that entities which are required to, or choose to, restate their prior year comparatives would probably need at least two years from the date of issue to implement the proposed standard. Also on first-time adoption of the standard, there could, in some jurisdictions, be a mismatch between public sector entities' funding arrangements and their annual accounts. Each jurisdiction in this position will need sufficient time to implement its own arrangements to facilitate the adoption of the standard by its public sector entities.

Our detailed comments on the Exposure Draft are set out in the Appendix.

Yours sincerely



CHRISTINE SCOTT
Assistant Director, Charities and Public Sector

APPENDIX

We have a number of detailed comments on the Exposure Draft which are set out below:

- Page 10, paragraph 12. The material on how to account for an existing asset of the grantor which becomes a service concession asset is unclear. We recommend that the proposed standard provides a bullet point list which states which IPSAS applies to each of the following: recognition; measurement; presentation; and disclosure.
- Page 11, paragraph 17. Paragraph 17 makes a passing reference to using ‘estimation techniques’ to determine the fair value of elements of the unitary charge when a contract is not separable. We believe that the proposed standard should provide additional material on appropriate estimation techniques. Paragraph 18 refers to the application of IPSAS 17 “Property, plant and equipment” and IPSAS 31 “Intangible assets” to the subsequent recognition and measurement of service concession assets and we would welcome an approach to the initial recognition and measurement of assets which utilised IPSAS 17 and IPSAS 31, when a contract is not separable.
- Page 11, paragraph 20. In general terms we agree that a service concession liability should be measured at the same amount as the service concession asset on initial recognition. However, we believe that the material on subsequent recognition of a service concession liability should be expanded to deal with circumstances where a service concession arrangement becomes onerous or, indeed, could be considered onerous at inception. We recommend that a cross-reference is included to the material in IPSAS 19 “Provisions, contingent liabilities, and contingent assets” on onerous contracts.
- Page 13, paragraphs 29 and 30. While it seems contrary to good practice to permit entities to apply standards prospectively, we accept this approach if it encourages the adoption of IPSASs. However, with regard to this standard specifically, it seems relatively harsh to permit an entity which has not taken steps to bring service concession arrangements on balance sheet to avoid restating its accounts while requiring an entity which has done so to restate its accounts, if necessary to comply with IPSAS 3 “Accounting policies, changes in accounting estimates and errors”.
- Page 41, Table 2.3 (page 41) has errors. The figures in the cumulative surplus/ deficit line should not be bracketed and the word ‘deficit’ should be surrounded by brackets.



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June 29, 2010

Technical Director

International Public Sector Accounting Standards Board

International Federation of Accountants

277 Wellington Street West

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**Comments on the Proposed International Public Sector Accounting Standard
“Service Concession Arrangements: Grantor”**

Dear Sir:

The Japanese Institute of Certified Public Accountants (“JICPA”) is pleased to comment on the Proposed International Public Sector Accounting Standard “Service Concession Arrangements: Grantor” (the “ED”), as follows:

On “Specific Matters for Comment”

This Exposure Draft addresses service concession arrangements from the grantor’s perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

We agree with this approach. The reason is as follows.

This approach would require both parties to the arrangement to apply the same principles in determining whether the asset used in a service concession arrangement should be accounted for as an asset, thus minimizing the possibility for an asset to be accounted for by both of the parties, or by neither of the parties.

Other Comment

Paragraph 19 of the ED states that when the grantor recognizes a service concession asset, the grantor shall also recognize a liability and the liability recognized may be any combination of a financial liability and a performance obligation.

Also, paragraph 22 of the ED states that when the grantor compensates the operator by granting the operator the right to collect fees from users of the service concession asset or by granting the operator access to another revenue-generating asset for its use, the liability recognized in accordance with paragraph 19 is a performance obligation.

Paragraph 7 in IPSAS 1 states that liability is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential. In our view, the relationship between the definition of “a performance obligation” in the ED and the definition of “the liability” in IPSAS 1 is unclear and, therefore, it is necessary to explain the relationship between these definitions in the standard.

Subject to the above comments we agree with the ED.

Yours sincerely,

Takao Kashitani

Executive Board Member - Public Sector Accounting and Audit Practice

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Per e-mail

29 June 2010

Dear Stephenie,

COMMENT ON EXPOSURE DRAFT: ED 43 *SERVICE CONCESSION ARRANGEMENTS: GRANTOR*

We welcome the opportunity to provide comment on Exposure Draft 43 – *Service Concession Arrangements: Grantor* issued by the International Federation of Accountants – International Public Sector Accounting Standards Board (IPSASB).

In compiling our comment, the Accounting Standards Board, the official accounting standard setter for the public sector in South Africa, consulted widely with our stakeholders (comprising professional bodies, auditors and preparers) in formulating our comment to you.

Enclosed please find our comment that is structured into specific matters and other matters.

Please do not hesitate to contact me should you wish to discuss any of our comment.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Erna Swart', is positioned above the printed name.

Erna Swart
Chief Executive Officer

SPECIFIC MATTERS FOR COMMENT

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

We are of the view that the proposed IPSAS does not mirror the principles set out in IFRIC 12 in all instances. For example, under IFRIC 12.27, the operator is required to recognise an asset and corresponding liability in a service concession arrangement where the grantor provides other items to the operator that it can keep or deal with as it wishes. The proposed IPSAS does not include accounting requirements to the grantor to "mirror" the principles in IFRS 12.27, i.e. accounting requirements where the grantor is required to de-recognise existing assets and to recognise its right to receive future services from the operator.

Another example is the requirement in AG20 that requires that where the operator bears the construction risk, the timing of the initial recognition of the service concession asset will be when the asset is placed in use. This requirement will result in neither the grantor nor the operator recognising the asset under construction, as in terms of IFRIC 12, the operator will recognise a growing receivable, as oppose to an asset. In this regard, the accounting in the proposed IPSAS does not mirror IFRIC 12. If the grantor is not required to recognise the asset under construction, the grantor can also not recognise a corresponding liability until the construction of the asset is complete. The grantor will however have a liability in terms of the principles in other IPSAS (i.e. the IPSASs dealing with financial liabilities and provisions) when the construction commences, but which will not be recognised as the corresponding asset is not accounted for as required by paragraph .19 of the proposed IPSAS. We therefore do not support the approach outlined in AG 20.

Additional accounting principles to be considered for inclusion

In addition, we recommend that the proposed IPSAS should be expanded to provide guidance to a grantor where it transfers the right to use a specified asset to the operator for a specific period. In these types on service concession arrangements, the operator is not required to render a service on behalf of the grantor, as in the scope of IFRIC 12, but is rather granted the right to use an existing asset of the grantor for its own commercial purposes. In these types of arrangements, the grantor does not have any obligation towards the operator, but rather share a percentage of the revenue generated by the operator for the duration of the service concession arrangement. If the service concession arrangement allows the operator to construct or develop an immovable asset on, for example land that belongs to the grantor, the grantor may, at the end the service concession arrangement receive the constructed asset. Currently, there is no guidance to the grantor on how to account for assets that will be received at the end of the service concession arrangement, without having a performance obligation during the arrangement. However, because the asset is constructed on government owned land, the grantor may, at the commencement of the agreement, need to account and recognise the existence of such an asset.

OTHER MATTERS

Introduction

1. As the proposed IPSAS intends to provide guidance on assets used for public services such as roads, bridges, tunnels prisons, hospital etc. (as noted in IN4), we question the inclusion of the reference to IPSAS 12 *Inventories* in paragraph IN2. As inventories is not included within the scope of IFRIC 12 on which this proposed IPSAS is based, we are of the view that the reference to IPSAS 12 should be deleted as it is inappropriate.
2. The scope of this Standard also excludes leases, and we therefore also recommend that the reference to IPSAS 13 *Leases* should be deleted in paragraph IN2.
3. In addition, we propose the inclusion of references to IPSAS 21 *Impairment of Non-cash-generating Assets* and IPSAS 26 *Impairment of Cash-generating Assets* in paragraph IN2.
4. We recommend that paragraph IN8 should be further elaborated to clarify the type of assets that falls within the scope of this Standard. IN8 currently explains that the scope of this Standard is not just limited to infrastructure assets as in IFRC 12, but collectively refers to the assets within the scope of this proposed IPSAS as “service concession assets”. Even though AG2 clarifies that non-current tangible or intangible assets fall within the scope of the proposed IPSAS, the explanation in IN8 is however not indicative of whether immovable and/or movable assets are also within the scope of the proposed IPSAS. For example, if the operator is required to construct, for example a prison in terms of a service concession arrangement, should the principles in this proposed IPSAS be applied to the building constructed and to the equipment to be used within the building, or does the principles only apply to the constructed asset?

In order to clarify the type of assets that falls within the scope of the proposed IPSAS, we recommend that paragraph IN8, as well as the scope paragraph in the proposed IPSAS should be elaborated to clearly state whether immovable and/or movable assets falls within the scope of the IPSAS.

5. If the proposed IPSAS applies to all movable and immovable assets, we further recommend the inclusion of a reference to the IPSAS dealing with agriculture as part of the list in IN2.

Terminology

6. Consistent with other IPSASs, we recommend that the heading should be amended to “definitions”. The terms used within this section should be drafted as definitions, and any additional explanatory guidance could be included after the “definitions”.

The section dealing with definitions should be included after the “scope”.

Scope

7. Paragraph 8 clarifies the scope of the proposed IPSAS. We are of the view that the circumstances in paragraph 8(d) are not dealt with appropriately in the proposed IPSAS. In this scenario, the grantor will not be required to recognise an asset, as the asset that is to be used in the service concession arrangement is already recognised by the grantor in its financial statements. Paragraph .12 requires that such an asset be re-classified as a service concession asset. As a result, the principles in paragraphs .10 to .18, and specifically paragraphs .13 and .15 that requires the recognition of the asset, will not be applied. Even though the grantor may have an obligation towards the operator in this type of service concession arrangement, the principles in paragraph .19 cannot be applied as the grantor did not recognise an asset (i.e. because the existing asset is already recognised by the grantor and paragraph .13 could not be applied). The application guidance in AG14 also does not provide

clarification on the recognition of the corresponding obligation under these circumstances.

We are of the view that guidance on the recognition of the obligation should be provided to the grantor in the circumstances described in paragraph 8(d). Currently the proposed IPSAS lacks such guidance.

8. The second part of paragraph 8(c) determines that only the cost of the upgrade should be recognised as a service concession asset. We are of the view that this explanation deals with recognition principles and should rather be included in the section dealing with recognition.

In addition, it seems as if this paragraph requires that the existing asset and the cost towards the upgrade of that asset should be separated. If this is the expectation, we question the application of the principles in other IPSAS to the separated asset, for example testing the asset for impairment, determining the depreciation method, useful life and residual value, etc. We recommend that further explanatory guidance should be included to clarify the intention of the requirement in this paragraph.

Recognition and measurement of a service concession asset

9. We recommend that guidance should be included that clarifies when the criteria specified in paragraph 10 should be considered, i.e. at the commencement of the arrangement, only after the service concession asset was constructed (if appropriate), or only once the operator commences with the provision of the service on behalf of the public sector entity.
10. Paragraph 11 determines that only the condition in paragraph 10(a) applies to whole-of-life assets. Even though IFRIC 12 also explains “whole-of-life-assets” as assets that are used for its entire useful life, we question whether “useful life” should not refer to “economic life”. In our view, the “useful life” of a service concession asset should be based on the terms of the service concession arrangement, which may be different to other assets.

As an alternative, a definition could be included for “whole-of-life assets” as part of the definition section of this proposed IPSAS.

11. The second recognition requirement in paragraph 10(b) introduces the concept of “significant residual interest”. We recommend that the proposed IPSAS provides explanatory guidance on this concept as part of the text of the IPSAS, to assist in understanding and clarifying the concept. The guidance in AG9 could, for example, be useful for inclusion in the proposed IPSAS.
12. We recommend that the first sentence in paragraph 12 be amended as follows
grantor shall not recognise ~~the~~ an additional asset....
13. Paragraph 15 requires that the service concession asset should be recognised at fair value. This principle, however, contradicts the principles included in existing IPSASs that requires the recognition of assets at cost, and only when the asset is acquired at no or nominal value, should it be recognised at fair value. As AG24 as AG25 provides some clarification on the amount at which the service concession asset should be recognised, we propose that the guidance in AG24 and AG25 should be included as part of the text of the proposed IPSAS.
14. Paragraph 8 describes the kind of assets that could be classified as service concession assets to fall within the scope of this proposed IPSAS. As the service concession arrangement may require the construction or development of new assets, we question the reference to “original” in paragraph 15, and recommend that “original” should be deleted.

15. Even though guidance on the timing of the recognition of the service concession asset is included in AG20, we recommend that such guidance should be included in the text of the proposed IPSAS to explain black letter paragraph 15.
16. Paragraph 16 makes reference to the “service portion of the payment”. Prior to this reference, no explanation or guidance is provided on what a service portion entails and how it should be calculated. We therefore recommend that explanatory guidance should be included in the proposed IPSAS prior to, or as part of this paragraph. The guidance included in AG25 could, for example, be useful for inclusion in the proposed IPSAS.
17. Even though guidance on the use of estimation techniques is included as part of the application guidance (AG25), we recommend that such guidance should be included in the text of the proposed IPSAS to explain the principle paragraph 17.
18. The reference to IPSAS 21 *Impairment of Non-cash-generating Assets* and IPSAS 26 *Impairment of Cash-generating Assets* should be added to paragraph 18.

Recognition and measurement of liabilities

19. We recommend that more explanatory guidance be included on the recognition and measurement of the financial liability and the performance obligation to be recognised in accordance with black letter paragraphs 21 and .22. The guidance in AG31, AG38, AG40 and AG41 could, for example, be useful for inclusion in the proposed IPSAS.

We also recommend that guidance should be provided to explain how the contra entry should be recognised in the statement of financial performance when the performance obligation is reduced, as such guidance is not included in IPSAS 19.

20. The scenario dealt with in paragraph .23 is not included as an option in paragraph 14. We recommend that the paragraph should be elaborated to explain how:
 - the performance obligation, that was recognised as a result of the receipt of the service concession asset and as a result of the right to receive payments, should be reduced by the grantor; and
 - the contra entry should be recognised in the statement of financial performance under each of these circumstances.

Examples of these scenarios should also be included as part of the illustrative examples for further clarification.

Recognition and measurement of revenues

21. We recommend that paragraph 24 should be elaborated to explain under what circumstances the grantor will receive revenue, and how such revenue should be accounted for before the reference to the applicable IPSAS is included. The guidance in AG42 to AG31, AG38, AG40 and AG41 could for example, be useful for inclusion in the proposed IPSAS.

Recognition and measurement of expenses

22. This section should be elaborated with guidance on the calculation and recognition of the finance charge, as included in AG33 to AG35 and AG52. We recommend that the guidance as currently included in the application guidance should rather be included as part of the text of the proposed IPSAS.

Similarly, principles for the recognition of the service portion, as included in AG53, should also be included as part of the text of the proposed IPSAS.

Presentation and Disclosure

23. Paragraph 26 should be elaborated to clarify whether a separate line item should be included for such assets on the face of the statement of financial position. If service concession assets are to be disclosed as such, consequential amendments should be included to IPSAS 1 *Presentation of Financial Statements*.
24. A paragraph should be included to refer grantors to the disclosure requirements in other IPSAS, for example IPSAS 9 *Revenue from Exchange Transactions*, IPSAS 17 *Property, Plant and Equipment*, IPSAS 31 *Intangible Assets*, etc.
25. Additional disclosure requirements that could be required include:
 - Disclosure of the risks that the grantor are exposed to as a result of the service concession arrangement, for example construction risk;
 - Finance costs relating to the service concession arrangement; and
 - Circumstances or events that will result in step-in arrangements.

Transition

26. Consistent with other IPSASs, we recommend that the heading should be amended to “transitional provisions”.
27. To ensure comparability of financial results, we recommend that the transitional provisions should be applied retrospectively in both scenarios, i.e. where entities have previously recognised service concession assets, and where entities have not previously recognised service concession assets. If it is impracticable for entities to apply the principles in the proposed IPSAS retrospectively, they could still apply the requirements in IPSAS 3 *Accounting Policies, Changes in Accounting Estimates and Errors* under such circumstances.

Application guidance

28. We recommend that the application guidance should be elaborated to explain how service concession assets are to be distinguished from other assets used in, for example, service agreements.
29. The guidance in AG3 to AG13 does not provide additional clarification on the scope of the proposed IPSAS, but rather on the principles dealing with recognition and measurement of a service concession asset (paragraphs 10 to 18) and the recognition and measurement of liabilities (paragraphs 19 to 23). We therefore recommend that the current heading to AG3 to AG13 “scope”, should be deleted and a more appropriate heading be included.
30. We are of the view that some of the guidance in AG5, AG6, AG 10 and AG 11 should be added to the text of the proposed IPSAS as it is useful in understanding and clarifying the principles in black letter paragraphs 10 and 11.
31. We do not support the principle in AG20 that requires that when the operator bears the construction risk, the timing of the initial recognition of the service concession asset will be when the asset is placed in use, for the reasons outlined in a previous comment above. We recommend that the grantor should be required to recognise the service concession asset under construction to the extent that the requirements in paragraph 10 have been met, irrespective of who bears the constructions risk.
32. AG30 determines that the accounting for guarantees provided by the grantor is included in AG56 to AG58. We recommend that the principle for the accounting of guarantees and contingencies should rather be included as part of the text of the proposed IPSAS. The application guidance could then further clarify the principles in this regard.

33. AG32 requires the recognition of advance payments as prepayments. The proposed IPSAS should, as part of the text of the proposed Standard, explain the recognition principles for advance or pre-payments. Guidance should also be provided on how and when such advance or pre-payments should be reduced by the grantor.
34. AG40 requires that the grantor applies the de-recognition principles in IPSAS 17 and IPSAS 31. If a service concession arrangement falls within the scope of this proposed IPSAS, the grantor should control the service concession asset, whether a new asset will be constructed by the operator, or whether it is an existing asset of the grantor. We are thus of the view that the last sentence in this paragraph should be deleted as it is not applicable to service concession assets that are within the scope of the proposed IPSAS as the grantor has not transferred its right to control the asset, but only granted the operator the *right to use* an asset.
35. We are of the view that the first part of AG48 provides guidance to the operator for the recognition of revenue and therefore recommends that the sentence should be deleted.
36. We recommend that the term “ordinarily” as used in AG53 should be explained.
37. We question the usefulness of AG54 and recommend that it should be deleted. The principle dealing with the separate depreciation of service concession assets is dealt with in AG55.
38. Furthermore, if reference is made to depreciation of service concession assets, we recommend that reference should also be made to the impairment of such an asset. An additional paragraph could be included after AG55 as a reference to impairment in IPSAS 21 and IPSAS 26.

General matters

39. In terms of the private sector pronouncements applied by operators in service concession arrangements, an operator should consider whether an arrangement contains a lease if it does not fall within the scope of IFRIC 12, and specifically the guidance in IFRIC 4 *Determining Whether an Arrangement Contains a Lease*, is to be considered. If the grantor concludes that an arrangement falls outside the scope of this proposed IPSAS, no further public sector guidance is currently available to assist the grantor in accounting for such an arrangement.

We therefore recommend that the proposed IPSAS, as part of the application guidance, should direct the grantor to other pronouncements that should be considered if it is concluded that an arrangement does not fall within the scope of this proposed IPSAS.
40. The proposed IPSAS requires the classification, or re-classification of existing assets, as service concession assets. We recommend that the guidance in the proposed IPSAS should be elaborated to explain when such assets should be re-classified to existing assets, for example to property, plant and equipment or intangible assets.
41. In some instances, reference is made to “assets” as opposed to “service concession assets” (as explained in IN8) in the proposed IPSAS, for example paragraphs 2, 7, 8 and 17. We recommend that, after the term “service concession assets” has been defined and/or explained as recommended previously, the phrase “service concession asset” should be used throughout the proposed IPSAS.



Technical Director
International Public Sector Accounting Standards Board (IPSASB)

By email

TECH-CDR-929

29 June 2010

ISASB Exposure Draft 43 Service Concession Arrangements: Grantor

1. ACCA welcomes the opportunity to respond to the above consultation and we are pleased to see the IPSASB developing guidance on service concession arrangements from the grantor's perspective.
2. ACCA is a global body for professional accountants, supporting 140,000 members and 404,000 students throughout their careers, and providing services through a network of 83 offices and centres. A significant number of our members work within government and audit institutions around the world and our response to this consultation is one from an international perspective.

General comments on the Exposure Draft

3. Generally we consider the consultation paper provides useful guidance on a complex issue. Service concession arrangements entered into by public bodies are significant around the world. For your information we have recently commissioned research on the implementation of public - private partnerships (PPPs) and private finance initiatives (PFIs). Our research seeks to address five key questions:
 - Under what conditions are PPPs and PFIs the best options for delivering public services and key infrastructure projects?
 - What is the impact of the financial crisis on the take up of PPP/PFI schemes around the globe and what is their potential long-term future?
 - Have some of the earlier PPP/PFI schemes delivered real value for money in terms of performance and costs?
 - What lessons can be learnt from project management and delivery?
 - How should PPP/PFIs be accounted for?
4. Although key findings won't be published until November 2010, we have highlighted the research to make the International Public Sector Accounting Standards Board aware of its development. The Exposure Draft (ED43) is particularly helpful in addressing how PPP/PFIs should be accounted for and it will be interesting to see from the research how these schemes have been accounted for across six countries including: China, France, Japan, Indonesia, Malaysia, New Zealand, Thailand and the UK.
5. Overall, we believe that the ED43 covers the main issues that grantors need to address when accounting for service concession arrangements. We are pleased to see that ED43 mirrors IFRIC12 from the grantors perspective - the latter being already used by the private sector and recently adopted by the European Union.
6. In particular we agree with the scope for service concession arrangements, asset and liability recognition and measurement, recognition and measurement of related expenses and revenues and presentation and disclosure. In terms of practical guidance for

accountants the 'accounting framework for service concession arrangements' set out on page 31 is a useful framework for assessing what is in and outside of the scope of the standard. Also, as set out on page 28 we strongly support the 'controls based approach' opposed to the 'risk and rewards' approach to assessing whether the grantor should recognise the assets. We have found that in the UK the adoption of the latter approach has led to inconsistent reporting in the public sector. However, this is now being rectified.

Specific matter for comments

The Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

7. We agree with this approach. Given the alignment of IPSASs with IFRS and adoption of IFRIC 12 by the EU we believe that this will help to provide a consistent approach to accounting for service concession arrangements.
8. We hope you find our response useful and are more than happy to provide further clarification on any of the points made. Please feel free to contact Gillian Fawcett (Head of Public Sector) on tel. 02072395674 or by e-mail, Gillian.fawcett@accaglobal.com

Yours sincerely



Gillian Fawcett
(Head of Public Sector)



The Technical Director
IPSASB/IFAC
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StephenieFox@ifac.org

Regarding: Service Concession Arrangements-Grantor- Exposure 43
 Comments: **Dr. Joseph S. Maresca CPA, CISA**

Colleagues,

I thank you for the opportunity to critique Exposure Draft 43. Details follow :

Background:

The service concession arrangement is an operator developed asset compensated by a binding arrangement. (usually) The grantor grants the service concession to the operator. Essentially, public sector entities operate in this fashion. This submission deals with **public services**.

The grantor controls or operates services which the operator provides. The grantor may have significant residual interest. The grantor may compensate the operator by payment to operate, rights to collect fees or granting the operator access to another revenue generating asset. The grantor initially measures the originating service concession asset at fair value. The grantor may compensate the operator for a service concession asset via payment or the creation of a financial liability. pp. 11

The grantor accounts for revenues as earned for exchange transactions. pp. 12
 Generally, the grantor discloses service concession arrangements.
 i.e. the description, significant terms, rights to use assets etc. The grantor recognizes financial liabilities when obligated to make payments to the operator for providing the service concession asset. pp. 14 The grantor needn't control the price. pp. 15 The grantor may make payments to the operator, create financial liabilities or create guarantees. pp. 19

The operator may compensate the grantor up front or share revenues or make rental payments for providing the operator access to a revenue generating asset. pp. 21 Contingent liabilities may apply and the treatment is set forth in IPSAS 19.

Generally, I concur.

Analysis:

Increasingly, offshore drilling operations for valuable mineral rights may be subject to State ownership, investment or control, as in China. Although, a public ownership of the mineral resource may apply in some cases, the **operator (if outsourced by the government) is the party with the extraction and safety experience** involved in developing valuable oil resources.

The operator may compensate the grantor up front or share revenues or make rental payments for providing the operator access to a revenue generating asset. pp. 21 Contingent liabilities may apply and the treatment is set forth in IPSAS 19. The best policy is for the grantor and operator to create an agreement where it is absolutely clear what rights, duties, liabilities and

recourse which apply in the continuing application of the Agreement.

