

AT Section 9101

Attest Engagements: Attest Engagements Interpretations of Section 101

1. Defense Industry Questionnaire on Business Ethics and Conduct¹

.01 Question—Certain defense contractors have made a commitment to adopt and implement six principles of business ethics and conduct contained in the *Defense Industry Initiatives on Business Ethics and Conduct* (initiatives). One of those principles concerns defense contractors' public accountability for their commitment to the initiatives. That public accountability begins by the contractor completing an annual *Public Accountability Questionnaire* (questionnaire).

.02 Each of the participating signatory companies (signatories) completes a questionnaire concerning certain policies, procedures, and programs that were to have been in place during the reporting period. The public accountability process requires signatories to perform internal audits and to provide officer certifications as to whether the responses to the questionnaire are current and accurate.

.03 Alternatively, a defense contractor may request its independent public accountant (practitioner) to examine or review its responses to the questionnaire for the purpose of expressing a conclusion about the appropriateness of those responses in a report. Would such an engagement be an attest engagement under section 101, *Attest Engagements*?

.04 Interpretation—Section 101 states that the attestation standards apply when a CPA in public practice is engaged to issue or does issue an examination, a review, or an agreed-upon procedures report on subject matter, or an assertion about the subject matter that is the responsibility of another party. When a practitioner is engaged by a defense contractor to provide an examination or a review report on the contractor's written responses to the questionnaire, such an engagement involves subject matter that is the responsibility of the defense contractor. Consequently, section 101 applies to such engagements.

.05 Question—Paragraph .23 of section 101 specifies that "the practitioner must have reason to believe that the subject matter is capable of evaluation against criteria that are suitable and available to users." What are the criteria against which such subject matter is to be evaluated and are such criteria suitable and available?

.06 Interpretation—The criteria for evaluating the defense contractor's responses are set forth primarily in the questionnaire and the instructions thereto. The suitability of those criteria should be evaluated by assessing whether the criteria meet the characteristics discussed in paragraph .24 of section 101.

.07 The criteria set forth in the questionnaire and its instructions will, when properly followed, be suitable. Although these should provide suitable

¹ Information regarding the Defense Industry Initiative on Business Ethics and Conduct (DII) is available at DII's website www.dii.org.

criteria, the questionnaire and its instructions are not generally available. Therefore, the practitioner's report should normally be restricted. The availability requirement can be met if the defense contractor attaches the criteria to the presentation.

.08 Question—What is the nature of the procedures that should be applied to the questionnaire responses?

.09 Interpretation—The objective of the procedures performed in either an examination or a review engagement is to obtain evidential matter that the defense contractor has designed and placed in operation policies and programs in a manner that supports the signatory's responses to each of the questions on the questionnaire and that the policies and programs operated during the period covered by the questionnaire. The objective does not include providing assurance about whether the defense contractor's policies and programs operated effectively to ensure compliance with the defense contractor's code of business ethics and conduct on the part of individual employees or about whether the defense contractor and its employees have complied with federal procurement laws. In an examination, the evidential matter should be sufficient to limit attestation risk to a level that is appropriately low for the high degree of assurance imparted by an examination report. In a review, this evidential matter should be sufficient to limit attestation risk to a moderate level.

.10 Examination procedures include obtaining evidential matter by reading relevant policies and programs, making inquiries of appropriate defense contractor personnel, inspecting documents and records, confirming defense contractor assertions with its employees or others, and observing activities. In an examination it will be necessary for a practitioner's procedures to go beyond simply reading relevant policies and programs and making inquiries of appropriate defense contractor personnel. Alternatively, review procedures are generally limited to reading relevant policies and procedures and making inquiries of appropriate defense contractor personnel. When applying examination or review procedures, the practitioner should assess the appropriateness (including the comprehensiveness) of the policies and programs supporting the signatory's responses to each of the questions on the questionnaire.

