

January 31, 2017

David R. Bean, CPA
Director of Research and Technical Activities
GASB
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

Re: November 16, 2016 Exposure Draft of a Proposed Implementation Guide, Implementation Guide No. 201X-Y, Implementation Guidance Update—201X [Project No. 24-16ED]

Dear Mr. Bean:

The American Institute of CPAs (AICPA) is the world's largest member association representing the accounting profession, with more than 418,000 members in 143 countries, and a history of serving the public interest since 1887. One of the objectives that the Council of the AICPA established for the Private Company Practice Section (PCPS) Executive Committee is to speak on behalf of local and regional firms and represent those firms' interests on professional issues in keeping with the public interest, primarily through the Technical Issues Committee (TIC). This communication is in accordance with that objective. These comments, however, do not necessarily reflect the positions of the AICPA.

TIC has reviewed the Exposure Draft (ED) and is providing the following comments for your consideration.

GENERAL COMMENTS

TIC agrees with the objective of this ED, which is to provide guidance that clarifies, explains, or elaborates the GASB Statements.

TIC has concerns with the proposed Question 4.42 on Statement No. 77, *Tax Abatement Disclosures*, which is outlined below in the Specific Comments section.

SPECIFIC COMMENTS

TIC has concerns with the proposed Question 4.42 on Statement No. 77, which currently reads as follows:

Q— A local government enters into an agreement with a real estate developer for the purpose of stimulating economic growth. Under the terms of the agreement, the developer will construct a building. The government will rebate to the developer incremental property tax revenues generated above a baseline established prior to the agreement, based on certain costs incurred by the developer related to the new building. The rebate to the developer is limited to no more than the amount of the incremental property tax revenues. Does this agreement meet the definition of a tax abatement in Statement 77?

A—Yes, unlike the transaction described in Question 4.77 in Implementation Guide 2016-1, this agreement meets the definition of a tax abatement in Statement 77, although both may be labeled as tax increment financing. The developer is promising to take the specific action of constructing a building for purposes of economic development, and the government is foregoing tax revenues to which it is otherwise entitled by returning some or all of the incremental property tax revenues to the developer. Although many tax abatements directly reduce the amount of taxes paid and do not involve the actual collection and return of taxes, the mechanism used to transact the abatement is not relevant to determining whether a transaction meets the definition of an abatement. Therefore, the fact that the government receives property taxes and subsequently rebates those tax receipts to the developer means that the government did, in substance, forgo tax revenues.

TIC does not believe that tax incremental financing (TIFs) were originally included in the concept of a tax abatement in the issuance of the original GASB Statement as the process for TIFs can differ from the procedures of a typical tax abatement. In fact, TIC members recall asking about developer incentives during the due process period of Statement 77 and were told, because tax revenues were not forgone, they did not meet the definition of a tax abatement. As such, there has been limited due process on the concepts outlined in this question. In addition, this question may create confusion in practice. Many developer agreements are complex and have many nuances that may be similar to this question, but not exact. Those nuances, related to how closely the payment to the developer is tied to the tax increment paid from that development, will create differences in how developer payments are reported and disclosed in the financial statements.

The following is the definition of a tax abatement taken from paragraph 4 of GASB Statement No. 77:

A reduction in tax revenues that results from an agreement between one or more governments and an individual or entity in which (a) one or more governments promise to forgo tax revenues to which they are otherwise entitled and (b) the individual or entity promises to take a specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens of those governments.

First, TIC would like to point out that there is no reduction in tax revenue occurring with these agreements. Property taxes on the parcels are levied, collected and rightfully the revenues of the government. The guidance for recognizing tax revenues in paragraph 18 of GASB Statement No. 33, *Accounting and Financial Reporting for Nonexchange Transactions*, indicates that “governments should recognize revenues from property taxes, net of estimated refunds and estimated uncollectible amounts, in the period for which the taxes are levied, even if the enforceable legal claim arises or the due date for payment occurs in a different period.”

TIF developer incentive payments are not refunds or uncollectible amounts. Rather, these are separate expenditure transactions that are reported when the various criteria in the development agreement are met. Therefore, in TICs experience, transactions similar to the example described above are reported in the TIF District financial statements at gross (as incremental property tax revenue and a corresponding development incentive expenditure). The transactions may occur in separate fiscal years, depending on when the criteria are met in the development agreement to recognize an expenditure. Therefore, recognizing these items as net may not represent the full financial picture of the government in the case where the transactions span multiple fiscal years. In addition, TIC’s governmental clients disclose the existence of these contractual obligations in the notes to the financial statements, typically in a commitments and contingencies note disclosure.

However, in recent discussions with some of the GASB staff, it is TIC’s understanding that the GASB believes in practice TIF developer payments are being netted against revenues in most cases. TIC believes this is not an accurate assumption and from our experience TIFs developer payments, even if they are capped or somehow tied to sufficient tax increment on the parcel, are being reported at gross in governmental financial statements because they are not considered refunds.

If governmental entities are required to consider the TIF developer incentive payments as tax abatements, it appears that, if applying the current guidance in Statement No. 77, one also would have to assume that the revenue should be reported net of the incentive expenditure, and that the existing commitment disclosures would be omitted and replaced by a tax abatement disclosure. TIC believes reporting these transactions at net would significantly reduce the usefulness of the information currently provided to the financial statement user. For example, many TIF Districts have annual reporting requirements to other taxing districts intended to show how the Districts are performing against a formally approved project plan. Developer incentive payments are included in project costs in those plans and not as a reduction in revenue. TIC believes the expenditure, the commitment and contingency disclosures, and the comparisons to approved project plans already provides the reader with adequate information that GASB is seeking to provide with the tax abatement disclosure.

As such, TIC suggests GASB consider removing this question and answer altogether. The scope of Statement 77 is very narrow and TIC believes this topic is best addressed, along with other developer incentives and TIF, in a separate new project. This will allow various scenarios to be addressed and will allow for the due process that a matter of this magnitude deserves.

If this question and answer remains, we suggest adding additional questions and answers to address the issue related to expenditure vs. reduction in revenue to clarify what was described in GASB Statement 33 as a refund. In discussions with various entities, the question and answer on its surface does appear to be reasonable. However, the reason this example in the Q&A was included within the definition of a tax abatement is because these payments would be netted against revenue as opposed to treating as an expenditure and would raise concerns. Even within TIC, we had one member who felt this Q&A didn't suggest or require the developer payment be netted against revenues. However, per the GASB Statement, the definition of a tax abatement would require netting which was clarified to another member of TIC via discussions with GASB staff. This demonstrates the significant amount of confusion this question may cause and also can explain if there are few comment letters that identify this issue.

TIC appreciates the opportunity to present these comments on behalf of PCPS member firms. We would be pleased to discuss our comments with you at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Westervelt". The signature is written in a cursive, slightly slanted style.

Michael A. Westervelt, Chair
PCPS Technical Issues Committee
cc: PCPS Executive and Technical Issues Committees