Some of these risks can be very real. Environmental risks of hurricanes, earthquakes, Tsunamis can halt projects into the foreseeable future. Major cost over-runs can be incurred due to material spikes in the cost of energy.

In Availability risk, the operator bears the risk of insufficient management, strikes, work slowdowns, outsourcing risks due to language barriers and unanticipated Acts of God, inefficiencies and downtime in training or even employee turnover.

Demand risk may be due to the business cycle, new market trends, changes in user preferences, changes in the political climate or technical obsolescence. The fixed price contract transfers the construction risk to the builder.

The current economic environment has demand risk due to investor uncertainty with regard to the predictability of energy prices. Auto owners determine new market trends with regard to manufacturing energy efficient cars.

For instance, the operator of an offshore oil platform may have a considerable team of experts to accomplish the safe extraction of valuable mineral resources. The extraction may be compensated by giving the grantor monies up front, a revenue-sharing or similar arrangement.

IPSAS 19 provides for the outsourcing of a major government department on pp. 35. The present obligation flows from a reasonable expectation that the government division will be outsourced. A proviso is made for the best estimate of the cost of the outsource. **Once outsourced, the operator must make provisions for the ongoing operations, contingency plan, testing of the contingency plan, disaster recovery planning and testing of the disaster recovery plan unless otherwise agreed.**

The outsourcer in an area of Tsunami storms may face the major destruction of facilities due to the vagaries of nature. Oil drilling companies off the Gulf Coast routinely encounter significant repairs of damaged equipment due to hurricane activity.

The obligating event is giving the guarantee which gives rise to a legal obligation. An outflow of resources may embody economic benefits or service potential. When it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation, a provision should be made for the best estimate of the obligation.

A typical oil production platform is self-sufficient in energy and water needs, housing electrical generation, water desalinators and all of the equipment necessary to process oil and gas such that it can be either delivered directly onshore by pipeline or to a floating platform and/or tanker loading facility. Elements in the oil/gas production process include wellhead, production manifold, production separator, glycol process to dry gas, gas compressors, water injection pumps, oil/gas export metering and main oil line pumps.

An offshore operations platform generally consists of a considerable team of experts in the art of oil well engineering operations and continuing maintenance. i.e.

The OIM (offshore installation manager) is the ultimate authority during his/her shift and makes the essential decisions regarding the operation of the platform. There may be a hierarchy of team leaders to facilitate continuous operations. The offshore operations engineer (OOE) is the senior technical authority

on the platform. Operations coordinators manage crew changes.

Dynamic positioning operators assist with navigation, ship or vessel maneuvering (MODU), station keeping, fire and gas systems escalation in the event of incidents. A hierarchy of "mates" meet staffing requirements of flag state, operate fast rescue craft, cargo operations and fire coordination. Crane operators run cranes for lifting cargo around the platform. Scaffolders manage scaffold building when workers are required to work at heights. Coxwains maintain the lifeboats. The catering crew handle cooking and laundry. Production techs run the production plant. Helicopter pilots navigate between the platform and the shore during crew relief or changes. Maintenance technicians manage instrumentation, electrical and mechanical systems and processes.

The operator who builds and operates a major offshore oil platform must meet the conditions for recognition of a service concession asset in Par. 10 pp. 33. Certain basic legal doctrines may apply to transactions transnationally based. i.e.

The "Principle of Comity" may make the grantor's laws dispositive as long as the laws are consistent with accommodating nations, trading partners or business partners. The contract must delineate whose laws are in operation with regard to the implementation of the ongoing contract.

The "Act of State Doctrine" is a judicially created doctrine that states the judicial branch of one country should not examine the validity of public acts committed by a recognized foreign government with regard to business activity or any activity within its own borders. The contract should provide for foreseeable conflicts in the conduct of the arrangement; such that, the discretion of the host country is not invoked adversely to the operator.

The Doctrine of Foreign Immunity immunizes foreign nations from the jurisdiction of American Courts. A contractor or operator must be satisfied as to the proper venue to seek redress for major contractual non-compliance, non-cooperation or outright expropriation.

The contract between the Public Service Organization and the operator must be clear as to the choice of language and the choice of forum to designate dispute resolution, local court jurisdiction or forced arbitration venues. The governing law with respect to the contract performance should be set forth clearly. In cases where the performance arises out of intellectual property, the governing law may be the United States Patent Law or European Patent Office.



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Date 24 June 2010
Our ref
Pages 1 of 4

Dear Ms Fox,

IPSASB ED43 Service Concession Arrangements: Grantor

The Auditor General for Wales welcomes the opportunity to comment on the proposals in this Exposure Draft. This response has been prepared on behalf of the Auditor General by the Wales Audit Office.

Service Concession Arrangements are an important means by which public services are provided in many countries. Although IFRIC12 provides guidance on accounting by operators of public to private service concessions, there is a need for guidance for the public sector grantors.

Specific matters for comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

We consider that it is helpful for the public sector to adopt an approach that mirrors that of IFRIC 12, as this will facilitate consistent and complementary accounting treatments with their private sector counterparties.

IPSASB's proposals reflect the approach already adopted in the United Kingdom, where HM Treasury, the Chartered Institute of Public Finance and Accountancy, and the Local

Authority (Scotland) Accounts Advisory Committee, have all adopted a similar 'mirror image' approach when applying the principles of IFRIC 12 to the public sector.

In our view, the proposed approach provides a practical approach to accounting for Service Concession Arrangements.

The provisions of ED43 support the alignment of IPSAS and IFRS and are consistent with the accounting practices now in use in the United Kingdom. On this basis, and subject to the comments below, we agree with the approach proposed in ED43.

However we consider that public sector accounting standards should be based on the needs of the users of public sector accounts, rather than driven simply by the desire to conform with a standard that is designed solely for the private sector. What is appropriate accounting treatment in the private sector may not necessarily be appropriate in the public sector. We therefore consider that when the IPSAS conceptual framework is finalized, this standard should be subject to early review within the context of the new framework.

Other comments

Scope

Paragraph 8 (c) and (d) provide a slightly wider definition of relevant assets than IFRIC12 to include:

- (c) Existing assets of the grantor which the operator upgrades for the purpose of the SCA. Only the cost of the upgrade is recognised under the standard; and
- (d) Existing assets of the grantor to which the grantor gives access to the operator for the purpose of the SCA and of which, the grantor retains control. These assets are to be reclassified as service concession assets.

We consider that this extension in the definition of relevant assets will be useful for concessions where existing assets are used to provide the services linked to the concession.

Recognition and measurement of a Service Concession Asset – existing assets

The ED requires recognition of an asset based on control over service provision and residual interest. These criteria are not consistent with the criteria specified in IPSAS1 Presentation of financial statements. IPSAS 1 defines assets as resources controlled by an entity as a result of past events, and from which future economic benefits or service potential are expected to flow to the entity.

Paragraph 12 refers to the reclassification of an existing asset of the grantor as a service concession asset. The paragraph states:

“Where an existing asset of the grantor specified in paragraph 8(d) meets the conditions specified in paragraph 10 (or paragraph 11 for a whole-of-life asset), the grantor shall not recognize the asset as a service concession asset in accordance with this Standard. The grantor shall reclassify the existing asset as a service concession asset for reporting purposes and disclose the reclassification in accordance with paragraph 27. The reclassified service concession asset shall continue to be accounted for in accordance with IPSAS 17, —Property, Plant and Equipment or IPSAS 31, —Intangible Assets, as appropriate.”

The phrasing of the requirement appears to be overcomplicated. The accounting treatment for all assets recognised as service concession assets is the same. That is, they are accounted for under IPSAS 17 or IPSAS 31. We would therefore suggest the following simplified wording for paragraph 12:

“Where an existing asset of the grantor specified in paragraph 8(d) meets the conditions specified in paragraph 10 (or paragraph 11 for a whole-of-life asset), the grantor shall reclassify the existing asset as a service concession asset for reporting purposes and disclose the reclassification in accordance with paragraph 27. The reclassified service concession asset shall continue to be accounted for in accordance with IPSAS 17, (Property, Plant and Equipment) or IPSAS 31 (Intangible Assets), as appropriate.”

Recognition and measurement of a Service Concession Asset – existing asset upgrades

Where an existing asset of the grantor is upgraded, the upgrade is recognised as a service concession asset at fair value (paragraph 8(c)). The original asset may be valued on a different basis. To ensure consistency of valuation for the existing and upgraded elements, we consider that the whole asset should be revalued and disclosed as a service concession asset.

Recognition and measurement of liabilities – performance obligation

Paragraph 19 requires that when recognising a service concession, a grantor must also recognise a liability and under paragraph 20, this liability shall initially be measured at the same amount as the asset recognised.

Paragraph 22 states that when the grantor compensates the operator by granting the operator the right to collect fees from users of the service concession asset or by granting the operator access to another revenue-generating asset for its use, the liability

recognised is a performance obligation. The grantor shall subsequently account for the performance obligation in accordance with IPSAS 19.

The ED contains no explanation as to what is meant by 'a performance obligation' or how it meets the definition of a provision as defined in IPSAS 19 (Provisions, Contingent Liabilities and Contingent Assets).

Our understanding is that the liability reflects the grantor's obligation to allow the operator to provide the service concession. This should be made explicit in the standard.

Transition arrangements

Paragraph 30 notes that where an entity has not previously recognised service concession assets and uses the accruals method of accounting, the standard must be applied prospectively. "However, retrospective application is permitted." Paragraph 29 states that where the assets have been previously recognised, retrospective application is required. Therefore, if previously treated as off-balance sheet, full restatement to the start of the contract would not be required.

Further clarification of this point would be useful to ensure that the requirements of the standard are clearly understood.

I hope that you find the comments helpful. If you require further information, please contact my colleague Iolo Llewelyn (iolo.llewelyn@wao.gov.uk).

Yours sincerely,



Mike Usher

Partner



Federation of European Accountants
Fédération des Experts comptables Européens

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29 June 2010

Ref.: PSC/HvD/TSI/SRO

Dear Ms Fox,

Re: IPSASB ED 43 Service Concession Arrangements: Grantor

- (1) FEE (the Federation of European Accountants) is pleased to submit its views on this proposed International Public Sector Accounting Standard.

General Comments on the Exposure Draft

- (2) We are pleased to see that the International Public Sector Accounting Standards Board is developing guidance on this issue. Service Concession Arrangements are significant in many European jurisdictions, and the development of IFRIC 12 and its exclusive focus on private sector financial reporting only serve to highlight the need for public sector guidance.
- (3) In our view, ED 43 covers the issues that grantors need to address when accounting for service concession arrangements, in particular:
- Scope of accounting for Service Concession Arrangements;
 - Asset recognition and measurement;
 - Liability recognition and measurement;
 - Recognition and measurement of related expenses and revenues;
 - Presentation and Disclosure.

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

- (4) As IFRIC 12 is being used by the private sector and has been adopted by the European Union, and given the more general alignment of IPSASs with IFRS, there is a strong case for adopting a consistent approach. We therefore agree with the approach adopted in the Exposure Draft. We think it may also be useful if IPSASB would consider whether there are any taxation issues that need to be considered as part of the standard.

We would be pleased to discuss any aspect of this letter you may wish to raise with us.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Hans van Damme', is written over a horizontal line.

Hans van Damme
President



Conseil de normalisation
des comptes publics

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Paris, 30rd June 2010

Ms Stephenie Fox

Technical director

International Public Sector Accounting
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International Federation of Accountants

277 Wellington Street, 4th floor

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Ontario M5V 3H2 CANADA

Re : Proposed International Public Sector Accounting Standard
Exposure Draft 43 – Service Concession Arrangements: Grantor

Dear Ms Fox,

I am writing on behalf of the French “Conseil de normalisation des comptes publics” (CNOCP) ¹ to express its views on the above-mentioned Exposure Draft ².

The CNOCP approves the general approach of the Exposure Draft on Service Concession Arrangements (SCA) which is to propose a specific accounting treatment for those arrangements. We consider that this Exposure Draft is a significant progress in establishing accounting standards adapted to the special features of the public sector.

We specifically approve of the following principles set out by the Exposure Draft: (i) the recognition of a service concession asset based on “control” criteria and (ii) the recognition of a financial liability when the grantor compensates the operator for the service concession asset by making payments.

Nevertheless, the CNOCP questions certain of the proposals of the Exposure Draft and has the following comments in this respect:

¹ See Appendix 1

² See the French original version in Appendix 3.



The recognition of a performance obligation liability when the grantor compensates the operator by granting the operator the right to collect fees from users creates some pending accounting issues. As a consequence, no alternative accounting treatment was identified as of today which was approved unanimously. We understand that the performance obligation liability, according to the Exposure Draft, should be accounted in accordance with IPSAS 19 “Provisions, contingent liabilities and contingent assets” and IPSAS 1 “Presentation of financial statements”. In this standard, liabilities are defined as “(...) *present obligations of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential.*” Where the grantor compensates the operator by granting the operator the right to collect fees from users, there is no outflow for the public entity and thus, according to us, no liability.

The intention to “mirror” IFRS³ on the accounting treatment of SCA is not sufficiently explained and is inappropriate. We consider that the principle of the “mirror” with the IFRS, which is set out by the Exposure Draft (ED43.BC2) and appears for the first time in the IPSASs, is a shift with the IPSAS Board previous approach on setting public sector accounting standards. As the “mirror” is not a known accounting principle, the IPSAS Board should at least have defined very clearly in the Exposure Draft what was the definition and impact of this innovative approach. Moreover, we believe that the “mirror” approach should not be mentioned in the Exposure Draft as it is not an appropriate direction for IPSASs: the standards, according to us, should be established with reference only to generally accepted accounting principles and to the public sector specific features.

The prescriptions of the Exposure Draft regarding the accounting treatment of the SCA are not broad enough. The objective of the future standard is to prescribe an accounting treatment for SCA in the grantor financial statements as explained in the introduction to the Exposure Draft (ED43.IN1). We consider that the Exposure Draft in its actual form does not achieve this ambition, as there are no specific dispositions proposed for the assets which do not meet the control criteria or for the assets which partially meet those control criteria. We believe that some provisions should have been proposed in the Exposure Draft (e.g. information to be given in the financial disclosures). We also consider that the nature or extend of the arrangements which are within the scope of the Exposure Draft is not clear enough. It should be clarified whether it includes all arrangements involving an operator constructing or developing an asset used to provide a public service⁴ (ED43.IN5) or the arrangements which oblige the operator to provide the public services (ED43.7)?

³ Interpretation 12 of the International Financial Reporting Interpretations Committee.

⁴ With no consideration of who provides the public service itself (public entity or operator).



Our detailed comments are set out in the Appendix 2.

I hope you find these comments useful and would be pleased to provide any further information you might require.

Yours sincerely,

A handwritten signature in black ink, which appears to read 'Michel Prada', is written over a horizontal line.

Michel Prada



APPENDIX 1

CONSEIL DE NORMALISATION DES COMPTES PUBLICS (CNOCP)

1. Establishment of the “Conseil de normalisation des comptes publics” as Public Sector Accounting Standards Council and jurisdiction.

The Public Sector Accounting Standards Council was established by a Budget Amendment on the 30th December 2008 and supersedes the Public Accounting Standards Committee.

This new Council is in charge of setting the accounting standards of all entities with a non-market activity and primarily funded by public funding, including contributions.

The Central Government and the agencies working for the Central government, Local authorities and local public institutions, Social Security and affiliated agencies are all within the jurisdiction of the CNOCP.

Extending the scope of the former Public Accounting Standards Committee which used to only regulate the French Central government accounting standards has empowered Public Finances with the ability to deal with a consistent accounting policy for the whole of French Public Administrations.

2. Organization of the “Conseil de normalisation des comptes publics”.

The Council is an advisory body under the authority of the Minister for the Budget which publishes preliminary advice on all the legislative texts concerning accounting issues relevant to any entity within its jurisdiction. It can also put forward new and innovative provisions and participates actively in the regulation of accounting standard on a national and international level. All this information is available to the public.

The Council is managed by a President appointed by the Minister for the Budget and any decisions are taken consensually by a College made up of eighteen members of whom nine are statutory and nine are external experts. The President and the College are supported by three standing commissions and a steering committee. The three standing commissions are as follows: “the Central Government and the agencies working for the Central government”, “Local authorities and local public institutions”, “Social Security and affiliated agencies”

The Council has at its disposal a permanent team of specialists who report to the President and who are managed by a General Secretary.



APPENDIX 2

Detailed comments

Specific matter for comment: *« This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach? »*

The recognition of a performance obligation liability when the grantor compensates the operator by granting the operator the right to collect fees from users raises some accounting principles issues.

We approve of the principles set out in the Exposure Draft regarding the recognition of a financial liability when the grantor compensates the operator for the service concession asset by making payments on a contractual basis.

When the grantor compensates the operator by granting the operator the right to collect fees from users of the service concession asset or by granting the operator access to another revenue generating asset for its use, we consider that the recognition of a "performance obligation" liability is not appropriate. The Exposure Draft does not define the exact nature of this liability and only indicates that it should be accounted in accordance with IPSAS19.

We believe that this "performance obligation" is not compliant with IPSAS19.18 which defines liabilities as "(...) *present obligations of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential*" and provision as "(...) *a liability of uncertain timing or amount.*" When an arrangement provides an operator with the right to collect fees from users of the service concession asset, there is therefore no outflow of resources from the public entity. On the contrary, we consider that when an asset is used to provide a public service, there the public entity "gains" an immediate service potential. The Exposure Draft also sets out that reductions in the liability should be done as access to the service concession asset is given (§AG38), which generates a charge in the P&L. We question the nature or meaning of this charge, as this topic is not addressed in the Exposure Draft.

We would also like to highlight the difficulties in terms of understandability, arising from the recognition of a "performance obligation" liability in the financial statements of a public entity. According to us, this liability could generate several inappropriate interpretations. We think that the recognition of a liability, as there is no direct payment made by the public entity, is contradictory with the fact that the asset is supposed to be



controlled by the public entity. We also believe that the accounting treatment proposed in the Exposure Draft is aimed to avoid an immediate “gain” for the public entity, with no accounting basis, rather than to provide information on future outflows to the user of the financial statements. We firmly believe that this accounting treatment might generate confusion about the “meaning” of the liabilities recognized in the balance sheet of the grantor.

We do not deny that the “performance obligation” which is evidenced by the ED43 is a contractual reality, but we do not think that such an obligation should be recognized in the balance sheet as it is not consistent with the actual definition of a liability (cf. IPSAS1 and IPSAS19). This issue has imperatively to be discussed and clarified through the conceptual framework, as we believe that introducing such a new accounting notion creates a significant risk to increase very broadly the scope of the potential obligations to be traduced as liabilities in public entities balance sheet. The CNOCP considers that there is a risk in setting out in a standard a notion which is not based on known accounting definitions. Furthermore, we think that the information on the “performance obligation” is already provided to the user of the financial accounts through the financial disclosures (ED43.BC2).

As a consequence, we do not favor an accounting treatment of SCA for the grantor “mirroring” the accounting treatment set out by IFRIC 12 as it is explained in the Exposure Draft (§ED43.BC2). The “symmetry” in the accounting treatment is a “construction” and is not justified, according to us, on contractual or economical ground. When an operator recognizes an intangible asset to the extent that it receives a right (a licence) to charge users of the public service in its balance sheet, there is no corresponding liability in the balance sheet of the grantor⁵.

We believe that other approaches should be proposed. We think, in particular, that an approach based on the fact that the operation between the grantor and the operator is basically an “exchange” might be analysed. In this approach, the exchange is performed between the grantor and the operator, as set out in IFRIC 12⁶ in the “intangible asset model”, which is the model to be used when the operator receives a right to charge user of the public service (vs. right to receive cash or an other financial asset) in exchange of its services (e.g. constructing, operating, maintaining,... an infrastructure). The operator

⁵ We consider that the approach developed in the project of the IASB concerning leases is not appropriate when analyzing SCA. There is a main difference between those two types of contracts: in a SCA, the grantor beneficiates of the use (ie. the service potential) of the asset and transfer to the operator only a right to operate whereas, in a lease, the operator beneficiate of the use (ie. the service potential) of the asset.

⁶ “The operator shall recognise an intangible asset to the extent that it receives a right (a licence) to charge users of the public service. A right to charge users of the public service is not an unconditional right to receive cash because the amounts are contingent on the extent that the public uses the service.” (IFRIC12.17) and “IAS 38 applies to the intangible asset recognised in accordance with paragraphs 17 and 18. Paragraphs 45–47 of IAS 38 provide guidance on measuring intangible assets acquired in exchange for a non-monetary asset or assets or a combination of monetary and non-monetary assets.” (IFRIC12.26)



receives from the grantor a right to charge users of the public service which is an intangible asset. This intangible asset was not recognised previously in the balance sheet of the grantor: it is “identified” by the grantor at the same moment as it is exchanged against an infrastructure provided by the operator.

This exchange should have no impact on the balance sheet of the grantor, who exchanges an intangible asset for a tangible asset. Nevertheless, when the operation is performed an increase in the net assets of the grantor can be observed “automatically”, as the exchange is performed between an intangible which was not recognised previously in the balance sheet of the grantor (i.e. with a zero value) and a tangible asset. According to us, the counterpart of the increase in the net assets of the grantor cannot be accounted (i) as a liability (see above for explanations) nor (ii) as revenue: revenue is defined in IPSAS as the gross inflow of economic benefits or service potential during the reporting period. As described above, the increase of the net asset of the grantor is generated “automatically” because of the “zero value” of the intangible asset which was not recognised previously in the balance sheet of the grantor, but the exchange operation should have no impact on the net asset of the grantor. Therefore, according to us, the increase of the net asset should not be accounted as revenue of the reporting period nor any specific accounting period (we also think that such an accounting treatment would weaken the understandability and relevance of the financial performance reported for the period). As a consequence, we believe that the “exchange” described below has a direct impact on the residual interest in the assets of the entity after deducting all its liabilities, i.e. on the equity⁷.

The intention to “mirror” IFRS⁸ on the accounting treatment of SCA is not sufficiently explained and is inappropriate.

We consider that the principle of the “mirror” with the IFRS, which is set out for the first time, is a shift with the IPSAS Board previous approach on setting public sector accounting standards. As the “mirror” is not a known accounting principle, the IPSAS Board should at least have defined very clearly in the Exposure Draft what was its definition or meaning. Nevertheless, we consider that the “mirror” approach should not be included in the IPSAS: the standards, according to us, should be established with reference to the existing generally accepted accounting principles and in respect with the public sector specificities.

⁷ “Net assets/equity is the residual interest in the assets of the entity after deducting all its liabilities.” (IPSAS1.7).

⁸ Interpretation 12 of the International Financial Reporting Interpretations Committee.



The prescriptions of the Exposure Draft regarding the accounting treatment of the SCA are not broad enough.

The future standard should prescribe the accounting treatment by the grantor for SCA as explained in the introduction to the Exposure Draft (ED43.IN1). We consider that the Exposure Draft in its actual form does not achieve this ambition, as there are no specific dispositions proposed for the assets which do not meet the control criteria or for the assets which partially meet those control criteria. We believe that some dispositions should have been proposed in the Exposure Draft (e.g. information to be given in the financial disclosures). SCA for French hydraulic infrastructures are an illustration of this issue: the contracts do not include any price regulation clause and the grantor does not regulate the service provided. Nevertheless, the grantor regulates the utilization of the infrastructure and the operator must return the infrastructure to the grantor at the expiration of the concession arrangement. On the basis of the criteria set out by the Exposure Draft (ED43.10), those assets would not be within the scope of the future standard and no specific information on those contracts would be provided: it highlights, according to us, a major issue regarding the scope of the Exposure Draft. For service concession assets which are not within the scope of the standard because they are not controlled, the implementation guidance (p. 31 & 32 of the Exposure Draft) which refer to IPSAS17 and IPSAS31 is not appropriate according to us.

We also consider that the nature or extend of the arrangements which are within the scope of the Exposure Draft is not clear enough. It should be clarified whether it includes all arrangement involving an operator constructing or developing an asset used to provide a public service⁹ (ED43.IN5 “*An arrangement within the scope of this Standard typically involves an operator constructing or developing an asset used to provide a public service or upgrading an existing asset (e.g., by increasing its capacity) and operating and maintaining the asset for a specified period of time*”) or the arrangements which oblige the operator to provide the public services (ED43.7 “*To be within the scope of this Standard, an arrangement must be binding on the parties to the arrangement and oblige the operator to provide the public services related to the service concession asset to the public on behalf of the grantor*”).

The initial measurement of service concession asset at fair value is not appropriate.