.11 A particular defense contractor's policies and programs may vary from those of other defense contractors. As a result, evidential matter obtained from the procedures performed cannot be evaluated solely on a quantitative basis. Consequently, it is not practicable to establish only quantitative guidelines for determining the nature or extent of the evidential matter that is necessary to provide the assurance required in either an examination or a review. The qualitative aspects should also be considered.

.12 In determining the nature, timing, and extent of examination or review procedures, the practitioner should consider information obtained in the performance of other services for the defense contractor, for example, the audit of the defense contractor's financial statements. For multi-location defense contractors, whether policies and programs operated during the period should be evaluated for both the defense contractor's headquarters and for selected defense contracting locations. The practitioner may consider using the work of the defense contractor's internal auditors. AU-C section 610, *The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements*, may be useful in that consideration.

.13 Examination procedures, and in some instances review procedures, may require access to information involving specific instances of actual or alleged noncompliance with laws. An inability to obtain access to such information because of restrictions imposed by a defense contractor (for example, to protect

attorney-client privilege) may constitute a scope limitation. Paragraphs .73–.75 of section 101 provide guidance in such situations. The practitioner should assess the effect of the inability to obtain access to such information on his or her ability to form a conclusion about whether the related policy or program operated during the period. If the defense contractor's reasons for not permitting access to the information are reasonable (for example, the information is the subject of litigation or a governmental investigation) and have been approved by an executive officer of the defense contractor, the occurrences of restricted access to information are few in number, and the practitioner has access to other information about that specific instance or about other instances that is sufficient to permit a conclusion to be formed about whether the related policy or program operated during the period, the practitioner ordinarily would conclude that it is not necessary to disclaim assurance.

.14 If the practitioner's scope of work has been restricted with respect to one or more questions, the practitioner should consider the implications of that restriction on the practitioner's ability to form a conclusion about other questions. In addition, as the nature or number of questions on which the defense contractor has imposed scope limitations increases in significance, the practitioner should consider whether to withdraw from the engagement.

.15 *Question*—What is the form of report that should be issued to meet the requirements of section 101?

.16 *Interpretation*—The standards of reporting in section 101 provide guidance about report content and wording and the circumstances that may require report modification. Appendix A and appendix B provide illustrative reports appropriate for various circumstances. Paragraph .66 of section 101 permits the practitioner to report directly on the subject matter or on management's assertion. In either case, the practitioner should ordinarily obtain a written assertion. An illustrative defense contractor assertion is also presented in appendix A and appendix B.

.17 The engagements addressed in this interpretation do not include providing assurance about whether the defense contractor's policies and programs operated effectively to ensure compliance with the defense contractor's code of business ethics and conduct on the part of individual employees or about whether the defense contractor and its employees have complied with federal procurement laws. The practitioner's report should explicitly disclaim an opinion on the extent of such compliance.

.18 Because variations in individual performance and interpretation will affect the operation of the defense contractor's policies and programs during the period, adherence to all such policies and programs in every case may not be possible. In determining whether a reservation about a response in the questionnaire is sufficiently significant to result in an opinion modified for an exception to that response, the practitioner should consider the nature, causes, patterns, and pervasiveness of the instances in which the policies and programs did not operate as designed and their implications for that response in the questionnaire.

.19 When scope limitations have precluded the practitioner from forming an opinion on the responses to one or more questions, the practitioner's report should describe all such scope restrictions. If the defense contractor imposed such a scope limitation after the practitioner had begun performing procedures, that fact should be stated in the report.

.20 A defense contractor may request the practitioner to communicate to management, the board of directors, or one of its committees, either orally or in writing, conditions noted that do not constitute significant reservations about the answers to the questionnaire but that might nevertheless be of value to management. Agreed-upon arrangements between the practitioner and the defense contractor to communicate conditions noted may include, for example, the reporting of matters of less significance than those contemplated by the criteria, the existence of conditions specified by the defense contractor, the results of further investigation of matters noted to identify underlying causes, or suggestions for improvements in various policies or programs. Under these arrangements, the practitioner may be requested to visit specific locations, assess the effectiveness of specific policies or programs, or undertake specific procedures not otherwise planned. In addition, the practitioner is not precluded from communicating matters believed to be of value, even if no specific request has been made.