We approve that the general dispositions of the Exposure Draft regarding recognition and measurement of assets, which are to be accounted for in accordance with IPSAS17 “Property, plant and equipment” or IPSAS 31 “Intangible assets”. Nevertheless, the Exposure Draft set out that the grantor shall initially measure the original service concession asset at fair value (IPSAS17.15). We question this disposition, as this accounting treatment is not consistent with the ones set out in the above mentioned

⁹ With no consideration of who provides the public service itself (public entity or operator).



standards (*“an item of property, plant and equipment that qualifies for recognition as an asset shall be measured at its cost. Where an asset is acquired through a non-exchange transaction, its cost shall be measured at its fair value as at the date of acquisition.”*¹⁰). We believe that there should not be any inconsistency between the future standard for SCA and IPSAS17 and IPSAS 31 regarding recognition and measurement of assets: as a consequence, the asset has to be initially measured at cost and not at fair value¹¹. This would also insure that the accounting treatment for a same category of assets (e.g. roads or highways) controlled by the grantor is consistent no matter if the asset is operate directly by the public entity or through a SCA.

It should also be clearly explained in the Exposure Draft that the cost model is to be applied even when the public entity does not directly finance the asset through payments: when the operator collects fees from users, information on the value of the infrastructure is often available in financial reporting communicated to the grantor and should be used to measure initially the asset. It is to be noted that the Exposure Draft already highlights the difficulties that might be encountered to evaluate the fair value of the assets (ED43.AG24): it emphasizes, according to us, the inadequacy of the fair value model for SCA.

Other comments

Concerning the timing of the initial recognition, in the case where the operator builds or develops the asset, we do not agree with the application guidance set out in the Exposure Draft (ED43.AG20) as it is based on the risk approach¹². This guidance is not consistent with the control approach set out by the Exposure Draft and the asset recognition criteria have to be consistent. As a consequence, we suggest to correct the application guide in order to propose a control based approach for the recognition of the concession asset during the construction phase.

Concerning the measurement of the asset after recognition (ED43.18), we believe that the future standard should set out that for a same category of asset, the accounting principles and treatment have to be consistent no matter if the asset is operated directly by the public entity or through a SCA. The application guidance should also indicate that SCA specific

¹⁰ SCA are not defined as exchange or non exchange transactions in the Exposure Draft, therefore it is not possible to refer to the appropriate accounting treatment as exposed in IPSAS17.

¹¹ We believe that the fair value of the service concession asset would be in many cases evaluated at its cost as there is no market value for many infrastructure asset (hydraulic infrastructure, highways,...).

¹² “In the case of property, plant and equipment, where the operator bears the construction risk, the timing of initial recognition of the service concession asset by the grantor will normally be when the asset is placed into use. Where the grantor bears the construction risk, the recognition criteria may be met during the construction period, and, if so, the grantor will normally recognize the service concession asset (and related liability) during that period.” (ED43.AG20)



contractual conditions (such as required replacements) might have an impact on the measurement of the asset value after recognition¹³.

The term “public service” is used several times in the Exposure Draft, but it is not defined in the “Terminology” part of the Basis for conclusions. We think that this term should have been defined or at least commented, as it is of major importance in the Exposure Draft : it is clearly specified that the scope of the future standard will only include arrangements where the operator provides the public service (ED43.7) or construct or develop an asset used to provide a public service (ED43.IN5).

¹³ IPSAS17.68&70 set out that “*depreciation is recognized even if the fair value of the assets exceeds its carrying amount, as long as the asset’s residual value does not exceed its carrying amount. Repair and maintenance of an asset does not negate the need to depreciate it. (...) The residual value of an asset may increase to an amount equal to or greater than the asset’s carrying amount. If it does, the asset’s depreciation charge is zero unless and until its residual value subsequently decreases to an amount below the asset’s carrying amount.*” When an operator has a contractual obligation to maintain the performance of the asset and to restore it at the conclusion of the contract, the residual value of the asset might be equal to its carrying amount. As a consequence, the asset does not have to be depreciated. Therefore, only extraordinary events (such as an accidental destruction) would justify depreciation of the asset. On the other hand, when the operator has no obligation to restore the asset, depreciation has to be recognized.



APPENDIX 3

Here is the French original version of our response to the ED 43 dedicated to the French speaking people

Nous vous prions de bien vouloir trouver ci-joint la réponse du Conseil de normalisation des comptes publics (CNoCP) sur l'exposé sondage susmentionné.

De manière générale, le Conseil de normalisation des comptes publics approuve l'approche exposée dans le document, qui consiste à proposer des dispositions spécifiques relatives au traitement comptable des « service concession arrangements » (SCA) et qui marque un réel progrès en matière de constitution d'un référentiel comptable pour le secteur public.

Le Conseil de normalisation des comptes publics, en particulier, approuve le principe de la comptabilisation d'un actif tel qu'il est défini dans l'exposé sondage, sur la base d'une approche par le contrôle. La comptabilisation d'une dette financière en contrepartie de l'actif, pour les contrats prévoyant des paiements au bénéfice de l'opérateur par l'entité publique, est également approuvée.

Le Conseil de normalisation des comptes publics estime néanmoins que certains des principes proposés dans le document de l'IPSAS Board appellent des commentaires, qui sont présentés ci-après.

La comptabilisation d'un passif en contrepartie d'un actif concédé, lorsqu'aucun paiement direct n'est effectué par l'entité publique, soulève des difficultés de principe qui n'ont pas permis à ce stade de formuler des propositions alternatives qui recueillent l'unanimité. Quoiqu'il en soit, l'exposé sondage indique que ce passif correspondant à une « obligation d'exécution » doit être comptabilisé conformément aux prescriptions d'IPSAS 19 « Provisions, passifs éventuels et actifs éventuels ». Dans cette norme (et dans la norme IPSAS 1 « Présentation des états financiers », §7) un passif est défini comme une obligation « dont l'extinction devrait se traduire par une sortie de ressources représentatives d'avantages économiques ou d'un potentiel de services ». Or dans le cadre de certains SCA, aucune sortie d'avantages économiques n'est subie par l'entité publique, ce qui exclut la comptabilisation d'un passif.

Le principe du traitement comptable en « miroir » est insuffisamment défini et justifié. Pour la première fois, et en décalage avec l'approche qui avait été la sienne jusqu'à présent, l'IPSAS Board indique avoir adapté en « miroir » l'interprétation n°12 (IFRIC12) de l'International Financial Reporting Interpretations Committee (§BC2). Le principe de l'adaptation en « miroir » d'une norme ou interprétation du référentiel IFRS n'est pas un principe comptable connu et il aurait été souhaitable, a minima, de le définir



plus clairement dans l'exposé sondage. Pour autant, nous ne pensons pas qu'il soit judicieux d'intégrer au référentiel IPSAS un tel principe, les normes devant être établies, selon nous, d'une part en cohérence avec les principes comptables existants, tels qu'ils sont déclinés dans les normes applicables aux entreprises, et d'autre part en considération des spécificités du secteur public.

Les dispositions prévues par l'ED43 sont trop limitées.

L'ambition de la norme, telle qu'elle est présentée dans l'introduction de l'exposé sondage (§IN1), est de définir les principes de comptabilisation des SCA. Or, il nous semble que la norme proposée est insuffisamment développée pour répondre à cette ambition. En effet, elle ne propose aucun principe spécifique pour les actifs dont le contrôle n'est pas détenu par l'entité publique et en particulier pour les actifs qui ne remplissent qu'une partie des critères de contrôle définis par la norme. Des dispositions spécifiques en matière d'informations à porter en annexe auraient ainsi pu être prévues. Il existe par ailleurs une ambiguïté relative au périmètre des contrats concernés par la norme : s'agit-il de tous les contrats dans lesquels un opérateur privé construit ou développe un actif qui concourt à l'exécution d'un service public (§IN5) ou des contrats dans lesquels l'opérateur privé se voit déléguer l'exécution du service public (§7) ?

Nos commentaires détaillés sur l'exposé sondage sont présentés en annexe au présent courrier.



Conseil de normalisation des comptes publics (CNOCP)

1. Création du Conseil de normalisation des comptes publics et champ de compétence

Le Conseil de normalisation des comptes publics a été créé par la loi de finances rectificative du 30 décembre 2008, et remplace le Comité des normes de comptabilité publique.

Ce nouveau Conseil est en charge de la normalisation comptable de toutes les entités exerçant une activité non marchande et financées majoritairement par des ressources publiques et notamment des prélèvements obligatoires.

Entrent dans son périmètre l'Etat et les organismes dépendant de l'Etat, les collectivités territoriales et les établissements publics locaux, et la Sécurité sociale et les organismes qui lui sont assimilés.

Cette extension de périmètre par rapport à l'ancien Comité des normes de comptabilité publique qui était en charge de la normalisation des comptes de l'Etat français se justifie par la nécessité de définir une politique de normalisation comptable cohérente au niveau de l'ensemble des administrations publiques.

2. Mode de fonctionnement du Conseil de normalisation des comptes publics

Le Conseil est un organisme consultatif placé auprès du Ministre chargé des comptes publics qui doit donner un avis préalable sur tous les textes réglementaires comportant des dispositions comptables applicables à des entités entrant dans son champ de compétence. Il peut également proposer des dispositions nouvelles et doit participer aux réflexions sur la normalisation comptable au niveau national et international. Ses avis sont publics.

Le Conseil est dirigé par un Président nommé par le Ministre chargé des comptes publics et ses attributions sont exercées par un collège composé de dix-huit membres dont neuf membres de droit et neuf personnalités qualifiées. Le Président et le collège sont assistés par trois commissions permanentes et un comité consultatif d'orientation. Les trois commissions permanentes sont les suivantes : « Etat et organismes dépendant de l'Etat », « Collectivités territoriales et établissements publics locaux », « Sécurité sociale et organismes assimilés ».

Le Conseil dispose d'une équipe technique permanente placée sous l'autorité du Président et dirigée par un secrétaire général.



Commentaires détaillés

La question posée par l'IPSAS Board dans le cadre de l'appel à commentaires sur cet exposé sondage est la suivante : « *Etes-vous d'accord sur l'approche de cet exposé sondage qui consiste à proposer pour le concédant un traitement comptable symétrique de celui de l'interprétation IFRIC 12 pour ces contrats dans les comptes du concessionnaire ?* »

La comptabilisation d'un passif en contrepartie d'un actif concédé, lorsqu'aucun paiement direct n'est effectué par l'entité publique, soulève des difficultés de principe.

Le CNOCP est d'accord avec les dispositions de l'ED43 en ce qui concerne les dispositions relatives au traitement comptable du passif dans le cas où des paiements directs sont effectués par l'entité publique au bénéfice de l'opérateur privé en vertu d'une obligation contractuelle.

Dans les autres cas visés par l'ED43 (droit accordé au concessionnaire de collecter un revenu auprès des tiers utilisateurs ou tout autre moyen de recouvrer un revenu pour celui-ci), nous considérons que l'inscription d'un passif dans les comptes de l'entité publique au titre d'une obligation d'exécution (ou « performance obligation ») n'est pas justifiée. L'ED43 ne précise pas la nature de ce passif mais indique dans le cas où le concessionnaire se voit transférer par le concédant le droit de prélever l'usager que la comptabilisation de ce passif, qualifié de « performance obligation », sera conforme aux dispositions de la norme IPSAS 19 « Provisions, passifs éventuels et actifs éventuels ».

Or, il s'avère que cette obligation de performance ne répond pas aux dispositions de la norme IPSAS 19 (§18) concernant les passifs et les provisions qui sont rappelées ci-après : « *un passif est une obligation actuelle de l'entité résultant d'événements passés et dont l'extinction devrait se traduire pour l'entité par une sortie de ressources représentatives d'avantages économiques ou d'un potentiel de service* » et « *une provision est un passif dont l'échéance ou le montant est incertain.* » Dans les dispositions contractuelles accordant au concessionnaire le droit de collecter un revenu auprès des tiers utilisateurs, il n'y aura aucune sortie d'avantages de ressources représentatives d'avantages économiques ou d'un potentiel de service. Bien au contraire, la mise en service de l'actif correspond à la disposition immédiate d'un potentiel de services pour l'entité publique concédante. La reprise de ce passif sera effectuée sur la durée du contrat (§AG38) par compte de résultat, ce qui soulève la question de la signification dans le résultat d'une telle écriture, qui n'est pas analysée dans l'ED43.

En second lieu, il faut souligner les difficultés d'interprétation des états financiers que génère l'inscription d'un tel passif, alors que l'entité publique n'effectue aucun



paiement. Elle peut être interprétée comme la traduction comptable d'un « abandon » par le concédant de la possibilité d'exploiter lui-même l'actif concédé. L'inscription d'un passif, en tout état de cause, nous paraît contradictoire avec le rejet du critère des risques et avantages au profit du critère de contrôle, et avec le fait que les actifs inscrits au bilan soient réputés être contrôlés. Il peut sembler en tout état de cause que le traitement comptable proposé dans l'ED43 est plus justifié par le souci d'éviter de comptabiliser un enrichissement immédiat et sans cause comptable de l'entité publique que par le souci de faire figurer au passif de l'entité publique une information sur les engagements générateurs de sorties de trésorerie future. La compréhension des comptes du concédant, selon nous, risque cependant d'être singulièrement altérée si ce traitement comptable était retenu.

En outre, nous considérons que si l'« obligation d'exécution » introduite par l'ED43 existe de manière incontestable, sa traduction comptable devrait faire l'objet d'une discussion conceptuelle. Elle ne peut en effet être rattachée aux notions comptables existantes dans le référentiel IPSAS, que ce soit dans la norme 19 « Provisions, passifs éventuels et actifs éventuels » ou la norme 1 « Présentation des états financiers ». De manière plus générale, nous attirons l'attention du Board sur le risque qui existe à introduire dans une norme une notion qui n'est pas fondée sur une définition comptable reconnue. Il est à noter enfin que le droit d'accès consenti au concessionnaire ou opérateur est à notre sens déjà retracé dans les états financiers puisqu'il fait l'objet d'une mention en annexe (§27).

Ainsi, nous ne sommes pas favorables à un traitement comptable « symétrique » entre le concessionnaire et le concédant, tel qu'il est exposé notamment dans les bases des conclusions (§BC2), car cette symétrie est purement formelle et n'a pas de justification économique et comptable. Si le concessionnaire enregistre notamment un actif incorporel représentatif de son droit de faire payer les usagers du service public, un tel actif n'a pas pour contrepartie une dette chez le concédant¹⁴.

En conséquence, nous proposons que soient analysées d'autres solutions, et notamment une approche comptable fondée sur la notion d'échange à l'instar de l'approche retenue par IFRIC 12 dans le cas du modèle incorporel. Le modèle incorporel correspond au cas où la contrepartie fournie par le concédant au concessionnaire pour ses prestations de construction ou d'amélioration est le droit de faire payer les usagers du service public (IFRIC 12, §17). Dans ce modèle, le concessionnaire inscrit un actif incorporel à son actif qui traduit son droit de prélever l'usager. Cet actif incorporel qui, préalablement au contrat de concession, ne figure pas dans les comptes du concédant est mis en évidence par le contrat de

¹⁴ Il est à noter que le raisonnement tenu dans le Discussion Paper de l'IASB sur les contrats de location n'est pas transposable aux SCA, où le concédant conserve le droit d'usage sur les actifs concédés (seul le droit d'accès est transmis), contrairement aux contrats de location, dans le cadre desquels le bailleur le perd sur la durée du contrat.



concession. Le contrat de concession matérialise ainsi le transfert de cet actif incorporel au concessionnaire en contrepartie de la fourniture de l'infrastructure concédée.

Cette opération d'échange ne devrait avoir en théorie aucun impact comptable sur les comptes de l'entité publique. Elle se traduit pourtant comptablement par une augmentation de l'actif de l'entité publique : ceci s'explique par le fait que l'échange s'effectue entre un actif incorporel non reconnu antérieurement au bilan de l'entité publique (sa valeur comptable est donc nulle) et un autre actif apporté par l'opérateur privé. Cette augmentation de l'actif, selon nous, ne peut trouver sa contrepartie (i) ni au passif (compte tenu des arguments déjà exposés *supra*), (ii) ni en produit : un produit se définit en effet comme une entrée d'avantages économiques ou de potentiel de service au cours de la période¹⁵, or l'augmentation d'actif n'est que la conséquence comptable d'une opération en théorie économiquement neutre sur l'exercice (ie. l'échange), qui a la particularité d'impliquer un actif incorporel préexistant mais non reconnu au bilan de l'entité publique ; ainsi, selon nous, l'augmentation de l'actif n'est pas rattachable à un exercice comptable spécifique et ne doit donc pas avoir d'impact sur le compte de résultat d'un exercice donné (ce qui aurait en outre pour conséquence de nuire à la lisibilité de ce dernier). L'augmentation de l'actif ne trouvant sa contrepartie, selon nous, ni au passif ni en compte de résultat, celle-ci s'inscrit en conséquence en situation nette, qui est « *le solde des actifs de l'entité après déduction de tous ses passifs* » (IPSAS 1, §7).

Le principe du traitement comptable en « miroir » est insuffisamment défini et justifié.

Pour la première fois, et en décalage avec l'approche qui avait été la sienne jusqu'à présent, l'IPSAS Board indique avoir adapté en « miroir » l'interprétation n°12 (IFRIC12) de l'International Financial Reporting Interpretations Committee (§BC2). Le principe de l'adaptation en « miroir » d'une norme ou interprétation du référentiel IFRS n'est pas un principe comptable connu et il aurait été souhaitable, a minima, de le définir plus clairement dans l'exposé sondage. Pour autant, nous ne pensons pas qu'il soit judicieux d'intégrer au référentiel IPSAS un tel principe, les normes devant être établies, selon nous, d'une part en cohérence avec les principes comptables existants et d'autre part avant tout en considération des spécificités du secteur public.

¹⁵ IPSAS1, §7 « *Les produits sont les entrées brutes d'avantages économiques ou de potentiel de service au cours de la période lorsque ces entrées conduisent à une augmentation de l'actif net/situation nette, autre que les augmentations relatives aux apports des contributeurs.* »



Les principes énoncés par l'ED43 sont limités et ne proposent pas un traitement comptable spécifique pour l'ensemble des SCA.

L'ambition de la norme, telle qu'elle est présentée dans l'introduction de l'exposé sondage (§IN1), est de définir les principes de comptabilisation des SCA. Or, il nous semble que la norme proposée est insuffisamment développée pour répondre à cette ambition. En effet, elle ne propose aucun principe spécifique pour les actifs dont le contrôle n'est pas détenu par l'Etat et en particulier pour les actifs qui ne remplissent qu'une partie des critères de contrôle définis par la norme¹⁶. Or, des dispositions spécifiques en matière d'informations à porter en annexe auraient pu, a minima, être prévues par l'ED43.¹⁷ Les contrats de concessions d'ouvrages hydrauliques français en fournissent l'illustration : ils ne prévoient pas de limitation tarifaire et garantissent une liberté d'exécution encadrée du service au concessionnaire¹⁸. Ainsi, les actifs liés à ces contrats, au regard des critères énoncés au §10 de l'ED43 («*The grantor controls or regulates what services the operator must provide with the asset, to whom it must provide them, and at what price (...)*»), n'entreraient pas dans le périmètre de la norme, alors même que le concessionnaire s'engage à respecter des conditions d'exploitation fixées contractuellement et surtout que les actifs sont remis au concédant à la fin du contrat de concession. Le fait que l'ED43, dans sa rédaction actuelle, ne prévoit aucune disposition applicable à ces contrats de concession, nous semble mettre en évidence un problème majeur sur le périmètre de la norme. Concernant les actifs attachés à un SCA mais qui n'entrent pas dans le périmètre de la norme, le renvoi aux autres normes existantes effectué dans le cadre du guide d'application (p.31 et 32 de l'ED43) ne nous paraît pas une solution satisfaisante.

Il existe par ailleurs une ambiguïté relative au périmètre des contrats concernés par la norme : s'agit-il de tous les contrats dans lesquels un opérateur privé construit ou développe un actif qui concourt à l'exécution d'un service public (§IN5 «*An arrangements within the scope of this Standard typically involves on operator constructing or developing an asset used to provide a public service (...).*») ou des contrats dans lesquels l'opérateur privé se voit déléguer l'exécution du service public (§7 «*To be within the Scope of this standard, an arrangement must be binding on the parties to the arrangement and oblige operator to provide the public services related to the service concession asset to the public on behalf of the grantor.*») ?

¹⁶ Cela pourrait être le cas, par exemple, pour les contrats de concession hydraulique en France.

¹⁷ Ces éléments figuraient dans le document de travail de l'IPSAS Board sous forme de diagramme et ont été supprimées dans l'exposé sondage.

¹⁸ Seul un tarif spécifique dit « tarif bleu » est réglementé et il n'existe par principe aucune limitation tarifaire dans le contrat de concession. Par ailleurs, le concessionnaire n'a pas d'obligations spécifiques en ce qui concerne la vente d'électricité, qui peut être effectuées auprès de différents bénéficiaires : particuliers, entreprises, marché Powernext.



Le principe de la valorisation des actifs à la juste valeur lors de leur comptabilisation initiale doit être nuancé.

Concernant l'inscription des actifs contrôlés au bilan, nous approuvons les dispositions de l'exposé sondage, la référence aux normes IPSAS 17 « Immobilisations corporelles » et 31 « Immobilisations incorporelles » étant pertinente. L'ED43 prévoit néanmoins que le concédant inscrit les actifs concédés à son bilan à leur juste valeur lors de leur comptabilisation initiale. Or, nous estimons que le choix de la juste valeur¹⁹ pour la valorisation initiale des actifs concédés ne se justifie pas au regard des normes existantes et de la cohérence interne du référentiel : il est en effet indiqué aux §26 et §27 d'IPSAS 17 qu'« *une immobilisation corporelle qui remplit les conditions de comptabilisation en tant qu'actif doit être évaluée à son coût.* » et ce n'est que « *lorsqu'un actif est acquis par le biais d'une opération sans contrepartie directe, [que] son coût doit être évalué à sa juste valeur à la date d'acquisition*²⁰. » Ainsi, il nous semble que l'inscription de l'actif doit se faire au coût des actifs concédés, conformément notamment aux dispositions de la norme IPSAS 17 sur la valorisation initiale des immobilisations corporelles.

Il nous paraît en tout état de cause peu souhaitable de créer une distorsion entre les normes existantes et la future norme relative aux SCA : elle pourrait avoir pour conséquence que des actifs de même nature soient comptabilisés selon des méthodes non homogènes, selon qu'ils seraient concédés ou non concédés. C'est pourquoi nous préconisons que le modèle du coût soit retenu avant le modèle de la juste valeur lors de l'inscription au bilan des actifs contrôlés²¹.

Il pourrait être par ailleurs précisé que le modèle du coût ne s'applique pas exclusivement lorsque l'entité publique finance elle-même le bien concédé²² ; lorsqu'une information fiable sur le coût de l'actif est disponible dans les états de gestion fournis par le concessionnaire ou opérateur, cette information doit pouvoir être utilisée par l'entité publique pour établir la valeur d'entrée de l'actif. Cette solution nous paraît d'autant plus souhaitable que l'ED43 souligne déjà (§17) les

¹⁹ A noter que le terme de « juste valeur » n'a pas été retenu dans le recueil des normes comptables de l'Etat français, les biens publics ne faisant pas, sauf dans certains cas spécifiques (exemple : immeubles) l'objet de transactions sur des marchés actifs.

²⁰ Or il n'est pas précisé, concernant les SCA, si les opérations sont considérées comme des opérations avec contrepartie ou des opérations sans contrepartie directe. En conséquence, il n'est pas possible de définir la méthode de valorisation applicable au regard des dispositions déjà prévues par la norme IPSAS 17.

²¹ Il est vraisemblable que la juste valeur, en pratique, correspondrait au coût de construction de l'actif, tel qu'évalué et communiqué par l'opérateur privé.

²² Le coût étant alors égal à la valeur actualisée des paiements minimaux rattachables à l'actif (§AG24).



difficultés qui pourront être rencontrées pour estimer la juste valeur des actifs (recours à des « techniques d'estimation » pour déterminer la juste valeur).

Autres commentaires.

Concernant la comptabilisation des actifs construits ou développés par l'opérateur privé, les dispositions prévues par le guide d'application (§AG20) s'appuient sur une approche par le risque²³. Ceci n'est pas cohérent les autres dispositions de l'ED43 qui s'appuient sur une approche par le contrôle. En outre, les critères de comptabilisation d'un actif, de manière générale, ne varient pas selon que cet actif soit en phase de construction (ie. en encours) ou en phase d'exploitation en service (ie. en service).

Il nous paraît donc nécessaire de modifier le texte de ce paragraphe du guide d'application et de réaffirmer l'utilisation du critère du contrôle (tel que défini au §10) pour la comptabilisation des encours à l'actif de l'entité publique.

Concernant l'évaluation postérieure des actifs, il nous paraîtrait souhaitable de compléter le §18 en précisant que pour une même catégorie d'actifs, les principes et méthodes comptables doivent être identiques, que l'actif soit concédé ou non concédé. Pour autant, certaines clauses contractuelles peuvent avoir un impact sur l'évaluation ultérieure des actifs, en raison notamment de dispositions relatives au maintien des performances de l'actif²⁴, ce qui pourrait être précisé dans le guide d'application de l'ED43.

Le terme de « service public », employé à plusieurs reprises dans l'ED43, aurait mérité d'être défini, ou a minima de faire l'objet d'un paragraphe spécifique dans la partie « Terminologie » des Bases des conclusions. Il est à noter que le terme de « service public » est particulièrement important, puisque le périmètre de l'ED43

²³ Il est en effet précisé que « (...) where the operator bears the construction risk, the timing of initial recognition of the service concession asset by the grantor will normally be when the asset is placed into use. Where the grantor bears the construction risk, the recognition criteria may be met during the construction period, and, if so, the grantor will normally recognize the service concession asset (all related liability) during that period. »

²⁴ La norme 17 « Immobilisations corporelles » (§68 et suivants) prévoit qu'« un amortissement est comptabilisé même si la juste valeur de l'actif est supérieure à sa valeur comptable, pour autant que la valeur résiduelle de l'actif n'excède pas sa valeur comptable. (...) Les réparations et la maintenance d'un actif ne remettent pas en cause la nécessité de l'amortir. (...) La valeur résiduelle d'un actif peut augmenter jusqu'à atteindre ou excéder la valeur comptable de l'actif. Dans ce cas, la dotation à l'amortissement est nulle. »

Dans le cas où le contrat prévoit que l'opérateur privé a l'obligation de maintenir les performances de l'actif et de le remettre avec des performances équivalentes à l'issue du contrat, la valeur résiduelle de l'actif concédé peut être égale à sa valeur comptable et le bien, en conséquence, n'a pas à faire l'objet d'amortissements dans les comptes du concédant. Ainsi, seules des dépréciations en cas de dégradations physiques du bien à caractère exceptionnel auraient à être comptabilisées.

En revanche, si l'obligation de maintenir les performances de l'actif concédé n'existe pas, des amortissements doivent être comptabilisés pour traduire la perte de valeur de l'actif.



ne couvre que les contrats dans lesquels le concessionnaire ou opérateur construit ou développe un actif utilisé pour fournir un service public (§IN5) ou fournit un service public (§7).

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Stockholm 1st July 2010

ED 43 Service Concession Arrangements: Grantor

Far, the Institute for the Accountancy Profession in Sweden, is responding to your invitation to comment on the exposure draft *ED 43 Service Concession Arrangements: Grantor*.

General Comments on the exposure draft

Far is pleased to see that the International Public Sector Accounting Standards Board is developing guidance on this issue. Service Concession Arrangements are significant in many European jurisdictions and the development of IFRIC 12 and its exclusive focus on private sector financial reporting only serves to highlight the need for public sector guidance.

In Far's view ED 43 covers the issues that grantors need to address when accounting for service concession arrangements, in particular:

1. Scope of accounting for service concession arrangements
2. Asset recognition and measurement
3. Liability recognition and measurement
4. Recognition and measurement of related expenses and revenues
5. Presentation and disclosure

Specific Matter for Comment

This exposure draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

As IFRIC 12 is being used by the private sector and given the more general alignment of IPSASs with IFRS, there is a strong case for adopting a consistent approach even though this is not a pure conversion project. However, the guidance is a mirror of IFRIC 12 and will therefore probably lead to a consistent accounting between the private and public sector. Far therefore agrees with the approach adopted in the exposure draft.

Far

Magnus Fagerstedt
Chairman Far Public Sector reference group

FACPCE'S COMMENTS ON ED 43, SERVICE CONCESSION ARRANGEMENTS: GRANTOR

Paragraph Comments

8. It is considered that "the existing assets of the grantor", referred to in this paragraph, should be in the grantor's patrimony without any limitation.
12. Similar considerations to those mentioned in paragraph 8: the grantor's assets should never be part of the arrangement's asset and continue being reclassified as "Property, Plant and Equipment".
15. This paragraph could be eliminated.
16. Contemplate it as follows: "Where the grantor compensates the operator for the service concession asset, by making payments and service portions of payments by the grantor to the operator are separable, the asset portion of the payments".
17. Contemplate it as follows: "When the asset and service parts of the payments from the grantor to the operator are not separable, the original service concession assets will be measured by technical valuation".

Swiss Public Sector Financial Reporting Advisory Committee (SRS-CSPCP)

Stephenie Fox
Technical Director
International Public Sector
Accounting Standards Board
International Federation of Accountants
277 Wellington Street, 4th Floor
Toronto, Ontario M5V 3H2
CANADA

Chavannes-Lausanne, June 28, 2010

**Swiss Comments to
ED 43: *Concession Arrangements: Grantor***

Dear Stephenie,

With reference to the request for comments on the proposed Exposure Draft, we are pleased to present the Swiss Comments to Exposure Draft 43: *Concession Arrangements: Grantor*.

We thank you for giving us the opportunity to put forward our views and suggestions. You will find our comments to ED 43 in the attached document.

Should you have any questions, please do not hesitate to contact us.

Yours sincerely,

SRS-CSPCP



Prof Nils Soguel, President



Sonja Ziehli, Secretary

Swiss Comments to ED 43

Swiss Comments to

ED 43: *Service Concession Arrangements: Grantor*

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1. Introduction

The Swiss Public Sector Financial Reporting Advisory Committee (SRS-CSPCP) has discussed ED 43 *Service Concession Arrangements: Grantor* in its meeting on June 24, 2010 and comments as follows. The SRS-CSPSP was established in 2008 by the Swiss Federal Ministry of Finance together with the Ministers of Finance at the cantonal level. One of its aims is to provide the IPSAS Board with a consolidated statement for all the three Swiss levels of government (municipalities, cantons and Confederation).

2. Comments to Exposure Draft 43 *Service Concession Arrangements: Grantor*

Specific Matter for Comment

- The SRS-CSPCP agrees that in principle IPSAS (ED 43) is a mirror image of IFRIC 12. Nevertheless the expressions usual for IPSAS and the order of the content should be retained (e.g. *Definitions* instead of *Terminology*, *Scope* before *Definitions*).

Further remarks

- An IPSAS (ED 43) on service concession arrangements is very much welcomed.
- The AG IPSAS understands the reluctance of the IPSAS Board to create differences to IFRIC 12. However, the following expressions that are considered important should be listed and defined in the section Terminology or Definitions. This especially because it cannot be estimated how long would have to be waited for corresponding definitions in IFRIC 12.
 - Public service: where is the border, what is understood under this expression?
 - Operator
 - Key expressions, such as constructing/developing, operating, maintaining, because they are useful in determining whether it is a service concession arrangement.
 - For the purpose of the service concession arrangement: what is understood by the purpose of the service concession? What does it include and what not (narrow or broad interpretation)?
 - Time perspective: in the Implementation Guidance a medium or long term period is posited. This requirement is lacking in the classification of a service concession arrangement in ED 43.
- The SRS-CSPCP also prefers the control approach over the risk and remuneration approach. It appears more suitable for avoiding the creation of misdirected incentives (such as avoiding inclusion in the balance sheet).
- Clause 10 (page 10) defines when it is a service concession asset and the IPSAS (ED 43) applies. Both criteria must be met, whereby in particular the second – any significant residual interests pass at the end of the term of the arrangement to the government grantor – is regarded as important, with which the scope of ED 43 can be clearly defined.
- The SRS-CSPCP considers the disclosure requirements of Clause 27 (pages 12 and 13) to be extensive, but useful. There was a discussion as to whether certain items should be omitted, but there was no majority for this. As service concession arrangements are complex constructs and significant infrastructure assets, this should be disclosed to the addressees with comprehensive reporting.
- The comprehensibility of the flow chart on page 31 could be improved by adding the references to the corresponding sections.



PAR COURRIEL

Québec, le 30 juin 2010

Ms Stephenie Fox
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International Public Sector Accounting
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277 Wellington Street, 4th Floor
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Objet : IPSASB ED 43 – Service Concession Arrangements : Grantor

Madame,

J'ai le plaisir de vous faire parvenir ci-joint les commentaires du Vérificateur général du Québec concernant le document cité en rubrique.

Je vous prie d'agréer, Madame, l'expression de mes sentiments distingués.

Le vérificateur général,

Renaud Lachance Pour

Renaud Lachance, FCA

p. j.

c. c. edcomments@ifac.org

**INTERNATIONAL PUBLIC SECTOR
ACCOUNTING STANDARD BOARD (IPSASB)**

EXPOSÉ-SONDAGE 43

SERVICE CONCESSION ARRANGEMENTS : GRANTOR

Commentaire général

Cette norme porte uniquement sur la comptabilisation par l'apporteur (« grantor ») et est adaptée de l'interprétation 12 (IFRIC 12) de l'IASB qui porte sur la comptabilisation par l'opérateur.

À notre avis, la norme de l'IPSASB devrait traiter de la comptabilisation par les deux parties à ce type de transactions. Même si dans la majorité de ces arrangements le gouvernement sera l'apporteur, il est possible qu'un gouvernement ou un organisme public agisse en tant qu'opérateur dans une relation avec un autre gouvernement.

Nous sommes en accord avec les normes proposées. Toutefois, le texte de l'exposé-sondage fait référence à plusieurs autres normes IPSAS de sorte qu'il devient difficile à consulter. En effet, l'utilisateur devra constamment se référer à une autre norme pour s'assurer de comptabiliser les transactions adéquatement. Nous souhaiterions l'inclusion directement dans cette norme de davantage de précisions quant à la comptabilisation des transactions afin d'éviter le plus possible des interprétations différentes et ainsi s'assurer d'une meilleure uniformité dans leur comptabilisation.

Commentaires particuliers

Accords n'impliquant pas la fourniture des services publics

Le paragraphe 7. spécifie que la norme ne couvre pas les accords n'impliquant pas la fourniture de services publics. À notre avis, tous les accords de type « service concession » devraient être comptabilisés en fonction des directives de cet exposé-sondage. Par exemple, un accord en vertu duquel l'opérateur rendrait des services directement au gouvernement plutôt qu'au public en général devrait aussi être sujet à cette norme.

Actifs de l'apporteur déjà existants

En vertu du paragraphe 8. (d), cette norme s'applique aux actifs déjà existants de l'apporteur qui sont mis à la disposition de l'opérateur. Selon le paragraphe 12., un tel actif est reclassé comme « service concession asset ». Toutefois la norme ne donne aucune autre directive quant à la comptabilisation des arrangements qui concerne des actifs déjà existants.

Est-ce que la seule mesure à prendre est d'effectuer un reclassement pour fin de présentation au bilan? Doit-on les inscrire à leur juste valeur comme dans le cas des autres types actifs utilisés dans ces accords? Un passif doit-il être constaté dans ces circonstances et de qu'elle façon? La norme devrait fournir des directives à cet égard et inclure un exemple du traitement préconisé ou spécifier clairement que pour ce type d'accord, seulement une reclassification et la divulgation d'information sont nécessaires.

Améliorations à un actif de l'apporteur déjà existant

L'exposé-sondage propose que seulement le coût des améliorations à un actif déjà existant soit comptabilisé à titre de « service concession asset ». Cela signifie que le même actif sera divisé en deux composantes dont le traitement comptable sera différent. Les améliorations seraient inscrites à leur juste valeur alors que la composante actuelle le serait au coût historique. Il serait à notre avis préférable d'utiliser la même base de mesure et de comptabiliser entièrement l'actif à titre de « service concession asset » à la juste valeur.

BY E-MAIL

Québec, July 21, 2010

Ms Stephenie Fox
Technical Director
International Public Sector Accounting
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International Federation of Accountants
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Re: IPSASB ED 43 – Service Concession Arrangements: Grantor

Dear Ms Fox:

I am pleased to send you the comments of the Auditor General of Québec concerning the
aforementioned subject.

Yours truly,

Renaud Lachance, FCA

Auditor General

encl.

c. c. edcomments@ifac.org

**INTERNATIONAL PUBLIC SECTOR
ACCOUNTING STANDARD BOARD (IPSASB)**

EXPOSURE DRAFT 43

SERVICE CONCESSION ARRANGEMENTS: GRANTOR

General comment

This standard deals solely with recognition by the grantor and is adapted from Interpretation 12 (IFRIC 12) of IASB, which deals with recognition by the operator.

In our opinion, the IPSAS standard should deal with recognition by the two parties in this type of transaction. Although the government will be the grantor in the majority of these arrangements, it is possible that a government or a public body may act as an operator in dealings with another government.

We agree with the proposed standards. However, the text of the exposure draft refers to several other IPSAS standards with the end result that it becomes hard to consult. Indeed, the user will constantly have to refer to another standard to make sure that the transactions are suitably recognized. We would like to see the inclusion directly in this standard of further clarifications regarding the recognition of transactions in order to avoid, wherever possible, different interpretations and, in so doing, to ensure a better uniformity in their recognition.

Specific comments

Arrangements not involving the supply of public services

Paragraph 7. specifies that the standard does not cover arrangements that do not involve the supply of public services. In our opinion, all "service concession" type arrangements should be recognized based on the guidelines of this exposure draft. For example, an arrangement by virtue of which the operator would provide services directly to the government rather than to the general public should also be subject to this standard.

Existing assets of the grantor

Under paragraph 8. (d), this standard applies to the existing assets of the grantor which are put at the disposal of the operator. According to paragraph 12., such an asset is reclassified as a "service concession asset". However, the standard provides no other guidelines regarding the recognition of arrangements that concern existing assets.

Is making a reclassification for the purposes of disclosure on the balance sheet the only measure to be taken? Must assets be posted at their fair value as in the case of other types of assets used in these arrangements? Must a liability be recognized under these circumstances and, if so, in what manner? The standard should provide guidelines in this respect and should include an example of the recommended treatment or clearly stipulate that for this type of arrangement only a reclassification and the disclosure of information are necessary.

Improvements to an existing asset of the grantor

The exposure draft proposes that only the cost of the improvements to an existing asset be recognized as a "service concession asset". That means that the same asset will be divided into two components for which the accounting treatment will differ. Improvements would be recorded at their fair value whereas the current component would be recorded at its historical cost. In our opinion, it would be preferable to use the same basis of measurement and to entirely record the asset as a "service concession asset" at its fair value.

**DIRECTION GÉNÉRALE DES FINANCES PUBLIQUES**

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Référence : 2010/07/3467

Paris, July 15th 2010

Ms Stefanie FOX
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Ontario M5V 3H2 CANADA

Re : ED43-service concession arrangements : Grantor.

Dear Ms Fox,

I am writing on behalf of the French « Direction Générale des Finances Publiques » to comment on the IASB exposure draft “*Service concession arrangements: Grantor*” (‘the ED’)

We welcome the decision of the board to issue an exposure draft on the accounting treatment for service concession arrangements by the grantor since French State frequently use service concession arrangements for delivering public services.

We believe that the control-based approach, as set out in IFRIC interpretation 12, is appropriate to determine the accounting treatment for the service concession asset even though it doesn't consider all the existing contracts.

We do not support the accounting treatment based on a “mirror” approach of principles set out in IFRIC 12 as this principle is not an acknowledged accounting principle. Thus, the “mirror” approach encompasses drawbacks.

According to us, the exchange transaction model should be improved in the case of a concession where the grantor compensates the operator by granting the right to collect fees from users of the service concession asset as in the intangible model asset set out in IFRIC 12.

Our detailed answer is set out in the appendix 1 and the French original version in appendix 2.

If you would like to discuss our comments further, please do not hesitate to contact us.

Yours faithfully

Vincent MAZAURIC

APPENDIX 1 : Detailed answer

Question : *This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?*

Relevance of the control-based approach with the definition of tangible assets in the public sector:

We believe that control-based approach is more relevance than the “risks and rewards” approach, as the main goal of the grantor using a service concession arrangement is to get a potential service from the associated concession asset but not future economic benefits.

Indeed, criterion linked to potential service is the main characteristic that distinguish tangible assets of public sector from tangible asset of the private sector. Thus, IPSAS 1 defines assets as “resources controlled by an entity as a result of past events and from which future economic benefits or service potential are expected to flow to the entity”.

Nevertheless, we question about the relevance to use the construction risk criteria for the timing of initial recognition of a service concession asset as the control-based approach is preferred.

We recommend the standard setter to specify the accounting method of the service concession asset (the percentage of completion method or another method) during the construction period.

The “mirror” approach: lack of justification and limits

The advantage of the “mirror” approach is to ensure that the service concession asset is not recognised twice, by the grantor and by the operator. Indeed, the recognition of the controlled service concession asset by the grantor mirrors the recognition of an intangible asset by the operator when the grantor compensates the operator by granting the operator the right to collect fees from users of the service concession asset.

Nevertheless, the “mirror” effect seems to be limited as the grantor and the operator do not retire the same resource from the service concession asset: from the grantor's perspective, the service concession asset provides a potential service, from the operator's perspective, the service concession asset provides economic benefits.

Furthermore, since the “symmetry” accounting principle is not an acknowledged accounting principle, it should be more justified. In the case of this principle were adopted, it should be considered in the current works of the IPSAS Board on the conceptual framework.

The case of service concession arrangements that do not satisfy to all the control criteria

It should be useful that the IPSAS Board addresses the accounting treatment for service concession arrangements that do not satisfy all the control criteria and in particular criteria the linked to the price.

Inconsistency of “Performance obligation” with definition of a liability

We approve the recognition of a financial liability when the grantor compensates the operator for the service concession asset by making payments but the recognition of a “performance obligation» when the grantor compensates the operator by granting the right to charge users gives rise to question.

The notion of “performance obligation is new in the IPSAS accounting standards and so should be clarified. The exposure draft do not precise the exact nature of this notion but indicates that this liability should be accounted in accordance IPSAS 19 “provisions Liabilities and contingent Assets”.

According to IPSAS 19, liabilities are “*present obligations of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential*”. “Performance obligation” does not satisfy the definition of a liability when the grantor compensates the operator by granting the right to collect fees from users as there is no outflow of resources embodying economics benefits where as the grantor receive service potential: the delivery of public services.

Furthermore, when the grantor compensates the operator by granting the right to charge users, the operator shall recognise an intangible asset in accordance with IFRIC 12 which represents this right but not recognises a account receivable. This accounting seems not to be compliant with the “mirror” approach favoured by the Board.

Alternative approach: exchange model

We suggest the Board to develop the exchange model as set out in the IFRIC 12 in the intangible asset model. This model is based on the asset exchanges, the operator receives an intangible asset: the right to charge users for the exchange of its construction and/or upgrade services.

This intangible asset is not recognised by the grantor previously to the service concession arrangement, as it cannot be reliably estimated. This is the service concession arrangement that gives rise to the intangible asset and lead to its reliable estimate. According to this approach, the accounting treatment should reflect two simultaneous operations:

- The recognition by the grantor of the pre-existent intangible asset representative of the right to charge users given rise by the concession service concession arrangement and,
- The granting of this right to the operator in exchange for its construction and/or upgrade services

Finally, the exchange should lead to the recognition of the service concession asset by the grantor and the recognition of the intangible asset by the operator.

This treatment would be compliant with the standard IPSAS 9 “ revenue from exchange transactions”, as the service concession arrangement is compliant with the definition of an exchange transaction.

IPSAS 9.19 set out that “*when goods are sold or services are rendered in exchange for dissimilar goods or services, the exchange is regarded as a transaction which generates revenue*”.

Nevertheless, we believe that the exchange should not lead to the recognition of revenue of a specific period. Indeed, the exchange transaction doesn’t generate an inflow of economics benefits

or potential service as the right to charge users exists previously to the service concession arrangement.

The counterpart of the concession service asset

IPSAS don't set out the accounting treatment for transactions that give rise to intangible assets. The French central government accounting standards set out that the counterpart of the recognition of these specific intangibles assets is the equity. This proposition seems compliant with the IPSAS no. 1 that defines equity as the residual interest in the assets of the entity after deducting all its liabilities.

APPENDIX 2 : French original version of our response to the exposure draft ED 43

Nous vous prions de bien vouloir trouver ci-joint la réponse de la Direction Générale des Finances Publiques à l'exposé sondage relatif aux accords de concession de services.

Nous accueillons favorablement la décision du Board de publier un exposé sondage relatif au traitement comptable des accords de concession de services chez le concédant, l'Etat français ayant régulièrement recours à ces contrats pour la fourniture de services publics.

L'approche contrôle privilégiée par le Board de l'IPSAS à l'instar d'IFRIC 12 nous paraît appropriée pour déterminer le traitement comptable des actifs concédés même si elle ne semble pas recouvrir tous les cas rencontrés.

En revanche, nous considérons que le principe d'un traitement comptable en miroir n'est pas conforme aux principes comptables communément admis et présente par ailleurs des faiblesses.

Il nous semble que l'approche échange devrait être approfondie dans le cas où la personne publique rémunère le concessionnaire par le droit de prélever les usagers du service public à l'instar du modèle incorporel développé dans IFRIC 12.

Notre réponse détaillée figure en annexe.

Si vous souhaitez des précisions sur nos commentaires, n'hésitez pas à nous contacter

Salutations distinguées,

Vincent MAZAURIC

Réponse détaillée

Question : « *L'exposé sondage traite les accords de concession de service du point de vue du concédant. Les principes retenus sont le miroir de ceux d'IFRIC 12 applicables aux concessionnaires. Etes vous d'accord avec cette approche ?* »

Pertinence de l'approche contrôle avec la définition des actifs du secteur public :

L'approche contrôle nous semble plus pertinente que l'approche risques et avantages, l'objectif principal du concédant ayant recours à un accord de concession de services étant de bénéficier du potentiel de service lié à l'actif concédé et non des avantages économiques associés.

En effet, les actifs du secteur public se distinguent de ceux du secteur privé sur cette caractéristique essentielle qu'est le potentiel de service. Ainsi, la norme IPSAS 1 « Présentation des états financiers » définit les actifs comme « *des ressources contrôlées par une entité du fait d'événements passés et dont cette entité attend des avantages économiques futurs ou un potentiel de service* ».

Concernant la date de comptabilisation de l'actif concédé, nous nous interrogeons sur la pertinence de faire référence à l'approche risques et avantages dès lors que c'est l'approche contrôle qui a été privilégiée. A cet égard, nous souhaiterions que le Board de l'IPSAS précise la méthode de comptabilisation de l'actif concédé (utilisation de la méthode de l'avancement ou d'une autre méthode).

L'approche miroir : justification insuffisante et limites

L'approche miroir présente l'avantage d'assurer l'absence de double comptabilisation des actifs concédés au bilan du concédant et au bilan du concessionnaire. En effet, le pendant chez le concessionnaire de l'inscription des actifs concédés contrôlés est l'inscription d'une immobilisation incorporelle lorsque celui-ci est rémunéré par le droit de prélever l'utilisateur sur la durée de la concession.

Cependant, l'effet miroir trouve ses limites dans la mesure où le concessionnaire et le concédant ne retirent pas le même bénéfice de l'actif concédé, le concédant bénéficiant des avantages économiques associés et le concessionnaire du potentiel de service.

En outre, le principe de symétrie comptable n'étant pas un principe comptable communément admis, il devrait être davantage justifié. En tout état de cause, si ce principe était finalement adopté, les travaux relatifs au cadre conceptuel menés par le Board de l'IPSAS devraient le définir.

Cas des accords de concession de services qui ne satisfont pas à l'ensemble des critères de contrôle

Il nous semble utile que le Board de l'IPSAS précise le traitement comptable applicable aux accords de concession de services qui ne satisfont pas à l'ensemble des critères du contrôle et notamment à celui relatif au tarif.

La « performance obligation » ne répond pas à la définition d'un passif

S'agissant de la contrepartie à la comptabilisation de l'actif concédé, l'inscription d'une dette financière dans le cas où le concédant rémunère le concessionnaire par des paiements en trésorerie nous paraît justifiée. En revanche, dans le cas où la personne publique rémunère le concessionnaire par le droit de prélever l'utilisateur, la comptabilisation d'un passif qualifié de « performance obligation » nous interroge.

L'utilisation de la notion de « performance obligation » est nouvelle dans le référentiel des IPSAS et demanderait à être clarifiée. En effet, l'exposé sondage n'en précise pas la nature mais indique que la comptabilisation de cette « performance obligation » doit satisfaire aux principes de la norme IPSAS 19 relative aux provisions, passifs éventuels et actifs éventuels.

Selon cette norme, un passif se définit comme « *une obligation actuelle de l'entité résultant d'événements passés et dont l'extinction devrait se traduire pour l'entité par une sortie de ressources représentatives d'avantages économiques ou d'un potentiel de service* ». La « performance obligation » ne répond pas à la définition d'un passif dans le cas où le concessionnaire est rémunéré par le droit de prélever l'utilisateur car il n'y aura aucune sortie de ressources représentatives d'avantages économiques alors même que le concédant bénéficiera du potentiel de service associé à l'actif concédé : la fourniture du service public.