Appendix A

Illustrative Defense Contractor Assertions and Examination Reports

Defense Industry Questionnaire on Business Ethics and Conduct

Illustration 1: Unqualified Opinion; General-Use Report; Criteria Attached to the Presentation

Defense Contractor Assertion

Statement of Responses to the Defense Industry Questionnaire on *Business Ethics and Conduct* for the period from _____ to _____.

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company* for the period from _____ to _____ are based on policies and programs in operation for that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Attachments:

Defense Industry Initiatives on Business Ethics and Conduct

Instructions and Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____.

Examination Report

Independent Accountant's Report

To the Board of Directors of the XYZ Company

We have examined the XYZ Company's *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct* for the period from _____ to _____, and the Questionnaire and responses attached thereto. XYZ Company's management is responsible for its responses to the Questionnaire. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence as to whether XYZ Company had policies and programs in operation during that period that support the affirmative responses to the *Questionnaire* and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination procedures were not designed, however, to evaluate whether the aforementioned policies and programs operated effectively to ensure compliance with the Company's *Code of Business Ethics and Conduct* on the part of individual employees or to evaluate the extent to which the Company or its employees have complied with federal procurement laws, and we do not express an opinion or any other form of assurance thereon.

In our opinion, the affirmative responses in the Questionnaire accompanying the *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____* referred to above are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Illustration 2: Unqualified Opinion; Report Modified for Negative Responses to Defense Contractor Assertion; Use of the Report is Restricted Because Criteria are Available Only to Specified Parties

Defense Contractor Assertion

Statement of Responses to the Defense Industry Questionnaire on *Business Ethics and Conduct for the period from _____ to _____*.

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____* are based on policies and programs in operation for that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire. Negative responses indicate that the Company did not have policies and programs in operation during that period with respect to those areas.

Attachments: None

(The responses could include an explanation of negative responses if the defense contractor so desired.)

Examination Report

Independent Accountant's Report

To the Board of Directors of the XYZ Company

We have examined the XYZ Company's *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____*. XYZ Company's management is responsible for its responses to the Questionnaire. Our responsibility is to express an opinion based on our examination.

[Standard Scope Paragraph]

In our opinion, the affirmative responses in the Questionnaire referred to above are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire. The negative responses to Questions _____ and _____ in the Questionnaire indicate that the Company did not have policies and programs in operation during the period with respect to those areas.

This report is intended solely for the information and use of the XYZ Company and [identify other specified parties—for example, the Defense Industry Initiative] and is not intended to be and should not be used by anyone other than these specified parties.

Illustration 3: Opinion Modified for Exception on Certain Response

Defense Contractor Assertion

Statement of Responses to the Defense Industry Questionnaire on *Business Ethics and Conduct for the period from _____ to _____* .

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____* , are based on policies and programs in operation for that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Attachments:

Defense Industry Initiatives on Business Ethics and Conduct

Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____ .

Examination Report**Independent Accountant's Report**

To the Board of Directors of the XYZ Company

[*Standard Introductory and Scope Paragraphs*]

Management believes that an appropriate mechanism exists for informing employees of the results of any follow-up into their charges of violations of the Company's Code of Business Ethics and Conduct, and has accordingly answered Question 12 in the affirmative. That mechanism consists principally of distributing newspaper articles and press releases of violations of federal procurement laws that have been voluntarily reported to the appropriate governmental agencies. We do not believe that such a mechanism is sufficient, inasmuch as it does not provide follow-up information on violations reported by employees that are not deemed reportable to a governmental agency. Consequently, in our opinion, the affirmative response to Question 12 in the Questionnaire is not appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

In our opinion, except for the response to Question 12 as discussed in the preceding paragraph, the affirmative responses in the Questionnaire accompanying the *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____* referred to above are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Illustration 4: Opinion Modified for Exception on a Certain Response; Report also Modified for Negative Responses

Defense Contractor Assertion

Statement of Responses to the *Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____* .