Par ailleurs, dans le cas où le concessionnaire est rémunéré par le droit de prélever l'utilisateur, ce dernier comptabilisera un actif incorporel représentatif de ce droit conformément aux dispositions d'IFRIC 12 et non une créance sur l'Etat. L'approche miroir par ailleurs retenue par l'IPSAS ne nous semble donc plus respectée.

Approche alternative : l'approche échange

Selon nous, l'approche échange devrait être développée à l'instar de l'approche retenue par IFRIC 12 dans le cas du modèle incorporel. Ce modèle traduit l'échange des prestations de construction et/ou d'amélioration par le concessionnaire contre le droit de prélever l'utilisateur consenti par le concédant.

Cet actif incorporel ne figure pas, préalablement au contrat de concession, dans les comptes du concédant, car il n'est pas évaluable de manière fiable. C'est le contrat de concession qui le met en évidence et permet son évaluation. Selon cette approche, le traitement comptable devrait refléter deux opérations simultanées :

- La comptabilisation chez le concédant de l'actif incorporel préexistant représentatif du droit de prélever l'utilisateur révélé par le contrat de concession et,
- L'octroi de ce droit au concessionnaire en contrepartie de ses prestations de construction et/ou d'amélioration de l'actif concédé.

In fine, l'opération d'échange devrait se traduire par la comptabilisation de l'actif concédé chez le concédant et par l'inscription de l'actif incorporel chez le concessionnaire.

Cette approche serait cohérente avec la norme IPSAS 9 « produits des opérations avec contrepartie directe », l'accord de concession de services répondant à la définition d'une opération avec contrepartie directe.

La norme IPSAS 9.17 précise que les échanges de services ou de biens dissemblables doivent conduire à la comptabilisation d'un produit.

Au cas d'espèce, il nous semble que cet échange ne devrait pas se traduire par l'inscription d'un produit rattachable à une période particulière. En effet, l'opération d'échange ne génère pas pour le concédant une entrée d'avantages économiques ou de potentiel de service sur une période spécifique, ce droit existant préalablement au contrat de concession.

Contrepartie de l'inscription de l'actif

Les normes IPSAS ne traitent pas des incorporels révélés par des transactions. Le recueil des normes de l'Etat français a traité la question et dispose que la contrepartie de l'inscription de ces immobilisations est la situation nette.

Cette solution rejoint celle retenue par l'IPSAS 1 qui définit la situation nette comme le solde des actifs de l'entité après déduction de tous ses passifs.



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14 July 2010

Ms Stephenie Fox
Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street West
Toronto Ontario M5V 3H2
CANADA

Dear Stephenie,

IPSASB Exposure Draft 43 Service Concession Arrangements: Grantor

The Australian Accounting Standards Board appreciates the opportunity to comment on the International Public Sector Accounting Standards Board's proposals concerning the accounting treatment by the grantor for service concession arrangements. The AASB acknowledges the significance of the work undertaken by the IPSASB on this topic, which has been an important issue in Australia for many years.

Australian grantors and operators have embraced service concession arrangements as a way of developing infrastructure and delivering infrastructure-related services. Participants are exposed to major risks and benefits for long periods of time associated with billions of dollars of investments in toll roads, airports, ports, railways and water treatment facilities (for example). Therefore, there is considerable interest in Australia in the accounting by grantors for service concession arrangements.

Accordingly, the AASB issued an Exposure Draft (ED 194) in April 2010 to publicise the IPSASB's proposals and to seek the views of Australian constituents. The comments received from constituents have been taken into account by the AASB in preparing this submission. The comment letters received are published on the AASB's website (www.aasb.gov.au).

In general, the AASB supports the proposals in ED 43 and encourages the IPSASB to continue its work on this important project. Our main concerns or comments regarding the proposals are noted below.

Service Concession Arrangements

The AASB notes that there is no explicit definition of 'service concession arrangement' in the proposed Standard. However, the AASB considers that the description of typical service concession arrangements in paragraph 2, combined with the requirements in paragraph 7, will

be sufficient to ensure that the appropriate arrangements are captured. For example, the references in paragraph 7 to the operator being obliged to provide the public services and to arrangements not involving the delivery of public services being outside the scope of the Standard will appropriately mean that arrangements that result only indirectly in the provision of public services would not be covered by the Standard.

Scope of the Proposed Standard

The scope of the Standard proposed in the Exposure Draft reflects the requirements of IFRIC Interpretation 12 *Service Concession Arrangements*. Therefore, the scope of the proposals are effectively limited to service concession arrangements where the underlying service concession assets are controlled by the grantor during and after the concession period (or just during the concession period, in respect of ‘whole-of-life’ service concession assets) in accordance with the grantor control criteria set out in paragraph 10. The AASB believes that there should be consistency across the accounting by operators and by grantors, and is keen to see the project progress on a timely basis, and therefore agrees with the limited scope of the proposals.

However, the degree of consistency achieved in practice may depend upon the assessment of regulatory arrangements by grantors in applying the grantor control criteria.

Scope of Regulation

Paragraph AG6 indicates that the regulation contemplated by those criteria could be through a third-party regulator. Paragraph AG8 states that the term ‘regulate’ is not intended to convey the broad sense of the power of government to regulate the behaviour of entities. It is uncertain, therefore, whether the reference to ‘regulate’ is intended to cover regulators that have been established by a government as independent regulators (i.e. independent of direct government administration). The government may be able to apply its legislative powers to change the parameters within which an ‘independent’ regulator works, but unless and until it does just that, it is not clear whether such powers should be ignored as merely part of the broad sense of government power referred to in paragraph AG8.

The AASB considers that governments are likely to conclude that independent regulators should not be factored into assessing the control or regulation specified in the grantor control criteria. This potentially will result in inconsistent accounting between grantor and operator, since from the operator’s perspective the nature of the source of regulation is irrelevant. This may result in significant service concession assets not being recognised by either the operator or the grantor.

GBEs as Grantors

As per paragraph 5 of the ED, the proposed Standard would apply to all public sector entities, other than Government Business Enterprises (GBEs). Although GBEs could be grantors in service concession arrangements, the AASB does not support extending the scope of the proposed Standard, given the IPSASB’s general exclusion of GBEs from the scope of its Standards.

The present scope of the proposed Standard would exclude both GBEs and any private sector grantors. Such grantors would be likely to look to the Standard by way of analogy under the

requirements of international or national Standards corresponding to IPSAS 3 *Accounting Policies, Changes in Accounting Estimates and Errors*.

BOOT Arrangements

The AASB notes that some concerns have been expressed in Australia as to whether BOOT (build-own-operate-transfer) arrangements would be covered by the proposed Standard. In its view, the reference to ownership is not a substantive matter. For example, paragraph 8(b) states that a grantor may have access to existing assets of the operator (which may or may not be owned by the operator) for the purposes of a service concession arrangement, and that the grantor therefore would recognise the assets if the grantor control criteria in paragraph 10 are satisfied. The Standard could usefully make the point that control of an asset is the critical factor, not ownership.

The AASB considers that BOOT arrangements should be identified in the proposed Standard or its Basis for Conclusions as a type of BOT (build-operate-transfer) arrangement and thus covered by the requirements. The Implementation Guidance table of typical types of arrangements and the relevant Standards (see page 32 of the ED) refers to BOT and BOO (build-own-operate) arrangements, but not BOOT arrangements, which don't fall neatly into any of the columns due to asset ownership by the operator but the residual interest being held by the grantor.

Residual Interest in Service Concession Assets

The grantor control criterion specified in paragraph 10(b) of the ED addresses grantor control of 'any significant residual interest' in the asset at the end of the term of the service concession asset. This is a change from the preceding Consultation Paper, which referred instead to 'the residual interest'. The approach in the ED is consistent with IFRIC 12.

In responding to the Consultation Paper, the AASB supported such a change to ensure that insignificant residual interests could not affect the assessment of control over service concession assets, and also that assets used in a service concession arrangement for their entire useful lives would be appropriately covered by the proposals. Accordingly, the AASB welcomes and supports the IPSASB's reference to 'any significant residual interest' in paragraph 10(b) of the ED and the coverage of whole-of-life service concession arrangements.

Grantor Recognition of Assets Constructed by the Operator

The ED (paragraph AG20) proposes requirements for the timing of initial recognition by grantors of assets constructed or developed by the operator for the purpose of a service concession arrangement. The proposed requirements distinguish the timing according to whether the operator or the grantor bears the construction risk. In the former case, recognition by the grantor would occur when the asset is placed into service, and in the latter case, as the construction takes place – provided the grantor has reliable cost information.

The AASB believes that the grantor should recognise a service concession asset being constructed by the operator as construction takes place, irrespective of whether the construction risk is apparently borne by the grantor or by the operator. In the context of significant, long-term service concession arrangements, it is normally unreasonable for the

grantor to hold out that it has no obligation to the operator for its construction services until the grantor has accepted the constructed asset as suitable for its intended purpose or even until the asset is placed into use. An operator is unlikely to enter into a service concession arrangement if the grantor can simply refuse to pay for the construction work where there is some defect in the constructed asset – or else defer payment until some minor aspect has been resolved. Therefore, the reliance upon construction risk does not seem to be justified for service concession arrangements.

Indeed, the last sentence in paragraph AG20 seems somewhat at odds with the rest of the paragraph. It is not clear what cases are being referred to. In any case, the grantor's obligation for construction costs prior to completion of construction should give rise to an asset for the grantor, and it is not clear why this could not be a service concession asset. The control criteria in paragraph 10 do not apply explicitly only to service concession assets that are presently operating: the grantor's control of the services, recipients and pricing might only be *exercised* in the future, from when the assets are placed into use, but the grantor already controls the assets in the requisite manner in that case.

Recognition of Performance Obligations

While accepting the IPSASB proceeding with the recognition of performance obligations, the AASB encourages the IPSASB to consider the impact of related research (for example, on leases) by the IASB and FASB as it develops its Standard. There are a number of aspects concerning performance obligations in the ED that need to be clarified.

First, it appears that the amount of the performance obligation is the difference between the fair value of the service concession asset and any payment obligations of the grantor because the financial liability and the performance obligations must initially equate to the fair value of the asset. This means that a performance obligation is recognised by the grantor only to the extent that its payment obligation falls short of the fair value of the service concession asset.

The AASB expects that in most (if not all) service concession arrangements, the grantor would have a performance obligation to the operator to continue to provide the granted service concession rights during the concession period. Therefore, it does not seem appropriate for the grantor to recognise a performance obligation only to the extent that the grantor does not have a payment obligation to the operator. If the performance obligation exists, it should be treated similarly in all cases, regardless of whether the grantor has a payment obligation. However, if the IPSASB retains its existing proposal, the AASB requests that it clarify why a performance obligation should be recognised only to the extent that the grantor's payment obligation (financial liability) falls short of the fair value of the service concession assets.

Secondly, it is not clear from the ED whether the grantor has a performance obligation in respect of its existing assets that are reclassified as service concession assets in accordance with paragraph 12. Paragraph AG29 (corrected) explains the nature of the obligation as requiring the grantor to 'provide' the asset to the operator. This seems equally applicable to existing assets of the grantor to which the grantor gives the operator access for the purpose of a service concession arrangement. The AASB considers that all service concession assets should be treated in the same way in this respect, regardless of whether they are new or existing assets of the grantor.

Finally, the AASB questions whether the performance obligation approach is proposed essentially as a means of deferring revenue recognition by the grantor. If this is the case, the IPSASB should address revenue recognition directly instead of via partial application of the notion of performance obligations.

Disclosure Requirements

While supporting the disclosure requirements proposed in the ED, the AASB thinks that it would also be useful to require separate (rather than combined) disclosure of:

- (a) service concession assets recognised during the period; and
- (b) existing assets of the grantor that have been reclassified as service concession assets during the period.

As presently drafted, paragraph 27(c)(iii) of the ED does not require separate disclosure of these amounts, even though paragraph 12 appears to suggest that that is intended.

Transitional Requirements

ED 43 proposes prospective application when an entity has not previously recognised service concession arrangements. However, the AASB recommends retrospective application of the Standard when first applied by any entity, not just those that have previously recognised service concession arrangements. Such an approach would also be consistent with the transitional requirements in IFRIC Interpretation 12.

Allowing prospective application by some entities would permit the continued non-recognition of potentially significant service concession assets for many years into the future, and defer the achievement of comparability between entities in respect of the financial reporting of service concession arrangements.

Other Matters

The AASB considers that the structure of the proposed Standard could be improved. At present, there is considerable detail and cross-referencing in the Application Guidance, which is an integral part of the Standard. The complicated cross-referencing interferes with reading and understanding the requirements, and consolidation of the text into the main part of the Standard could improve the flow. Some paragraphs such as paragraph AG19 merely duplicate the requirements in the main part of the Standard and should be deleted.

Some additional, less significant matters are noted in the attached Appendix. An editorial review of the proposed Standard is also required to identify and correct numerous problems, such as references to “grantor” instead of “operator” in paragraphs 14(b), AG22(b) and AG29 (and perhaps others), missing parentheses and incorrect punctuation.

If further information or clarification is required regarding any matters in this submission, please contact me or Clark Anstis, Senior Project Manager (e-mail: canstis@aasb.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K. M. Stevenson', with a stylized flourish at the end.

Kevin M. Stevenson
Chairman

APPENDIX – ADDITIONAL MATTERS

These additional comments address some less significant issues arising from the proposed Standard. Some of these are concerned with the wording used in the proposed Standard, but an editorial review will be needed to identify numerous other necessary changes.

The proposed Standard

Paragraph 7 – the footnote text can be added to the end of the paragraph to simplify the presentation of the paragraph and make it more readable.

Paragraph 15 – the meaning of ‘original’ service concession asset is unclear, and should be clarified by referring instead to an asset recognised in accordance with paragraph 10 or 11.

Paragraph 18 – this is already covered by paragraph 13. Paragraph 12 already covers the subsequent accounting in the case of existing grantor assets reclassified as service concession assets.

Paragraph 21 – the references in the third sentence to ‘allocate the payments to the operator’ and ‘service portions’ are unhelpful, and the sentence should be amended to refer to identifying the components of the payments according to their substance as a reduction of the liability, a finance charge or the cost of services, and accounting for them accordingly.

Paragraph 23 – seems odd here to be referring to the operator compensating the grantor when all the other requirements are in terms of the grantor compensating the operator. It would seem better for the last sentence of paragraph 23 to be simply added to paragraph 19 and the rest of paragraph 23 deleted.

Paragraph 25 – this paragraph should be amended to allow for the possibility of the finance charge being capitalised as a borrowing cost. An amendment of IPSAS 5 *Borrowing Costs* on this point is proposed in Appendix B on page 25 of the ED.

Application Guidance

Paragraph AG3(a) – the relevant description of IFRIC 12 requirements would appear to be the operator’s recognition of a financial asset, rather than the revenue and derecognition aspects noted.

Paragraph AG6 – the last part of the first sentence is not helpful as it refers to circumstances in which the grantor buys all, some or none of the output; there are no other cases.

Paragraph AG23 – it is not the arrangement that may be separable, but the asset and service components can be separately identified.

Paragraphs AG33-AG36 – the requirements for determining the finance charge when the grantor makes payments to the operator seem very permissive, as there is a long list of possible interest rates that might be applied in determining the finance charge. Better to state the principle first, that the interest rate should be appropriate to the terms of the service concession arrangement, and then discuss how that rate might be determined in practice.

Amendments to Other IPSASs (Appendix B)

Three Standards are proposed to be amended: IPSASs 5, 13 and 17. However, only IPSAS 17 is proposed to have a new paragraph identifying the effective date of the amendment and the requirements for early application. This difference in approach between the Standards does not seem justified.

IPSAS 13, paragraph 25 – the present last sentence referring to a public sector entity leasing infrastructure from a private sector entity is likely to be confusing in conjunction with the proposed additional sentence regarding service concession arrangements and should be deleted.

IPSAS 13, paragraph 27 – a service concession arrangement is ‘described’, not ‘defined’, in ED 43.

Basis for Conclusions

Paragraph BC7 – the explanation for the lack of formal definitions seems weak: different nature of the Standard? A Standard is a Standard, whatever its provenance. Best to delete the first sentence and commence the paragraph simply by stating that although the Standard does not include formal definitions, the IPSASB has instead provided guidance on terminology, etc. In substance, some of the guidance amounts to definitions anyway.

Paragraph BC11 – the correlation of risks and rewards with economic benefits and of control with service potential is too stark. In Australian Accounting Standards, economic benefits and service potential are inseparable aspects of assets. A different justification for choosing the control basis should be identified.

Implementation Guidance

Accounting framework flowchart – the third box on the right-hand side of the flowchart refers to the grantor continuing to account for an asset as a leased asset. However, this is not acknowledged in the second point of the last box of the flowchart or indeed in the proposed Standard proper, which refers only to IPSAS 17 and IPSAS 31 in various paragraphs, and never to IPSAS 13.

Illustrative Examples

Table 2.3 in Example 2 – in note 4, ‘CU 135’ is incorrect and should be ‘CU 149’ instead. The other amounts in the note are correct.

Le 16 juillet 2010

Stephenie Fox
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OBJET : *Service Concession Arrangements : Grantor*

Madame,

Vous trouverez ci-joints nos commentaires concernant l'exposé-sondage mentionné en objet, pour qu'ils soient considérés dans vos prochaines délibérations. Ces commentaires sont conséquents à ceux formulés relativement au document de consultation publié en mars 2008.

Nous tenons à vous mentionner notre position sur plusieurs orientations du document, considérant que ces nouvelles normes influenceront certainement d'autres organismes régulateurs, tels que le Conseil sur la comptabilité dans le secteur public (CCSP), et qu'elles auront des impacts importants sur les résultats financiers des gouvernements.

Vous trouverez, en pièce jointe, des commentaires plus détaillés concernant l'ensemble des propositions qui sont mises de l'avant dans votre exposé-sondage sur les accords de concession de services par les gouvernements. Nous espérons qu'ils vous seront utiles dans la poursuite de vos travaux.

Veuillez agréer, Madame, nos salutations distinguées.

Le directeur général de la
pratique professionnelle,



André Miville, CA

La directrice de la normalisation,



Vicky Lizotte, CA

p. j. (1)
c. c. Simon-Pierre Falardeau, CA
Contrôleur des finances

COMMENTAIRES SPÉCIFIQUES

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

1. Approche basée sur le contrôle (Paragraphe 10 et 11 (page 10), paragraphes AG3 à AG20 (pages 14 à 17) et paragraphes BC10 à BC 14 (pages 28 et 29))

Nous sommes en désaccord avec l'approche basée uniquement sur le « contrôle », tel que décrit dans l'exposé-sondage.

En nous référant au cadre conceptuel canadien du Conseil sur la comptabilité du secteur public (CCSP), nous sommes d'avis qu'un actif a trois caractéristiques essentielles :

- il représente un avantage futur en ce qu'il pourra contribuer aux flux de trésorerie futurs ou à la fourniture de biens ou de services;
- le gouvernement est en mesure de contrôler l'accès à cet avantage;
- l'opération ou le fait à l'origine du contrôle qu'a le gouvernement sur cet avantage s'est déjà produit.

Donc, pour comptabiliser un actif, il faut également que le gouvernement assume les risques et qu'il bénéficie des avantages inhérents à la propriété du bien.

Nous croyons que l'approche devrait être basée, à la fois sur le contrôle et sur les risques et avantages assumés par chacune des parties sur les risques et les avantages.

- En effet, dans une entente de type « service concession arrangements », le gouvernement, dans l'intérêt de la population, conserve généralement un certain degré de contrôle quant à l'utilisation de l'actif. Ainsi, la majorité des actifs faisant partie de ce type d'entente seront comptabilisés dans les livres du gouvernement, malgré le fait que le partenaire privé assume la majorité des autres risques (d'exploitation, de demande, de construction, de financement, de performance, etc.).

Nous sommes d'avis qu'en substance, les ententes de type « Accords de concession de service » s'apparentent à un contrat de location, soit un contrat par lequel une entité cède, pour une durée déterminée, le droit d'usage d'un bien à une autre entité contre une somme d'argent. Ainsi, une approche basée sur les risques et avantages, comme celle utilisée pour les contrats de location, est plus appropriée lors de la comptabilisation d'un tel type de contrat.

2. Distinction entre les passifs financiers et les obligations de performance (Paragraphe 19 à 23 (pages 11 et 12), paragraphes AG21 à AG41 (pages 18 à 21) et paragraphes BC10 à BC18 (pages 28 à 30))

Bien que le concept d'instrument financier ne soit pas actuellement adopté dans les normes canadiennes, nous sommes en accord avec les propositions de l'exposé-sondage relatives aux passifs, à l'exception du fait de ne pas présenter le revenu et la dépense afférents à l'exploitation par le partenaire. En effet, bien que ces derniers soient d'un montant équivalent et que l'impact aux résultats est nul, nous croyons que ces informations sont pertinentes dans le contexte gouvernemental.

La distinction des passifs permet, notamment de présenter séparément les opérations non monétaires liées aux obligations de performance des opérations monétaires liées au remboursement du passif financier.

3. Charge d'intérêt théorique calculée à l'aide du coût de financement du concessionnaire (Paragraphe AG33 et AG34 (page 20))

Nous sommes en désaccord avec les propositions à l'égard du fait que la charge d'intérêt théorique doit être calculée à l'aide du coût de financement du concessionnaire.

Le taux de financement se doit de refléter la substance de la transaction entre le concédant, qui est le gouvernement, et le concessionnaire. Par exemple, dans la mesure où le gouvernement se doit de comptabiliser l'actif et la dette, il est approprié de justifier un taux de financement plus près du taux de financement sur les emprunts à long terme du gouvernement.

En effet, dans le cas où un gouvernement contracte chaque année des emprunts pour financer l'ensemble de ses besoins et de ses projets, et qu'aucun projet n'est financé par un emprunt spécifique, le taux de financement que le gouvernement assume sur ses emprunts à long terme pour calculer la charge d'intérêt théorique est certainement le plus approprié.

Les coûts associés pour que le gouvernement réalise ses projets, que ce soit selon le mode traditionnel ou selon le mode « accords de concession de services », le même taux doit être utilisé pour calculer la charge d'intérêt théorique, c'est-à-dire le taux de financement que le gouvernement assume sur les emprunts à long terme. En fait, le mode « accords de concession de service » n'est qu'un modèle d'acquisition d'une infrastructure. Nous sommes d'avis qu'il faut analyser la valeur présente des flux futurs qui devront être déboursés du point de vue du « gouvernement investisseur », et non du point de vue du coût en capital pour le partenaire privé qui finance le projet.

Enfin, l'exposé-sondage que vous nous présentez ne précise pas le taux d'actualisation à préconiser pour déterminer la valeur de l'actif à inscrire dans les livres des gouvernements. À cet égard, nous sommes d'avis que le taux

d'actualisation devrait être le même que celui utilisé pour calculer la charge d'intérêt théorique, soit le taux de financement que le gouvernement assume sur les emprunts à long terme.

AUTRES POINTS

FIN DE L'ENTENTE

Nous croyons que la norme comptable proposée doit également fournir des directives ou des précisions dans l'éventualité d'une non-performance, d'une non-disponibilité ou d'une rupture de contrat des ententes de type « accords de concession de services ». Bien que les circonstances particulières de ce type d'entente ne permettent pas d'isoler toutes les situations possibles, des références aux normes comptables existantes seraient pertinentes.

Par exemple, lors de la fin prématurée d'un accord de concession de services, des orientations devraient être fournies à l'égard de la réévaluation de l'actif et du passif sous-jacents à l'entente. Bien que le jugement professionnel soit préconisé dans chaque situation, une norme comptable qui en ferait abstraction serait incomplète.

Québec City, July 16, 2010

Stephenie Fox
The Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street West
Toronto (Ontario) M5V 3H2

RE: *Service Concession Arrangements : Grantor*

Dear Madam,

We are sending you our comments on the exposure draft *Service Concession Arrangements: Grantor* for consideration in your upcoming deliberations. These comments are consistent with those made in relation to the consultation paper published in March 2008.

We must mention our opinion with many positions in the document given that these new standards will certainly influence other regulatory bodies such as the Public Sector Accounting Board (PSAB) and that they will have significant effects on the financial results of governments.

Enclosed are our detailed comments on the proposals advanced in your exposure draft on service concession arrangements by governments. We trust you will find them useful as you continue your work.

Yours truly,

André Miville, CA
Director General
Professional Practice

Vicky Lizotte, CA
Director, Standards

encl. 1

c. c. Simon-Pierre Falardeau, CA
Comptroller of Finance

SPECIFIC COMMENTS

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator. Do you agree with this approach?

1. Approach based on control (Paragraphs 10 and 11 (page 10), paragraphs AG3 to AG20 (pages 14 to 17) and paragraphs BC10 to BC 14 (pages 28 and 29))

We disagree with the approach based solely on "control" as described in the exposure draft.

Referring to the Canadian conceptual framework of the Public Sector Accounting Board (PSAB), we are of the view that an asset has three essential features:

- ▶ it represents a future benefit in that it may contribute to future cash flows or the supply of goods or services;
- ▶ the government is in a position to control access to this benefit;
- ▶ the transaction or fact at the source of the government's control over such benefit has already occurred.

Therefore, to recognize an asset, the government must also assume the risks and receive the benefits inherent in ownership of the good.

We believe that the approach should be based both on control and on the risks and benefits assumed by each party.

- ▶ In a service concession arrangement agreement, the government, in the public interest, generally retains a certain degree of control regarding the use of the asset. Accordingly, most of the assets included in this type of agreement will be recorded in the government's books despite the fact that the private partner assumes most of the other risks (operational, demand, construction, financial, performance, etc.).

We are of the view that, in substance, service concession arrangements agreements are similar to a lease contract, i.e. a contract by which an entity cedes, for a fixed length of time, the right to use an asset to another entity for a sum of money. Accordingly, an approach based on risks and benefits, like the one used for lease contracts, is more appropriate for the accounting for this type of contract.

2. Distinction between financial liabilities and performance obligations (Paragraphs 19 to 23 (pages 11 and 12), paragraphs AG21 to AG41 (pages 18 to 21) and paragraphs BC10 to BC18 (pages 28 to 30))

Although the concept of financial instrument is not currently incorporated in Canadian standards, we agree with the proposals of the exposure draft relating to liabilities, apart from the fact of not presenting income and expenditure relating to transactions by the partner. Indeed, although these are of an equivalent amount and the impact on results is zero, we believe that this information is relevant in the government context.

Distinguishing among liabilities allows, in particular, non-monetary transactions related to performance obligations to be presented separately from monetary transactions related to the repayment of the financial liability.

3. Theoretical interest expense calculated using the cost of financing of the grantor (Paragraphs AG33 and AG34 (page 20))

We disagree with the proposals regarding the fact that the theoretical interest charge must be calculated using the financing cost of the private partner.

The financing rate must reflect the substance of the transaction between the public and the private partners. For instance, to the degree that the government must recognize the asset and the debt, it is appropriate to justify a financing rate closer to the financing rate on the government's long-term borrowings.

Where a government borrows each year to fund all of its needs and projects and where no project is funded by a specific borrowing, the financing rate the government assumes on its long-term borrowings to calculate the theoretical interest charge is certainly the most appropriate.

The associated costs for the government to carry out its projects, whether under the traditional or the "service concession arrangements" mode, the same rate should be used to calculate the theoretical interest charge, i.e. the financing rate the government assumes on long-term borrowings. In fact, the "service concession arrangements" mode is just an infrastructure acquisition "technique". In our view, the present value of future flows that will have to be disbursed must be analyzed from the standpoint of the "government - investor", not from the standpoint of the capital cost for the private partner that finances the project.

Lastly, the exposure draft does not specify the discount rate that should be applied to determine the value of the asset to record in governments' books. In this regard, we are of the view that the discount rate should be the same as the rate used to calculate the theoretical interest charge, i.e. the financing rate the government assumes on its long-term borrowings.

OTHER POINTSEND OF THE ARRANGEMENT

We believe that the proposed accounting standard must also provide directives or clarifications in the event of non-performance, non-availability or breach of contract of service concession arrangements. While the specific circumstances of each agreement preclude isolating all possible situations, references to existing accounting standards would be useful.

For instance, in the event of the premature end of a service concession arrangement, directions must be provided regarding the revaluation of the asset and liability underlying the agreement. While professional judgement is recommended in each situation, an accounting standard on service concession arrangements that ignores this would be incomplete.



JUN 30 2010

Ms. Stephenie Fox
Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street, 4th Floor
Toronto, Ontario
M5V 3H2

Dear Ms. Fox:

SUBJECT: Exposure Draft – Service Concession Arrangements: Grantor

Thank you for the opportunity to comment on the Exposure Draft – **Service Concession Arrangements: Grantor** that was issued in February 2010.

By way of background, the accounting policies of the Government of Canada are based on the Accounting Standards issued by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA). Our government is therefore not required to follow the International Public Sector Accounting Standards (IPSAS). Nonetheless, we read the consultation paper with great interest since IPSAS have become an increasingly important secondary source of generally accepted accounting principles (GAAP) in Canadian GAAP literature. As well, publicly accountable entities in Canada will be adopting International Financial Reporting Standards (IFRS) in 2011, and, therefore, many service concession operators in Canada will be applying the requirements of International Financial Reporting Interpretations Committee (IFRIC) guidance, IFRIC 12 Service Concession Arrangements.

General comments

In general, we agree with the proposed guidance outlined in the exposure draft, including the requirement that a grantor recognize the property underlying a service concession arrangement as an asset in its financial statements based on the control approach. We agree with the control criteria proposed in the

exposure draft, and that mirroring the scope and approach in IFRIC 12 from the grantor's perspective is appropriate.

Definition of performance obligation

The exposure draft requires the recognition of a liability for a "performance obligation" (paragraph 19) which is to be accounted for in accordance with IPSAS 19 *Provisions, Contingent Liabilities and Contingent Assets*. However, there is no reference in IPSAS 19 to a performance obligation. We suggest that a definition be provided to improve the clarity of this guidance.

Determination of separable payments

We believe that the guidance on determination of "separable" payments, between the asset and service portions of the arrangement, needs to be strengthened. Although the examples provided in the application guidance, in paragraph AG23, appropriately demonstrate situations where the asset portion of the payments may be derived from the agreement, the provision of criteria to assess whether payments are separable would help to ensure that non-substantive contract terms are not applied in such a way that the economic substance of the arrangement is improperly reflected.

Discount rate

The exposure draft requires that, when the grantor compensates the operator by a predetermined series of payments, the portion of the payments that pertain to the asset are recognized as a liability, and the remainder as a finance charge and a service charge. The finance charge is to be determined using the operator's cost of capital, if practicable.

When the payments are separable between the asset and service portions, paragraph AG24 states that the cash price equivalent for the asset is equal to the present value of the service concession asset portion of the predetermined series of payments, unless the fair value is lower. Although not specifically stated, we assume that the discount rate used to calculate this present value would be the same as that applied to determine the finance charge, as would be the case in lease accounting.

The International Public Sector Accounting Standards Board's (IPSASB) consultation paper on Service Concession Arrangements, paragraph 122, indicates that the operator's cost of capital reflects the transfer of financing risk to the operator, and should be used to determine the finance charge because the grantor is subjecting itself to the operator's cost of raising capital.

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However, we believe that this does not reflect the economic substance of the transaction from the grantor's perspective and would produce a result that is inconsistent with a conventional purchase or lease of the asset. In addition, when the payments are separable and the operator's cost of capital is higher than the interest rate implicit in the arrangement and/or the grantor's incremental borrowing rate, using the operator's cost of capital as the discount rate would result in an initial measurement of the service concession asset that is understated.

When it is not practicable to determine the operator's cost of capital, the application guidance (paragraph AG34) permits a choice between: the interest rate implicit in the arrangement specific to the asset, the grantor's incremental borrowing rate or another rate appropriate to the terms and conditions of the arrangement. Each of these is likely to give different results.

We recommend that the discount rate proposed is consistent with that used in applying IPSAS 13, Leases, which requires the use of the rate implicit in the arrangement, if practicable to determine, or, if not, the grantor's incremental cost of borrowing. In addition, we suggest that IPSASB clarifies that the discount rate to be applied to determine the present value of separable payments in the initial measurement of the asset is the same as that used to determine the finance charge.

We thank you again for providing the opportunity to comment on this exposure draft. If you have any further questions related to these comments, please do not hesitate to contact either Ms. Diane Peressini at Diane.Peressini@tbs-sct.gc.ca (613-957-9671) or myself at Bill.Matthews@tbs-sct.gc.ca (613-957-9659).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Bill Matthews", written over a horizontal line.

Bill Matthews
Assistant Comptroller General
Financial Management and
Analysis Sector

c.c.: James Ralston
Comptroller General of Canada



Ms Stephenie Fox
Technical Director
IPSASB
IFAC

Paris, July 15, 2010

Re: Proposed International Public Sector Accounting Standard
ED 43 – Service Concession Arrangements: Grantor

Dear Ms Fox,

MAZARS welcomes the opportunity to comment on the IPSASB Exposure Draft, *Service Concession Arrangements*. This letter provides our views on the issue developed in the above-mentioned Exposure Draft.

We welcome the Board's proposal to set out the accounting requirements of the grantor in a service concession arrangement (SCA). We believe this should enable public sector entities to have consistent accounting practices on the subject and thus strengthen the comparability of their financial statements.

We generally agree with the main principles set out in the Exposure Draft. However the approach proposed by the Board raises some concerns developed below.

1. Scope

An arrangement is within the scope of the present Standard if it is binding on the parties and obliges the operator to provide the public services related to the service concession asset on behalf of the grantor (see ED 43 § 7). We understand that SCA in which the operator is not directly providing public services (such as SCA for prisons and hospitals where the operator has an obligation of construction, financing and maintenance) are in the scope of the ED because the asset is used to provide a public service. But we wonder whether SCA for ski resorts or amusement parks are in the scope of ED 43. **We believe this Standard should give a definition or provide guidance on the notion of “public services”, even if different visions of public services exist in different jurisdiction.**

2. Control of the service concession asset : “mirror principle”

In the introduction of ED 43, it is clearly specified that this Standard is intended to “mirror” Interpretation 12 of the International Financial Reporting Interpretation Committee, “*Service Concession Arrangements*” (IFRIC 12). It is assumed that the grantor controls the concession asset when IFRIC 12 criteria are met (see ED 43 §10). Though we believe this analysis may be retained and acknowledge the control approach, we believe IFRIC 12 states that the operator does not control the Service Concession Asset (SCA) as the arrangement does not convey the right to control the use of the SCA to the operator (see IFRIC 12 § 11). But **IFRIC 12 does not explicitly state, in our view, that the grantor is the entity that controls the SCA. Furthermore, we consider that the “mirror principle” is not an accurate principle. Therefore we would recommend the Board to develop this standard according to IPSAB generally accepted accounting principles.**

3. Continuous recognition of the service concession asset

Where the operator bears the construction risk, the timing of initial recognition of the service concession asset by the grantor will correspond to the end of the construction period, that is to say when the asset is placed into use (cf. ED 43 – AG20). **We believe that, even if the operator bears the construction risk, the analysis of control criteria may lead to the conclusion that control is transferred to the grantor continuously during the construction period.** Indeed, the arrangement may stipulate that the operator bears the construction risk and at the same time that ownership of the service concession asset is transferred to the grantor continuously during the construction period. Furthermore, in case of breach of the contract during the construction period, the arrangement may stipulate that the operator shall be compensated from the grantor for an amount corresponding to the financial investment in the service concession asset incurred by the operator. We believe all those elements constitute indicators that control of the asset may be transferred continuously during the construction period to the grantor (even if the operator still bears the construction risk). Therefore, we consider it would be helpful to develop further guidance on the timing of initial recognition of the service concession asset in the grantor’s accounts.

4. Depreciation of the service concession asset

Even, if the ED states that the SCA should be accounted according to IPSAS 17 “Property, Plant and Equipment” or IPSAS 31 “Intangible asset” as appropriate, we believe the ED could provide more guidance on how the SCA should be amortized.

Indeed, according to the illustrative examples developed in ED 43, we understand that even if the upkeeping and maintenance of the concession asset are in charge of the operator and financed by the operator, the grantor accounts for different components regarding the concession asset. **We believe the Grantor could account for the concession asset as a whole without accounting its components if the upkeeping and maintenance of the asset are financed by and in charge of the operator.** Thus, the asset as a whole would be depreciated in the grantor’s accounts.



5. Government grants related to the service concession asset

We note that ED 43 does not foresee the case when part of the financing of the Service Concession Asset comes from government grants (and not from the grantor). We believe it could be interesting to develop guidance on this issue.

6. Recognition and measurement of the liability (performance obligation)

The grantor recognises a liability described as a performance obligation when the grantor compensates the operator for the service concession asset by granting the operator the right to collect fees from users. According to § 22 of the Exposure Draft, the grantor shall account for this performance obligation in accordance with IPSAS 19 *“Provisions, Contingent Liabilities and Contingent Assets”*. This would imply that the liability should be revaluated at each closing date (see § 45 of IPSAS 19). We do not believe this reassessment would bring any relevant information to the users of financial statements. Furthermore, we note it would be costly and would impose unnecessary burdens on preparers. **We consider this “performance obligation” is no financial liability (as no cash outflow is expected). We believe it is a differed income and should be accounted in accordance with IPSAS 9 “Revenue from Exchange Transactions”. This treatment is, in our view, in line with the provision described in ED 43 AG.** In fact, according to AG38: “As the liability is reduced, revenue is recognized”.

We believe § 23 of ED 43 is not clear. When the operator compensates the grantor for the right to use the Service Concession Asset, we believe the grantor should not recognise a liability according to IPSAS 19 *“Provisions, Contingent Liabilities and Contingent Assets”*. On the contrary, the grantor should recognise revenue according to IPSAS 9 *“Revenue from Exchange Transactions”* and as stated in ED 43 AG 43.

We would be pleased to discuss our comments with you and are at your disposal should you require further clarification or additional information.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'M. Barbet-Massin', with a stylized flourish at the end.

Michel Barbet-Massin

Head of Financial Reporting Technical Support

GOVERNMENTAL ACCOUNTING STANDARDS BOARD

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DAVID R. BEAN
Director of Research

July 30, 2010

Ms. Stephenie Fox
Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street West
Toronto, Ontario
Canada M5V 3H2

Dear Ms. Fox:

We appreciate the opportunity to respond to the International Public Sector Accounting Standards Board's (IPSASB or the Board) Exposure Draft 43 (ED) entitled *Service Concession Arrangements: Grantor*. This response was prepared by the Governmental Accounting Standards Board's (GASB) staff. A draft of this response was provided to individual GASB members for their input. Official positions of the GASB are determined only after extensive due process and deliberation.

As you know, the GASB has a project on its current technical agenda on Service Concession Arrangements (SCA). The GASB recently issued a revised Exposure Draft for comment and anticipates issuing a final standard by the end of the year. Therefore, we believe that both Boards may benefit from the due process feedback and deliberations related to both documents.

Although we support the IPSASB's efforts to address accounting and financial reporting for service concession arrangements by public sector grantors, we have several major concerns about the document as currently drafted. These concerns are highlighted in the specific matter for comment identified in the ED, as well as certain other aspects of the ED. Our comments are provided below.

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

Although we support several of the basic proposals of the ED, we do not support the "mirror image" approach in adopting the principles set forth in IFRIC 12. Although the mirrored approaches will result in consistency in the financial reporting of the public sector grantor and private sector operator to an individual service concession arrangement, particularly the



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recognition of the infrastructure assets underlying the arrangement, the adoption of what we believed are fatally flawed provisions in IFRIC 12 outweighs any of the advantages that consistent reporting would bring. Our concerns with the proposal are discussed below in the Other Comments section of this response.

Other Comments

Our comments on various other aspects of the ED are provided below. These comments are organized by major section of the ED.

Scope

We agree with the concept of the control-based criteria detailed in paragraph 10; however, we do not agree that that the provisions of this Standard should apply to “whole-of-life” assets as discussed in paragraph 11. We question the appropriateness of the accounting treatment of these “whole-of-life” assets because we believe that the government has taken on a regulatory role in directing the activities of the operator that is much more akin to a privatization. The government has no significant residual interest in the property at the end of the arrangement; and therefore, it will not effectively operate the capital asset in the future. We recommend that paragraph 11 of the Standard be removed, as well as all references throughout the Standard to paragraph 11 and “whole-of-life” assets.

Recognition and Measurement of a Service Concession Asset

- We believe that the guidance in paragraph 15 of the ED should be amended as follows to address the measurement of both new and existing assets subject to a service concession arrangement:

The grantor shall initially measure ~~the original~~ a new service concession asset at its fair value. Existing service concession assets as described in paragraph 8(d) should continue to be measured based on the guidance in IPSAS 17.

- We believe that the term “facility” as used in paragraph AG27 should be replaced with “service concession asset” in order to be consistent with the terminology used throughout the ED.

Recognition and Measurement of Liabilities

- We do not agree with the premise in paragraph 19 of the ED that the grantor shall recognize a liability at the same amount that it recognizes a new service concession asset. As noted in paragraph 48 of the GASB Revised Exposure Draft, “The amount of consideration is not an obligation that is expected to be settled through repayment, and the Board is concerned that including the entirety of the amount as a liability may confuse readers who are trying to assess the magnitude of claims against the government’s financial resources. While a transferor has an obligation to provide an operator with access to the facility, the *value* of the transferor’s obligation to allow access does not vary according to the amount of



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consideration received. Therefore, the fair value of a contributed asset or the present value of consideration received would not properly measure this obligation. The Board is not aware of a reasonable, practical proxy that would reliably measure the obligation to *allow access*. To the extent that the agreement does not impose upon the transferor an obligation to sacrifice financial resources, the Board believes that a transferor's receipt of an up-front payment or the present value of installment payments is more faithfully represented as an acquisition of net assets applicable to a future reporting period."

- Paragraph 22 of the ED states that a grantor should report a performance obligation in accordance with paragraph 19 when the grantor compensates the operator by granting the operator the right to collect fees from users of the service concession asset or by granting the operator access to another revenue-generating asset for its use. The question then becomes, how would a grantor value that liability and what would the grantor debit in that transaction when an upfront payment is not provided by the operator? We do not believe the recognition of the liability by the grantor should result in the recognition of either an asset or an expense. We believe further guidance on accounting for this transaction is needed before the final standard is issued.

* * * * *

The GASB appreciates the opportunity to respond to this Exposure Draft. Please contact me at (203) 956-5244 if you wish to discuss any of the issues raised in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. R. Bean".

David R. Bean



July 29, 2010

CLIFF #: 228757

Website: <http://web.ifac.org/my/exposure-draft/comments/create/134>

280-30

Technical Director
International Public Sector Accounting Standards Board
International Federation of Accountants
277 Wellington Street West
Toronto, Ontario, M5V 3H2

Dear Technical Director:

RE: Exposure Draft on Proposed International Public Sector Accounting Standard Service Concession Arrangements: Grantor

Thank you for the opportunity to comment on the exposure draft on the proposed International Public Sector Accounting Standard – Service Concession Arrangements: Grantor. The views expressed in this letter reflect the views of the government of the Province of British Columbia.

The Province of BC disagrees with service concession arrangement assets being recognized at their fair value. Recognition at fair value is inconsistent with IPSAS 17 – Property Plant and Equipment section 26, which requires that “An item of property, plant, and equipment that qualifies for recognition as an asset shall be measured at its cost.” It is also inconsistent with Canadian Public Sector GAAP which requires that tangible capital assets should be recorded at cost. IPSAS 17 only allows property plant and equipment to be recognized at fair value when an asset is acquired through a non-exchange transaction. Clearly, a service concession arrangement is not a non-exchange transaction. The Province of BC requests that IPSASB reconsider the recognition basis of service concession arrangement assets and ensure that they are recognized on the basis of cost, which is consistent with the existing IPSAS GAAP on property plant and equipment. The service concession asset should only be recognized at fair value when cost is not readily determinable from the service concession arrangement’s concession agreement. The Province of BC has implemented several service concession arrangements. In all of these instances, the service concession assets were recognized at cost with cost being determined from the concessionaire’s model of the project, which was included with the service concession arrangement’s concession agreement. The service concession arrangements were undertaken after a competitive process, thus the service concession arrangement assets’ costs were also equal to their fair value.

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Section 10-14 of the exposure draft deals with the recognition and measurement of service concession assets. These sections provide no guidance on whether the service concession asset is recognized throughout the construction period or at the completion of the construction period. The Province of BC believes the guidance would be enhanced if an additional section was added that clarifies that the service concession asset and the related liability should be accrued throughout the construction period. This clarification is paramount for those service concessions arrangements that include either an acceptance clause at construction completion or title to the asset remains with the operator until the completion of the service period. The province's experience with service concession arrangements implemented in BC is that the lack of guidance related to service concession assets and related liabilities during the construction period will lead to theoretical discussions as to whether the service concession asset and related liability should be accrued throughout the construction period or recognized only when construction has been completed and service has commenced. The guidance in the service concession agreement IPSAS should complement the guidance in IPSAS 19 – provisions, Contingent Liabilities and Contingent Assets, which requires that a liability be accrued throughout the construction period.

The exposure draft in paragraph 20 requires a liability to be recognized in the same amount as the service concession asset. The Province of BC agrees with recognizing a liability in the same amount of the service concession asset unless the service concession asset is being paid for by a combination of up-front payments and payments over the term of the concession agreement. The province suggests that the wording be changed so that up-front payments are not recognized as part of the service concession liability as follows:

The liability recognized in accordance with paragraph 19 shall be initially measured at the same amount as the service concession asset measured in accordance with paragraphs 15–17 unless the grantor makes payments to the operator during the construction period; in which case, the liability shall be initially measured at the same amount as the service concession asset less any payments made by the grantor to the operator during the construction period of the service concession asset.

The exposure draft in paragraph 22 refers to the operator being compensated by being granted the right to collect fees from users of the service concession asset or by granting the operator access to another revenue-generating asset for its use. In paragraph 24, the exposure draft states that grantor shall account for revenue from a service concession arrangement in accordance with IPSAS 9 – Revenue from Exchange Transactions. The exposure draft fails to provide any guidance on whether the revenue from the fees collected from users of the service concession asset or the revenue received from the grant of another revenue generating asset are the revenue of the grantor or the operator. The IPSAS on service concession agreements should provide guidance stating when the grantor controls the amount of revenue that the operator can charge users, then the fees collected from users are the revenue of the grantor, and that the full amount of fees collected should be accounted for according to IPSAS 9. Likewise, when the grantor grants the operator another revenue-generating asset to compensate the operator for the service concession arrangement and the grantor controls the fees that the operator collects

from the revenue-generating asset, that the full amount of the fees collected should be accounted for by the grantor according to IPSAS 9. The IPSAS on service concession arrangements should also make clear that when fees are controlled by the grantor, that the full and entire amount of the fees are the revenue of the grantor, and that the amount of the fees retained by the operator are an expense of the grantor.

The Province of BC agrees with the proposed guidance requiring the use of the effective interest rate with respect to the service concession liability's finance expense. The province suggests that the service concession accounting standard should include application guidance and/or examples on calculating the effective interest rate and the periodic amounts of finance expense. The province has used the information contained in the concessionaire's model as the basis of determining the amount of the finance expense and the effective interest rate. The province, using its experience with implementing service concession arrangements, would be willing to work with IPSAS staff in preparing both application guidance and examples of determining the effective interest rate and the application of the effective interest rate to the periodic accounting of the arrangement's finance expense.

The Province of BC disagrees with the disclosure provisions in paragraphs 26-28 of the exposure draft. The disclosure provisions of paragraph 26-28 will result in very detailed disclosures about each service concession arrangement that an entity enters into and the resulting detail will detract from the usefulness of the financial statement notes. The province suggests that IPSAS consider simplifying the service concession agreement disclosure requirements so that they are consistent with the Canadian public sector section 3390, which provides guidance on the disclosure of contractual obligations. This section requires the following disclosure about contractual obligations whether or not they are part of a service concession arrangement:

Information about a government's contractual obligations that are significant in relation to the current financial position or future operations should be disclosed in notes or schedules to the financial statements and should include descriptions of their nature and extent and the timing of the related expenditures.

Contractual obligations that would be disclosed include, but are not limited to, the following types:

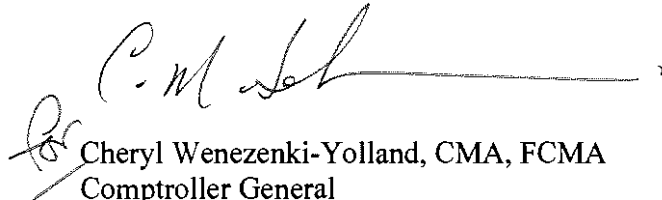
- (a) contractual obligations that involve a high degree of speculative risk;
- (b) contractual obligations to make expenditures that are abnormal in relation to the financial position or usual business operations; and
- (c) contractual obligations that will govern the level of a certain type of expenditure for a considerable period into the future.

The Province of BC disagrees with the re-valuation method described in section 44 of IPSAS 17 – Property Plant and Equipment. The Canadian public sector conceptual framework requires recognition based primarily on the historical cost basis of accounting. Other recognition methods are allowed, but only in limited circumstances. If fair value is used as the basis of recognition for service concession assets, it is possible that these

assets would be re-measured using the re-valuation model which would result in a distortion of the entity's operating results.