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____* are based on policies and programs in operation for that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire. Negative responses indicate that the Company did not have policies and programs in operation during that period with respect to those areas.

Attachments:

Defense Industry Initiatives on Business Ethics and Conduct

Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____ .

(The responses could include an explanation of negative responses if the defense contractor so desired.)

Examination Report

Independent Accountant's Report

To the Board of Directors of the XYZ Company

[Standard Introductory and Scope Paragraphs]

Management believes that an appropriate mechanism exists for letting employees know of the results of any follow-up into their charges of violations of the Company's Code of Business Ethics and Conduct, and has accordingly answered Question 12 in the affirmative. That mechanism consists principally of distributing newspaper articles and press releases of violations of federal procurement laws that have been voluntarily reported to the appropriate governmental agencies. We do not believe that such a mechanism is sufficient, inasmuch as it does not provide follow-up information on violations reported by employees that are not deemed reportable to a governmental agency. Consequently, in our opinion, the affirmative response to Question 12 in the Questionnaire is not appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

In our opinion, except for the response to Question 12 as discussed in the preceding paragraph, the affirmative responses in the Questionnaire accompanying the *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____* referred to above are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire. The negative responses to Questions _____ and _____ in the Questionnaire indicate that the Company did not have policies and programs in operation during the period with respect to those areas.

Illustration 5: Opinion Disclaimed on Certain Responses Because of Scope Restrictions Imposed by Client

Defense Contractor Assertion

Statement of Responses to the Defense Industry Questionnaire on *Business Ethics and Conduct for the period from _____ to _____*.

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____* are based on policies and programs in operation for that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Attachments:

Defense Industry Initiatives on Business Ethics and Conduct

Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____ .

Examination Report

Independent Accountant's Report

To the Board of Directors of the XYZ Company

[*Standard Introductory Paragraph*]

Except as described below, our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence as to whether XYZ Company had policies and programs in operation during that period that support the affirmative responses to the *Questionnaire*. We believe that our examination provides a reasonable basis for our opinion. Our examination procedures were not designed, however, to evaluate whether the aforementioned policies and programs operated effectively to ensure compliance with the Company's *Code of Business Ethics and Conduct* on the part of individual employees or to evaluate the extent to which the Company or its employees have complied with federal procurement laws, and we do not express an opinion or any other form of assurance thereon.

We were not permitted to read relevant documents and files or interview appropriate employees to determine that the affirmative answers to Questions 6, 7, and 8 are appropriate. The nature of those questions precluded us from satisfying ourselves as to the appropriateness of those answers by means of other examination procedures.

In our opinion, the affirmative responses to Questions 1 through 5 and 9 through 17 in the Questionnaire accompanying the *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____* referred to above are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire. Because of the matters discussed in the preceding paragraph, the scope of our work was not sufficient to express, and we do not express, an opinion on the appropriateness of the affirmative responses to Questions 6, 7, and 8 in the Questionnaire.

Appendix B

Illustrative Defense Contractor Assertion and Review Report; Use of Report Is Restricted Because Criteria Are Available Only To Specified Parties

Defense Industry Questionnaire on Business Ethics and Conduct

Defense Contractor Assertion

Statement of Responses to the Defense Industry Questionnaire on *Business Ethics and Conduct* for the period from _____ to _____.

The affirmative responses in the accompanying *Questionnaire on Business Ethics and Conduct with Responses by the XYZ Company for the period from _____ to _____* are based on policies and programs in operation during that period and are appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

Attachments: None

Review Report

Independent Accountant's Report

To the Board of Directors of the XYZ Company

We have reviewed the XYZ Company's *Statement of Responses to the Defense Industry Questionnaire on Business Ethics and Conduct for the period from _____ to _____*. XYZ Company's management is responsible for the Statement of Responses to the Defense Industry Questionnaire on Business Ethics.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the affirmative responses in the Questionnaire. Accordingly, we do not express such an opinion. Additionally, our review was not designed to evaluate whether the aforementioned policies and programs operated effectively to ensure compliance with the Company's *Code of Business Ethics and Conduct* on the part of individual employees or to evaluate the extent to which the Company or its employees have complied with federal procurement laws and we do not express an opinion or any other form of assurance thereon.