The Province of BC's response to specific question posed in the exposure draft is attached. Should you have any comments or questions, please contact me at 250-387-6692 or by e-mail: Cheryl.Wenezenki-Yolland@gov.bc.ca, or Carl Fischer, Executive Director, Financial Reporting and Advisory Services Branch, at 250-356-9272 or by e-mail: Carl.Fischer@gov.bc.ca.

Sincerely,


Cheryl Wenezenki-Yolland, CMA, FCMA
Comptroller General
Province of British Columbia, Canada

cc: Graham Whitmarsh, Deputy Minister
Ministry of Finance

Nick Paul, Deputy Secretary to the Treasury Board
Ministry of Finance

Carl Fischer, Executive Director
Financial Reporting and Advisory Services
Office of the Comptroller General

Guide for Respondents

The IPSASB would welcome comments on all the proposals in the Exposure Draft. Comments are most helpful if they indicate the specific paragraph or group of paragraphs to which they relate, contain a clear rationale and, where applicable, provide a suggestion for proposed changes to the Exposure Draft.

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

No. The Province of BC does not believe that the IPSASB GAAP for service concession agreements should mirror the principles set out in IFRIC 12. As noted in the letter above, the Province of BC disagrees with service concession arrangement assets being recognized at their fair value. Recognition at fair value is inconsistent with IPSAS 17 – Property Plant and Equipment section 26, which requires that “An item of property, plant, and equipment that qualifies for recognition as an asset shall be measured at its cost.” It is also inconsistent with Canadian public sector GAAP which requires that tangible capital assets should be recorded at cost. IPSAS 17 only allows property, plant and equipment to be recognized at fair value when an asset is acquired through a non-exchange transaction. Clearly, a service concession arrangement is not a non-exchange transaction. The Province of BC requests that IPSASB reconsider the recognition basis of service concession arrangement assets and ensure that they are recognized on the basis of cost, which is consistent with the existing IPSAS GAAP on property, plant and equipment. The service concession asset should only be recognized at fair value when cost is not readily determinable from the service concession arrangement's concession agreement. The Province of BC has implemented several service concession arrangements. In all of these instances, the service concession assets were recognized at cost, with cost being determined from the concessionaire's model of the project which was included with the service concession arrangement's concession agreement. The service concession arrangements were undertaken after a competitive process, thus the service concession arrangement assets' costs were also equal to their fair value.

The exposure draft in paragraph 20 requires a liability to be recognized in the same amount as the service concession asset. The Province of BC agrees with recognizing a liability in the same amount of the service concession asset unless the service concession asset is being paid for by a combination of up-front payments and payments over the term of the concession agreement. The province suggests that the wording be changed to so that up-front payments are not recognized as part of the service concession liability as follows:

The liability recognized in accordance with paragraph 19 shall be initially measured at the same amount as the service concession asset measured in accordance with paragraphs 15–17 unless the granter makes payments during the construction period in which case, the liability shall be initially measured at the same amount as the service concession asset less payment made during the construction period.

The Province of BC disagrees with the disclosure provisions in paragraphs 26-28 of the exposure draft. The disclosure provisions of paragraph 26-28 will result in very detailed disclosures about each service concession arrangement that an entity enters into and the resulting detail will detract from the usefulness of the financial statement notes. The province suggests that IPSAS consider simplifying the service concession agreement disclosure requirements so that they are consistent with the Canadian public sector section 3390, which provides guidance on the disclosure of contractual obligations. This section requires the following disclosure about all contractual obligations, whether or not they are part of a service concession arrangement:

Information about a government's contractual obligations that are significant in relation to the current financial position or future operations should be disclosed in notes or schedules to the financial statements and should include descriptions of their nature and extent and the timing of the related expenditures.

Contractual obligations that would be disclosed include, but are not limited to, the following types:

- (a) contractual obligations that involve a high degree of speculative risk;
- (b) contractual obligations to make expenditures that are abnormal in relation to the financial position or usual business operations; and
- (c) contractual obligations that will govern the level of a certain type of expenditure for a considerable period into the future.



September 22, 2008

Cliff# 178211

E-mail: edcomments@ifac.org

Stephanie Fox
Technical Director,
International Public Sector Accounting Standards Board,
International Federation of Accountants,
277 Wellington Street West,
Toronto, Ontario, Canada, M5V 3H2

Dear Stephanie Fox:

RE: Discussion Paper on Service Concession Agreements (SCAs)

Thank you for the opportunity to comment on the International Public Sector Accounting Standards Board's (IPSASB) consultative paper on service concession agreements.

We would like to commend the team that has undertaken the drafting of this paper. While we are raising some areas or approaches for further analysis or discussion, we appreciate the difficulty in addressing this complicated topic.

We agree with the consultative paper identifying the issue of "control" as being central to the accounting for SCAs. However, we suggest that the paper focuses too much on the technical aspects of the contract. While we recognize that in analyzing the contractual arrangements the paper takes a perspective of substance over form, we suggest the paper needs to look beyond the contract and take a more holistic perspective. In our experience involving in excess of two dozen SCAs, all but one SCA result from the government's initiative¹. We will outline in point form some of the issues we feel need to be considered in establishing who takes the initiative in SCA arrangements and who has control over the SCA and/or the assets covered in the SCA. We will elaborate on each point below, as follows:

¹ The one exception involves the construction of a road into a natural resource area where the Government is acting as the honest broker to ensure engineering standards for a road and recovers all costs from several competing private sector companies which have natural resource extraction licenses active in the area.

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- Are the assets/utility to be provided already identified under a government forward looking or multi-year sector master plan for provision of services to the public?
- Who establishes the bidding rules and controls the bidding process by defining the project and issuing the Request for Proposals (RFP), pre-qualifying bidders, ranking the bids, and selecting the successful bidder?
- What are the provisions for addressing defaults under the contract and does this indicate who has control and whose interests are protected?
- Who has title to the new assets and when is title transferred to the government?
- Who has title to the land under the new assets and/or the existing assets being upgraded?
- Who inspects the construction and who accepts the construction as meeting standards/requirements?
- Who inspects the quality of the maintenance/operations of the assets and who may impose penalties for non-compliance with service standards?
- Are there any guarantees or warranties included in the contract?
- Are there any incentive payments or conversely penalties based on the defined condition of the asset at the end of the contract?
- Is management of the asset assumed by the government at the end of the contract without any payment to the operator, or is there any payment made at the end of the contract for a purchase or transfer of title to the asset?

Contract Law

We recognize that SCAs are covered by “contract law”, the provisions of which will be different in different jurisdictions. Contracts will be written in response to existing legislation, case law and local practices. We support the principle of considering “substance over form” but recognize that an issue such as when title to the asset transfers may respond to local legal requirements and may also influence the analysis of a transaction. Our comments are influenced by the law in our jurisdiction.

Government’s Sector Master Plans

We feel that understanding the “big picture” is important in addressing substance over form when analyzing the SCA. In our jurisdiction, a decision to build a bridge over a specific river at a specific location is made as part of the government’s multi-year transportation master plan; likewise a decision to build a hospital or school in a specific location involve master plans for the delivery of those public services. We would expect that normal planning practices in most developed country jurisdictions would include forward looking sector-based master plans for the provision and/or expansion of public services. We acknowledge that although the “big picture” may indicate the government is in control of the events, it is still necessary to determine whether the government has relinquished that “control” through the SCA contract. Although, in circumstances where the initiative to identify the public service needs and plan to respond to those needs was taken by the government, the presumption should be that the government is controlling the decisions and the burden of proof should rest on demonstrating or proving the government relinquished control.

Bidding Process

The government drafts the RFP defining the assets to be constructed, improved, expanded, etc. (the project); the government pre-qualifies bidders, evaluates the bids and selects the most responsive or preferred bidder. The government negotiates the contract with the preferred bidder, which often involves several rounds of negotiations in which the assignment or allocation of risks, fees to be paid for the assumption of risks, the construction cost of the assets, the duration of the contract and the financing charges will be negotiated and agreed. These are arm's length negotiations and represent market-based determinations of the various costs as the end result of a competitive bidding process. These represent normal business negotiating practices.

Contract Default Provisions

We feel that analysis of the SCA when it is under stress is another useful method to reveal who is the true owner or entity exercising control and who is the service provider. We feel this should be included in your analysis of SCAs.

Our experience, in which most SCAs are "Design, Build, Finance and Operate" (DBFO) or "Design, Build, Finance and Maintain" (DBFM) contracts, indicates that important aspects of a "typical" set of contracts have not been described in the consultative paper. In addition to the master Public Private Partnership (PPP) agreement you show in Chart A, there are also sub-agreements (attached to the main agreement) between the government and each of the construction contractor and the maintenance contractor on one side, and between the government and the financiers of the SCA on the other side. In addition, there are sub-agreements between the construction contractor and the financiers, and between the maintenance contractor and the financiers. An important aspect of these contracts is what happens if one party is in default under a contract. In all cases, there is a Special Purpose Vehicle (SPV) that exists as a legal entity between all the interested parties and through which all contracts and cash payments flow. We feel it is necessary to take a holistic view of all aspects of all the contracts to properly understand the substance of the arrangements. We will outline the general purpose of these contracts below:

- The contract between the government and the construction contractor "drops down" all the "rights and privileges" contained in the master PPP agreement, in respect of the physical asset being constructed. It will include the definition of the asset to be provided and the service levels that must be met and maintained, as well as the right to access the government's land or other assets. It will also include a "contract to complete" allowing the government to intervene directly with the construction contractor in the event of a default by the financiers to provide financing to the contractor assuming the contractor is not in breach of the construction contract. This provides the government with comfort that it will get the asset covered by the contract in the event of a failure by the financiers to arrange or deliver the financing.
- Similar agreements apply to the long-term maintenance contract covering the asset from "substantial completion" to termination of the SCA. This contract will also include a "contract to complete" allowing the government to intervene directly with the maintenance contractor in the event of a default by the financiers to provide financing to the contractor, assuming the contractor is not in breach of the maintenance contract. This

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contract will include price inflation adjustments and the opportunity to replace the maintenance contractor in the event the service can be obtained elsewhere for a lower cost.

- The contract between the government and the financiers provides for intervention by the financiers directly with the construction contractor to prevent the government declaring the construction contractor in default under provisions of the construction contract. This protects the financiers, allowing them to correct any construction deficiency that would prevent them from receiving payments from the government under the master PPP agreement. This also protects the government from having to address non-compliance under the construction contract and enforces the fixed price cost of the asset. If the financiers cannot resolve the issue, the government will have the right to step in to protect its rights to ensure it gets the assets in question.

In our view, all of the above contract provisions exist for good business reasons and we expect that they will be present in all SCAs in some form depending on the legal environment in which the SCA exists. In our view, the substance of these agreements is to ensure that the asset or service identified by the government is delivered to the government on time and within the agreed price. There are various mechanisms to permit one or another party to intervene to ensure this happens and that all parties get paid for the risks they have agreed to assume. In our view, this is a fixed price contract for the provision of an asset or series of assets, and a maintenance contract wrapped up in a financing arrangement.

Title to "Project" Assets

Transfer of title to the "project" assets is another indicator of control. In our jurisdiction, we have not experienced a single SCA in which title does not transfer progressively through the construction period. One of the business reasons for this is that insurance costs on assets under construction are prohibitive and the construction firm benefits by transferring that risk to the government as soon as possible. Many governments, including ours, practice self-insurance on capital assets and are generally willing to assume this risk, thus reducing the total cost of the project it will receive. While the concessionaire retains the "risk" of delivering the asset within an established fixed price, the risk of loss is immediately transferred to the government. This type of arrangement is more consistent with a purchase of an asset rather than with the operator building and owing the asset and providing a service to the government.

In our jurisdiction, there is case law supporting the establishment of a "constructive obligation" to pay a contractor for work completed. The establishment of this liability is consistent with the timing of the transfer of title. The concessionaire makes sure that they do not hold title to anything; even aggregate is transferred on delivery before it is used to make concrete. The establishment of a constructive obligation (to pay either the contractor or the concessionaire) and the transfer of title occur almost simultaneously, and we record an asset "construction in progress" and an "accrued liability".

There is discussion in the paper regarding the timing of the transfer of rewards and risks in relation to when to recognize the asset on the accounts of the government. Again, we recognize

that legal realities will differ by jurisdiction, but we find it unreasonable from a business perspective to assume there is no legal protection of contractors under these circumstances in developed country jurisdictions. Paragraph 36, in discussing the UK, guidance suggests that construction risk is not relevant to determining who has an asset because the construction risk occurs before the service concession period starts. We would agree that who bears the construction risk is not of itself indicative of who owns or controls the asset. Under any fixed price construction contract, the contractor assumes the construction risk but expects to be paid according to the contract for the asset as built via progress payments. In the cases we have seen, the title is passed to the government and the payment of the progress payment is made by the financiers. The government still sets up an asset and an accrued liability.

Paragraph 108 suggests that until risks and rewards are transferred, the transaction to acquire the property can be cancelled without cost. We have not yet seen a contract that does not have serious penalties for cancellation of the contract even if cancellation occurs 24 hours after signing the contract. Even at that point, the concessionaire has incurred significant costs in bidding and setting up financing arrangements and the concessionaire has immediate profit expectations that will be protected under the contract.

Ownership of Land

The paper does not address the ownership of the land under the asset being built or the ownership of the land plus the existing asset in the case of an expansion, renovation or upgrade of an existing asset. If ownership, beneficial ownership or control of the “project” is intended to rest with the operator, we would expect the agreement to either sell the land and/or the existing asset being upgraded to the operator or to lease them even if at a nominal value to ensure the legal right to utilize the land or existing asset is secure. We are not convinced that a clause that grants access to undertake the work is consistent with the benefits or legal standing of a lease. An argument might be made that it doesn’t matter if the land is leased at a nominal rate or at a market rate but it will matter if the intention is to have a revenue generating “project”, such as a toll road, set up as a GBE because to qualify as a GBE the entity cannot receive a subsidy from the government. In this context, we are describing a GBE that is set up to hold the government’s interests separate from the SPV that facilitates the contracts referred to above and in which, in all our cases, the government does not hold any equity in the SPV. We recognize that the government could hold equity in the SPV, but that would undermine the intention of transferring risks away from the government and depending on the amount of equity held, could mean either consolidation or equity basis of accounting for investments which also seems to undermine the goals of establishing SCAs.

The issue of land ownership is particularly relevant when considering the “value” of the asset at the end of the contract. If there is a lease or deemed lease, our jurisdiction’s legal status is clear - all leasehold improvements revert to the landlord at no cost when the lease expires. If ownership of the land remains with the Government, there must be an assumption that the asset built on the land is or will become the property of the land owner at the expiry of the lease at no cost unless specified in a lease. We will discuss issues involving capital leases below.

In addition, there are cases where some land or "rights of way" needs to be acquired to build the asset; all such acquisitions are made by government because only the government can exercise the right of "eminent domain".

Inspection of Construction and Maintenance and Warrantees/Guarantees

The investors require that an independent engineering firm carry out regular surveys to independently assess the degree of progress in implementing the project and to audit the quality of the engineering work being done by the construction contractor. This again is a reasonable business action by the investors who want to ensure the government is not able to withhold or reduce payment under the contract due to deficiencies in the performance of the construction contract. This assessment, usually undertaken several times during the fiscal year and usually just prior to the contractor's progress payment requests and at least at the fiscal year end, provides the basis for measuring construction in progress. In addition, the government undertakes its own independent engineering inspection of the asset being constructed under the master contract which includes provision to uncover or open construction completed where there is concern that there may be a deficiency in the construction.

The contract will also include specified levels of maintenance which will be monitored by the government and penalties will be enforced for non-compliance with the contract. One of the major benefits of SCAs is the innovation and management skills the private sector brings to the project. The government can define the project somewhat in general terms as a road from A to B. The agreement may require that the road handles an agreed traffic volume and is open year round, etc. with penalties for not achieving these goals. The paper notes that where these penalties can affect the profit of the operator, this suggests that control rests with the concessionaire. We generally see these penalties in a different light. If the contract defines the road as having to meet a specified capacity and be open year round, etc., it is up to the concessionaire to design the road to meet these requirements. There are trade offs with all construction in which more or less capital investment will result in a different amount of maintenance cost over the life of the road. For example, building more or higher retaining walls to prevent rock slides means more capital expenditure up front and less maintenance or rock clearance and interruption of availability after construction is complete. We feel serious consideration needs to be given to viewing the availability requirements, etc. as warrantees or guarantees of the quality of the construction rather than any sharing of risks, etc. The government inspects both the quality of the maintenance directly and through monitoring the compliance with performance requirements, and imposing penalties for underperformance ensures that both the construction and the maintenance of the project are sufficient to meet the standards set in the contract. We feel that the penalties the government may impose for not meeting the performance levels specified will act as disincentives for the contractor to underperform the required level of construction and maintenance. In principle, this is not significantly different from the power train or other performance guarantees on an automobile.

Similarly, the requirement that the road must be in a specified condition at the end of the contract is a warrantee or guarantee of the trade-off between capital investment and maintenance, as well as an assurance that substantive maintenance (i.e. the resurfacing of a road prior to the end of the contract) will be properly undertaken. Usually, there is a financial incentive to ensure the quality

of the asset. This usually involves one or both of an incentive bonus if the asset meets an agreed standard at the end of the contract, and/or there is a withholding of between one and three year's availability payments which are released on an independent engineering assessment of the quality of the asset. If the quality is not achieved, the withheld funds are utilized to achieve the defined quality for the asset. In our view, the retention of three years worth of payments by the "lessee" under a contract to ensure the asset is in good condition is not indicative of a capital lease and certainly not an operating lease.

Transfer of Asset at the End of Term

We have noted above that in our jurisdiction title transfers during construction and that one of the reasons for this is the transfer of the insurance risk. We noted above that in our contracts there is specific provision in the sub-contracts that permit the government to intervene in the case where the contractor is not being funded by the financiers and is not in breach of the construction contract. Similarly, the contract allows the concessionaire to intervene to prevent the government declaring a default under the construction contract. The point being that the government is always in a position to ensure or to control the events to ensure it will get the asset defined in the RFP it put out for bids, at the price agreed and delivered within the time frame defined. Whether title is transferred during construction or at the end of the contract, we still have a capital asset. The issue is how to calculate the cost of the asset.

We have some difficulty with the discussion of consideration of the SCA as a lease. First, we do not consider any of these contracts operating leases because the asset is transferred to the government. We agree that under contract law no two contracts are the same, but in general we do not see SCAs as capital leases because:

- a. The benefits of the contract, that is the provision of assets to provide services to the public, accrue to the government but risks are assigned to the concessionaire (for a fee) which is not consistent with the definition of a capital lease in which both the benefits and risks flow to the lessee.
- b. In the event that it is determined that the contract is a capital lease, we question the choice of the cost of capital to the operator as the discount rate, as follows:
 - i. We understand the argument you are using that the cost of capital to the operator is more relevant, but this is not consistent with the approach in the IPSAS capital lease standard and we do not support having two standards referring to capital leases which contradict each other in terms of what discount rate to use. Only one discount rate can be conceptually correct in both cases.
 - ii. In order to determine the cost of capital to the operator, we believe the financial projections we will discuss below would be required and in addition to providing the cost of capital for the construction contract, the financial projections will provide the asset cost.
- c. We are concerned that the cost of capital to the operator would not be correctly calculated under the proposal in the consultative paper. The SPV will borrow

from banks, pension funds, etc., but this is not the true cost of capital to the project from the point of view of the government. The return to the investors (usually identified in the financial projections as dividends) comes out of the proceeds of the stream of payments made by the government and therefore, from the government's perspective constitute financing costs. The true cost of capital to the project from the perspective of the government is the imputed rate to bring the total liability (equal to the cost of the asset) to nil based on the payment stream made by the government, which includes the return to the investors. In practice, this is close to the Internal Rate of Return included in the financial projections used by the concessionaire and included in the agreement. The actual imputed rate will be a little different mainly because of the inclusion of the return on equity as part of IDC in our accounting model. We have previously provided your staff with details of how we calculate the cost of the asset based on the fixed price construction contract plus interest during construction based on the bank/pension fund financing of the project within the SPV plus the return on equity by the SPV equity holders.

- d. If you follow the existing capital leasing requirement that the cost of capital to the government should be used to discount the stream of payments, you will find that the discount rate is much lower than the cost of capital determined within the financial projections. We would expect this to be true since the comparison is between a sovereign government borrowing and the financing in the SPV supported by the credit rating of the private sector concessionaire. The Net Present Value (NPV) result will be a large number which will exceed the replacement cost and you will immediately have to apply the Impairment Standard.

At the point of time that the government is making a decision to sign the agreement, the only relevant discount rate from the government's perspective is the government's marginal borrowing cost. To evaluate the investment, the government looks at the "public sector comparator" based on building the asset themselves (direct Design Build contracting by the government) plus self-maintenance for the defined period, compared with a stream of payments to have the asset built and maintained through the SCA. In making that decision, the comparison is between the NPV of the government's stream of payments directly to the Design Build contractors to build and maintain the asset, and the NPV of the stream of payments to the SCA. In comparing these alternatives from the government's perspective, the current or marginal cost of capital to the government is the only relevant discount rate to use in both cases.

Sharing vs. Assigning Risk

We are uneasy with references in the consultative paper that risks are "shared". In our view, only those risks that are specifically identified in the set of contracts are "assigned" (not shared) for which a fee is paid to the party assuming the risk. The term Public Private Partnership is a misnomer in that there is no "joint and several" assumption of risks or liabilities as seen under

law covering partnerships. Furthermore, we have not seen any agreements make reference to a partnership or to a limited partnership. If risks are not identified in the contract, they fall to the government. We have identified certain risks which consistently are not assigned to third parties under SCA agreements we have entered into. These risks are assumed by the government by default and include:

- Pre-existing environmental damage, whether or not identified or tagged at the time of negotiation (identified pre-existing environmental damage repair may be included in the scope of the project and covered by an additional fee);
- First Nations (Aboriginal) people's land claims;
- Force Majeure risks;
- All residual risks of providing satisfactory service to the public; and
- Any risk(s) not specifically identified in the project agreement.

There are additional aspects of the contracts associated with SCAs that we find consistently apply. These include:

- Detailed financial projections are prepared for the project covering the revenue stream received from the government and all disbursements to complete the delivery of the assets and services specified in the agreement. This includes the cost of the fixed price contract to build the asset, the cost of the maintenance contract, the financing cost paid to lenders and the return to the equity investors. We expect these exist for all SCAs because it is a reasonable business practice for investors who are investing hundreds of millions, if not billions of dollars, to want to see the expected return on their investment and to provide a cost estimate to be used to monitor actual implementation cost. These financial projections are utilized by both parties to the negotiations in reaching financial closure. We have asked for and received these in all SCAs entered into by our government. We now require their provision together with quarterly financial statements of the SPV as part of all future agreements. The financial projections in all cases start with a nil cash balance and end with a nil cash balance (after the final payout to the equity holders) and represent the best estimate of the allocation of the stream of payments received by the SPV from the government to the goods and services provided by the concessionaire. The financial projections are audited and signed by all parties to the agreement. These financial projections are fundamental to the investor's/concessionaire's decision to participate in the project.

There are certain other basic or conceptual aspects of the paper that we would like to discuss which we feel are fundamental to determination of ownership and/or control. These include:

- SCAs which involve the collection of a tariff need to be looked at carefully. Clearly, in the case where the government collects the tariff and pays availability payments, maintenance payments, etc. to the operator, this evidence suggests the government is in control. However, the fact that the concessionaire/operator collects the tariff does not necessarily mean that the operator is in control. We are aware of a case in which the operator will collect the tariff from the public and will retain the tariff in excess of a minimum payment to the government. The intention is to assign the tariff revenue risk to the operator and allow them to earn additional income if the quality of service results in excess tariff collection. However, the operator negotiated a guarantee for a minimum tariff collection to protect what would otherwise be an availability payment.

To complete the analysis, we need to look at the tariff setting regime in the applicable jurisdiction. In our jurisdiction, legislation states that only the government may set tariffs. The agreement sets out a formula and a range of tariffs within which the operator may set project tariffs. We do not see this as an abrogation of the government's right to set tariff, rather we see it as the government exercising its right to set tariff and that the operator is acting as an agent of the government in collecting the tariff, even in the case where the operator retains some or all of the tariff to pay for the assets built. The total tariff collection should be shown as gross revenue by the government or its GBE and the amounts retained by the operator according to their nature, i.e. repayment of the long-term liability associated with the capital asset and a payment for maintenance services. This gross-up approach would be consistent with the theory being applied in the IPSAS non-tax revenue standard.

- We have concerns with the manner in which the paper identifies fair value as the basis for valuing the asset. We agree that in cases where cost is not evident (i.e. when an asset is donated to government), the cost is determined based on the market or fair value of the asset. That number is subsequently treated in all respects as if that is the cost of the asset at the time of acquisition and may be subject to depreciation or amortization. We feel that this situation is what is being described in the paper rather than a market based model. In this case, we prefer that the paper in all subsequent references refer to the number however determined as "cost". This is the presentation used in the Tangible Capital Asset standard.
- We do not agree with any consideration of the liability created under SCAs as a financial instrument. The liability, based on the cost of the asset plus interest during construction, is in the nature of a mortgage on non-tradable fixed assets which will be held to maturity.
- We have observed that the equity holders of the SPV are usually financial institutions or the financing arm of an engineering firm. Once the construction risk is removed, the SCA is basically a maintenance contract. Once the maximum profit has been earned covering the construction risk, the financial investors holding equity in the SPV usually want to get their capital out to invest in another SCA. We have seen cases where the equity in the SPV is sold to an institution that is interested in the long-term yield on that investment. We are not convinced that SCAs always represent a long-term relationship between the government and the original investors.

Our basic view is that SCAs are a procurement mechanism for the purchase of Tangible Capital Assets. We have had no difficulty in obtaining the detailed financial plans for the SCA and we feel we can identify the construction cost of the asset. We can estimate the percentage of construction in progress based on the independent engineer's report. We can identify interest during construction based on the cost of borrowing within the SPV and the return to the investors holding the share capital of the SPV. We can identify the liability under the principle of constructive obligation during the construction period and as the equivalent of a mortgage thereafter. We can relate the stream of payments made by the government as mortgage payments

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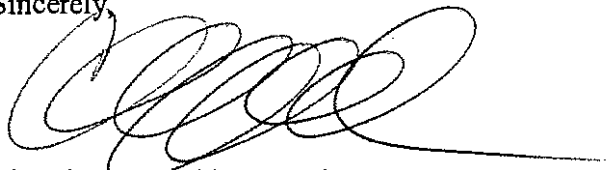
broken down between interest and capital payments, and the maintenance cost of the assets acquired.

We have discussed SCA agreements with a major law firm which has experience advising either governments or Concessionaires in Canada, Europe and in Asia. In their experience, the model we have described is consistently used across Canada, and in Europe and Asia subject to small differences to address differences in contract and taxation law. We therefore feel that our experience is not unique and is relevant to setting a global accounting standard.

Our responses to the specific questions are included in the attached document.

If you have any questions concerning this submission please contact me at (250) 387-6692 or by e-mail: Cheryl.WenezenkiYolland@gov.bc.ca, or Carl Fischer, Executive Director, Financial Reporting and Advisory Services Branch, at (250) 356-9272 or by e-mail: Carl.Fischer@gov.bc.ca.

Sincerely,



Cheryl Wenezenki-Yolland, CMA, FCMA
Comptroller General

cc: Carl Fischer, Executive Director
Financial Reporting and Advisory Services
Office of the Comptroller General

Chris Trumpy
Deputy Minister
Ministry of Finance

Nick Paul
Assistant Deputy Minister
Treasury Board Staff



**Service Concession Agreements
Response to Questions Raised in the Discussion Paper**

1. It is proposed that a grantor report the property underlying an SCA as an asset in its financial statements if it is considered to control the property. Criteria for determining control are proposed in the Consultation Paper. Do you agree with this approach and the control criteria identified? (See Paragraphs 28-104)

We agree that the property underlying an SCA should be reported as an asset of the Government when the Government controls the asset. Please refer to our letter for further detailed reasoning for this conclusion.

2. It is proposed that the underlying property reported by the grantor as an asset and the related liability (reflecting any obligation to provide compensation to the operator) is initially measured based on the fair value of the property other than in cases where scheduled payments made by the grantor can be separated into a construction element and a service element. In such cases, the present value of the scheduled construction payments should be used if lower than the fair value of the property. Do you agree? (See Paragraphs 105-140)

We disagree that fair value should be used as the basis to determine the values of the asset and the related liability. The types of assets that are included in a SCA, such as roads and hospitals, are not traded in an active market and as a result, it will prove very difficult to determine their fair value. In addition, there may not be practitioners who are able to determine the fair value of public assets. We do not support undertaking an asset replacement cost valuation when the cost of construction should be readily available.

We believe that cost is a more effective method of determining the asset's value. The Province of British Columbia's SCAs include a financial model that has a detailed break down of the cost of the asset(s) included in the SCA. We believe the cost of the asset(s) as stated in the SCA financial model should be the basis on which the assets' values are determined. We expect that all SCAs include financial models as it should be normal business practice to require them.

.../2

Further, we feel that the "cost" determined as above is consistent with market value because it is the end result of a competitive bidding process.

We do not support having two IPSASs covering different capital leases in which the discount rate is justified on different basis. This would undermine the credibility of both standards.

3. It is proposed that contractually determined inflows of resources to be received by a grantor from an operator as part of an SCA should be recognized as revenue by the grantor as they are earned over the life of the SCA beginning at the commencement of the concession term, that is, when the underlying property is fully operational. These inflows generally should be considered earned as the grantor provides the operator access to the underlying property, and amounts received in advance of providing a commensurate level of access to the property should be reported as a liability. Do you agree? (See Paragraphs 191-196)

We agree that contractually determined inflows of resources to be received by a government from an operator as part of an SCA should be recognized as revenue by the government as they are earned over the life of the SCA beginning at the commencement of the concession payment term, that is, when the underlying property becomes fully operational.

We also agree that amounts received in advance of providing a commensurate level of access to the property should be reported as a liability and recognized as revenue over the term of the SCA on a straight line basis or other basis that is more reasonable based on the terms and conditions of the use of the asset.

We seek assurance that the definition of Liabilities in IPSAS 1 would include or recognize this deferred revenue as a liability. If there is any doubt, then a separate category/element of deferred revenue will need to be added to IPSAS 1.

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Our ref MT/288
Contact Mary Tokar

6 August 2010

Dear Ms. Fox

We appreciate the opportunity to respond to the International Public Sector Accounting Standards Board's (IPSASB or the Board) Exposure Draft 43 *Service Concession Arrangements: Grantor* (the ED). This letter expresses the views of KPMG International and its member firms.

We support the IPSASB's issuance of an International Public Sector Accounting Standard (IPSAS) addressing accounting and financial reporting for service concession arrangements by public sector grantors. We believe that the proposed IPSAS will enhance the consistency of reporting about these arrangements among public sector entities around the world, and between public sector grantors and private sector operators. However, we do have a number of comments on the proposals in the ED. These comments address the specific matter for comment identified in the ED, as well as certain other aspects of the ED. Our comments are provided below.

Specific Matter for Comment

This Exposure Draft addresses service concession arrangements from the grantor's perspective. It mirrors the principles set out in IFRIC 12 for accounting by the operator.

Do you agree with this approach?

Given the IPSASB's "rules of the road" for developing its standards, we agree with the basic approach for the proposals of the ED to mirror the principles set out in IFRIC 12 for accounting by the operator. We do not believe that the public sector environment necessitates differences in the approach to the financial reporting of service concession arrangements from private sector standards. Further, we expect that mirrored approaches will result in consistency in the

financial reporting of the public sector grantor and private sector operator to an individual service concession arrangement, particularly the recognition of the infrastructure assets underlying the arrangement. Currently, the lack of consistency in financial reporting between these parties has resulted in infrastructure assets going unrecognized by either the public sector grantor or the private sector operator in a number of arrangements.

Other Comments

Our comments on various other aspects of the ED are provided below. These comments are organized by major section of the ED.

Scope

It is unclear whether service concession arrangements for which both the grantor and operator are public sector entities (“public-to-public arrangements”) are within the scope of the proposed IPSAS. We believe that these arrangements should be within the scope of the final standard. It appears, however, that potentially unique aspects of public-to-public arrangements, through which the provision of services remains with a government entity, were not expressly considered as part of the ED. If public-to-public arrangements are to be within the scope of the final standard, then we suggest that the Board specifically deliberate these arrangements and consider the possibility of circumstances unique to them that may require additional or modified accounting and financial reporting guidance. If public-to-public arrangements are excluded from the scope of the final standard, such a fact should be stated explicitly.

Recognition and Measurement of a Service Concession Asset

- We agree with the concept of the control-based criteria detailed in paragraphs 10 and 11 of the ED. We do suggest clarification of certain of the terms in the criteria. As one of the control-based criteria for recognizing the infrastructure underlying a service concession arrangement as an asset, paragraph 10(a) of the ED states the following:

The grantor controls or regulates what services the operator must provide with the asset, to whom it must provide them, and at what price...

Paragraphs AG6 through AG8 of the ED provide guidance as to the application of the terms “control” and “regulate.” Both paragraphs AG6 and AG7 indicate that the criterion indicated above is met if the control over the specified aspects of the infrastructure and its use is possessed by “a third party regulator that regulates other entities that operate in the same industry or sector as the grantor.” Similar guidance is provided for in IFRIC 12. While we believe this guidance is appropriate from the perspective of the private sector operator, we believe that it is problematic as far as determining recognition of the infrastructure as an asset by the grantor. From the perspective of the private sector operator, in either the case in which control of the specific aspects of the infrastructure and its use is possessed by the grantor or another third-party regulator, the operator does not control the

asset and, therefore, it is appropriate that the operator not recognize the infrastructure as an asset as provided for in IFRIC 12. However, from the perspective of the grantor, if control over the specific aspects of the infrastructure and its use is possessed by another public sector entity, there may be insufficient evidence of control of the infrastructure supporting the recognition of the asset by the grantor. Requiring a grantor to recognize assets on the basis of control exercised by a third party could have wide-ranging implications in other aspects of public sector accounting and financial reporting. We believe that the Board should explore this further in the Application Guidance section and consider limiting the scope of the ED to service concession arrangements for which the aspects of the infrastructure and its use detailed in paragraph 10(a) are controlled exclusively by the grantor or by the grantor and other public sector entities within the same reporting entity as the grantor.

Further, the notion of a “third-party regulator” possessing control of the specific aspects of the infrastructure and its use resulting in the control criterion in paragraph 10(a) of the ED being met appears to be in conflict with the application guidance in paragraph AG8 which states that the terms “control” and “regulate” are “intended to be applied in the context of the specific terms of the service concession arrangement” instead of the broad regulatory powers of government entities. The “third-party regulators” referred to in paragraphs AG6 and AG7 are often not a party to the service concession arrangement and, therefore, by definition, their “control” or ability to “regulate” the infrastructure often would not be in the context of the service concession arrangement. We believe that the Board should resolve this apparent conflict in the Application Guidance section or provide clarification in paragraphs AG6 and AG7 of the role of the “third-party regulator” and how such a regulator would impact the assessment of the criterion in paragraph 10(a).

- Paragraph 12 of the ED states the following:

Where an existing asset of the grantor specified in paragraph 8(d) meets the conditions specified in paragraph 10 (or paragraph 11 for a whole-of-life asset), the grantor shall not recognize the asset as a service concession asset in accordance with this Standard. The grantor shall reclassify the existing asset as a service concession asset for reporting purposes and disclose the reclassification in accordance with paragraph 27. (Emphasis added)

Because in the circumstances described in paragraph 8(d), the grantor already should report the underlying infrastructure as an asset, we found the emphasized phrase in the citation above confusing. We believe one could infer from this phrase that the infrastructure asset previously reported by the grantor should be *derecognized*. We suggest that this phrase be deleted from the final standard or language similar to that in paragraph AG15 be incorporated into paragraph 12.

- The above citation from paragraph 12 and other paragraphs in the ED refer to the classification (or reclassification) of the infrastructure underlying a service concession

arrangement as a “service concession asset.” We are unclear as to the benefit of such a classification separate from property, plant and equipment, or intangible assets, as applicable, particularly as these “service concession assets” are to be accounted for in accordance with IPSAS 17, *Property, Plant and Equipment*, or IPSAS 31, *Intangible Assets*, as appropriate. Although subject to a service concession arrangement, the underlying character of the infrastructure asset remains consistent with other property, plant and equipment or intangible assets. We believe that the disclosures proposed in the ED are sufficient to indicate the assets involved in service concession arrangements to users of financial statements without separate classification. Reporting the infrastructure asset based on its nature is consistent with the guidance in IPSAS 13, *Leases*, for lessors of operating leases.

- We believe that the guidance in paragraph 15 of the ED should be amended as follows to address measurement of both new and existing assets subject to a service concession arrangement:

The grantor shall initially measure ~~the original~~ a new service concession asset at its fair value. Existing service concession assets as described in paragraph 8(d) should continue to be measured based on the guidance in IPSAS 17.

If the final standard retains the apparent requirement to remeasure existing service concession assets at fair value, then we believe that additional guidance is required on the presentation of the remeasurement gain or loss.

- We believe that the guidance at the end of paragraph 16 of the ED should be amended as follows to reflect more accurately the appropriate fair value of the service concession asset when payments from the grantor are separable and to be consistent with the guidance in AG24:

Where the grantor compensates the operator for the new service concession asset by making payments, and the asset and service portions of the payments by the grantor to the operator are separable, the ~~fair~~ value ~~in paragraph 15 of the asset~~ is the ~~fair~~ present value of the asset portion of the payments; however, if the present value of the asset portion of the payments is greater than fair value, then the service concession asset initially is measured at fair value.

- We believe that the guidance in paragraph 17 of the ED should be amended as follows to address the measurement of assets subject to a service concession arrangement for which the grantor compensates the operator by means other than cash payments:

Where the asset and service portions of payments by the grantor to the operator are not separable, or the operator is compensated by means other than cash payments, the fair value of the service concession asset is determined using estimation techniques.

- Paragraph AG26 of the ED notes that service concession arrangements for which the grantor compensates the operator by means other than cash payments (described in paragraph 14(b)) are non-monetary exchange transactions and refers to guidance on non-monetary transactions in IPSAS 17 and IPSAS 31. However, service concession arrangements with these circumstances are not necessarily non-monetary transactions because the *operator* may make cash payments to the *grantor* for the right to use the service concession asset. Further, the guidance in IPSAS 17 and IPSAS 31 on non-monetary transactions relates to the measurement of the involved assets, which would appear to be addressed specifically in the final standard for service concession assets. Accordingly, we suggest the deletion of paragraph AG26.

We do believe, however, that commentary would be useful identifying the arrangements referred to in paragraph 14(b) as exchange transactions and explaining the nature of the components of the exchange. We suggest that this be provided immediately following paragraph 14 or as part of a new paragraph AG 26.

- Paragraph AG27 states that the forms of non-cash compensation from the grantor to the operator described in paragraph 14(b) of the ED are intended to compensate the operator both for the cost of the facility and for operating the facility during the term of the service concession arrangement. We believe, however, that in this case, the non-cash compensation provided by the grantor is only to compensate the operator for the provision of the service concession asset. The fees collected from third-party users of the asset (or from the government if they are paying on behalf of third-party users) are the operator's compensation for the operation of the asset. If the right to access the service concession asset was compensation for both the provision and the operation of the asset, it would appear that the performance obligation would exceed the value of the asset or there would be an imputed cost of service in future periods for the operation component. We also believe that the term "facility" used in this paragraph should be replaced with "service concession asset" to be consistent with the rest of the ED.

Recognition and Measurement of Liabilities

- While we do not disagree with the premise in paragraph 19 of the ED that the grantor shall recognize a liability when it recognizes a new service concession asset, such liability representing compensation due to the operator for such asset, we believe that the Board should explain in the basis for conclusions why it considers that the "performance obligation" referred to in paragraph 19 meets the definition of a liability in IPSAS 1, *Presentation of Financial Statements*. In particular, the Board should explain why it concluded that providing future access to the service concession asset to the operator represents an outflow of resources embodying economic benefits or service potential, such that the obligation to provide future access meets the definition of a liability, notwithstanding that the obligation will not be settled, either directly or indirectly, by the payment of cash or delivery of another asset. We do agree that the liability reported by the

grantor initially should be measured at the same amount as the value reported for the service concession asset.

- We believe the guidance related to the classification of the liability reported by the grantor when it recognizes a new service concession asset as a financial liability as considered in IPSAS 28, *Financial Instruments: Presentation*, IPSAS 29, *Financial Instruments: Recognition and Measurement*, and IPSAS 30, *Financial Instruments: Disclosures*, or a performance obligation requires additional clarification.

In the ED, the decisive factor in the classification of the grantor's liability for compensation due to the operator for the service concession asset is the identity of the party making cash payments to the operator. For example, paragraph 21 of the ED states that when the grantor compensates the operator for the service concession asset by making payments, the liability shall be classified as a financial liability; paragraph 22 of the ED states that when the operator receives the right to collect fees from third-party users of the service concession asset, the grantor's liability is classified as a performance obligation. This approach is similar to that proposed by the IFRIC to determine the nature of the asset to be recognized by the operator in draft interpretations that preceded IFRIC 12. However, the IFRIC ultimately rejected this approach in its redeliberations as respondents argued that this approach "would result in an accounting treatment that did not reflect the economic substance of the arrangement." (IFRIC 12, BC 38)

We believe that a more appropriate basis for classification of the grantor's liability is the bearing of demand risk. This basis results in reporting that is more consistent with the definition of a financial liability in IPSAS 28. A grantor only has a contractual obligation to deliver cash or another financial asset to the operator for the acquisition of the service concession asset if the payments to be made to the operator are contractually predetermined or if the grantor contractually guarantees to pay the shortfall, if any, between amounts received from third-party users and contractually determinable minimum amounts. In both of these cases, demand risk lies with the grantor, even though some of the actual payments to the operator may come from third-party users.

In the case in which the operator bears demand risk, meaning its compensation is determined based on the volume of usage of the service concession asset, the grantor's liability to the operator is solely to provide exclusive access to the service concession asset so that the operator can earn revenue from the service provided to third parties. Even in the case of a shadow toll in which the grantor will pay the operator for the usage of the service concession asset by third parties, such payment is compensation in exchange for the usage of the service concession asset, not for the acquisition of the service concession asset. Further, the grantor is obligated to make payments to the operator only to the extent of the usage of the service concession asset.

We also believe that basing the classification of the grantor's liability to the operator for the acquisition of the service concession asset on demand risk better mirrors the final guidance

on classification of the operator's asset as provided in IFRIC 12. Paragraphs 16 and 17 of IFRIC 12 provide the following guidance regarding classification of the operator's asset as a financial asset or intangible asset:

16. *The operator shall recognise a financial asset to the extent that it has an unconditional contractual right to receive cash or another financial asset from or at the direction of the grantor for the construction services; the grantor has little, if any, discretion to avoid payment, usually because the agreement is enforceable by law. The operator has an unconditional right to receive cash if the grantor contractually guarantees to pay the operator (a) specified or determinable amounts or (b) the shortfall, if any, between amounts received from users of the public service and specified or determinable amounts, even if payment is contingent on the operator ensuring that the infrastructure meets specified quality or efficiency requirements.*

17. *The operator shall recognise an intangible asset to the extent that it receives a right (a licence) to charge users of the public service. A right to charge users of the public service is not an unconditional right to receive cash because the amounts are contingent on the extent that the public uses the service.*

This is further described in paragraph BC40 of IFRIC 12 in terms of the operator's cash flows being guaranteed by the grantor or being conditional on usage of the service concession asset:

The IFRIC noted that the operator's cash flows are guaranteed when (a) the grantor agrees to pay the operator specified or determinable amounts whether or not the public service is used (sometimes known as take-or-pay arrangements) or (b) the grantor grants a right to the operator to charge users of the public service and the grantor guarantees the operator's cash flows by way of a shortfall guarantee described in paragraph 16. The operator's cash flows are conditional on usage when it has no such guarantee but must obtain its revenue either directly from users of the public service or from the grantor in proportion to public usage of the service (road tolls or shadow tolls for example).

- Paragraph 23 of the ED further discusses the classification of the grantor's liability for providing the operator the right to use the service concession asset as consideration for the operator providing the service concession asset and/or the operator making payments to the grantor. We do not believe paragraph 23 needs to address the grantor's liability for the operator's provision of the service concession asset as that is the subject of paragraphs 19 through 22 of the ED. Further, we believe that any payments made by the operator to the grantor for the right to use the service concession asset impacts the measurement of the grantor's liability to the operator, not its classification. Therefore, we believe that guidance

on such payments from the operator to the grantor should be incorporated into the guidance in paragraph 19 of the ED.

- Paragraph AG33 of the ED states that when allocating predetermined payments made by the grantor to the operator as part of the service concession arrangement between a reduction in the reported liability to the operator, the finance charge on such liability and the expense associated with the service portion of the arrangement, the operator's cost of capital specific to the service concession arrangement should be used to determine the finance charge. We believe that the rate used to determine the finance charge should be the rate implicit in the arrangement specific to the service concession asset, if determinable, or instead, the grantor's incremental borrowing rate. We believe that using either of these rates is more reflective of the economic substance of the finance charge implicit in the payment arrangement, which is that the operator has provided services or goods to the grantor on deferred payment terms, and, as a practical matter, either rate is likely to be more readily determinable than the operator's cost of capital.
- Paragraph AG38 of the ED states the following in the context of recording the satisfaction of the grantor's performance obligation to the operator when the operator's compensation for the provision of the service concession asset is the right to collect revenue from third-party users of the asset:

If the operator's collection of third-party revenues significantly reduces or eliminates the grantor's predetermined series of payments to the operator, another basis may be more appropriate for reducing the liability (e.g. the term over which the grantor's future predetermined series of payments are reduced or eliminated).

Because the grantor's liability in this case is the obligation to provide the operator access to the property, it is unclear how such liability would be reduced over any period shorter than the life of the arrangement. We acknowledge that depending on the nature of the asset and the length of the arrangement, the most appropriate reduction of the liability may take a pattern other than a straight-line basis. However, we believe that a portion of the grantor's liability should exist over the entire period during which the operator has access to the service concession asset. We also believe that the guidance in the citation above is inconsistent with the guidance on revenue recognition in paragraphs AG42 through AG51 of the ED which states that revenue should be recognized and the grantor's liability reduced as revenue is earned, which is presumably as access to the service concession asset is provided to the operator, resulting in straight-line recognition in most cases.

Recognition and Measurement of Revenues

- We believe that an explicit statement regarding the approach to recognizing revenue in cases in which the grantor reports a performance obligation as part of the service concession arrangement would clarify the guidance in the Application Guidance section for revenue

recognition. Such a statement should indicate that when the grantor recognizes a performance obligation, it should recognize revenue as the performance obligation is discharged, normally on a straight-line basis, over the life of the arrangement. This explicit guidance, in lieu of solely referring to IPSAS 9, would clarify the Application Guidance section related to revenue recognition and place the remainder of the paragraphs in the section in better context.

- It is unclear what “revenue” is being referred to in the first sentence of paragraph AG48. We do not believe that it should refer to the grantor’s revenue under the circumstances described because the grantor would not earn revenue as the operator provides services to third-party users. However, the reference to the reduction of the grantor’s liability implies that the revenue being referred to is that of the grantor.
- We do not agree with the guidance provided in paragraph AG50. We do not believe that the reduction in future predetermined payments to be made by the grantor is non-cash compensation for the grantor. The compensation for the grantor in this case is the value of the service concession asset provided by the operator in exchange for the provision of the right to access the asset provided to the operator. We also do not agree with the guidance in paragraph AG51. While the rent being paid by the operator is less than market value, the rental transaction is a component of the broader service concession arrangement which is an exchange transaction. Therefore, we do not believe the guidance in IPSAS 23, *Revenue from Non-Exchange Transactions (Taxes and Transfers)* should be applied.
- We believe that the requirements in the Application Guidance section of the ED related to revenue recognition go beyond a routine application of IPSAS 9, *Revenue from Exchange Transactions*. The guidance in this section addresses conventions that are unique to service concession arrangements, such as revenue-sharing arrangements. We believe that certain salient aspects of revenue recognition addressed solely in the Application Guidance section should be moved forward to the body of the final IPSAS.

Transition

We believe that providing different transition guidance regarding retroactive application of the standard for governments that previously have recognized service concession assets and related liabilities, revenues, and expenses and those that have not creates unnecessary inconsistency. The impact of this inconsistency on users of the financial statements is exacerbated by the fact that these service concession arrangements often involve significant infrastructure assets, both from a financial reporting and service delivery perspective, as well as significant cash payments between the grantor and the operator. We believe that retroactive application of the final standard should be required for all entities following the accrual basis of accounting. Should there be practical concerns as to determining the value of the service concession asset or other related assets or liabilities, guidance regarding the use of estimated values could be provided, similar to the transition relief included in IFRIC 12.

KPMG appreciates the opportunity to respond to this Exposure Draft. Please contact John Hummel at +1 202 533-3008, Archie Johnston at +1 604 527-3757, Greg Driscoll at +1 212 909-5421, or Mary Tokar at +44 207 694 8871 if you wish to discuss any of the issues raised in this letter.

Yours sincerely,

KPMG IFRG Limited

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