Based on our review, nothing came to our attention that caused us to believe that the affirmative responses in the Questionnaire referred to above are not appropriately presented in conformity with the criteria set forth in the *Defense Industry Initiatives on Business Ethics and Conduct*, including the Questionnaire.

This report is intended solely for the information and use of the XYZ Company and [identify other specified parties—for example, the Defense Industry Initiative] and is not intended to be and should not be used by anyone other than these specified parties.

[Issue Date: August 1987; Amended: February 1989;
Modified: May 1989; Revised: January 2001; November 2006; Revised:
December 2012; Revised: January 2015.]

2. Responding to Requests for Reports on Matters Relating to Solvency

.23 Question—Lenders, as a requisite to the closing of certain secured financings in connection with leveraged buyouts, recapitalizations and certain other financial transactions, have sometimes requested written assurance from an accountant regarding the prospective borrower's solvency and related matters.² The lender is concerned that such financings not be considered to include a fraudulent conveyance or transfer under the Federal Bankruptcy Code³ or the relevant state fraudulent conveyance or transfer statute.⁴ If the financing is subsequently determined to have included a fraudulent conveyance or transfer, repayment obligations and security interests may be set aside or subordinated to the claims of other creditors.

.24 May a practitioner provide assurance concerning *matters relating to solvency* as hereinafter defined?

.25 Interpretation—No. For reasons set forth subsequently, a practitioner should not provide any form of assurance, through examination, review, or agreed-upon procedures engagements, that an entity

- is not insolvent at the time the debt is incurred or would not be rendered insolvent thereby.
- does not have unreasonably small capital.
- has the ability to pay its debts as they mature.

² Although this interpretation describes requests from secured lenders and summarizes the potential effects of fraudulent conveyance or transfer laws upon such lenders, the interpretation is not limited to requests from lenders. All requests for assurance on matters relating to solvency are governed by this interpretation.

³ Section 548 of the Federal Bankruptcy Code defines *fraudulent transfers and obligations* as follows:

The trustee may avoid any transfer of an interest of the debtor in property or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, if the debtor voluntarily or involuntarily—

- (1) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer occurred or such obligation was incurred, indebted; or
- (2)(A) received less than a reasonably equivalent value in exchange for such transfer or obligation; and
- (2)(B)(i) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;
- (2)(B)(ii) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or
- (2)(B)(iii) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured. (Bankruptcy Law Reporter, 3 vols. [Chicago: Commerce Clearing House, 1986], vol. 1, 1339).

⁴ State fraudulent conveyance or transfer statutes such as the Uniform Fraudulent Conveyance Act and the Uniform Fraudulent Transfer Act reflect substantially similar provisions. These state laws may be employed absent a declaration of bankruptcy or by a bankruptcy trustee under Section 544(1) of the Federal Bankruptcy Code. Although the statute of limitations varies from state to state, in some states financing transactions may be vulnerable to challenge for up to six years from closing.

In the context of particular transactions other terms are sometimes used or defined by the parties as equivalents of or substitutes for the terms listed above (for example, *fair salable value of assets exceeds liabilities*). These terms, and those matters listed previously, are hereinafter referred to as *matters relating to solvency*. The prohibition extends to providing assurance concerning all such terms.

.26 The third general attestation standard states that the practitioner must have reason to believe that the subject matter is capable of evaluation against criteria that are suitable and available to users. Suitable criteria must have each of the following attributes:

- *Objectivity*—Criteria should be free from bias.
- *Measurability*—Criteria should permit reasonably consistent measurements, qualitative or quantitative, of subject matter.
- *Completeness*—Criteria should be sufficiently complete so those relevant factors that would alter a conclusion about subject matter are not omitted.
- *Relevance*—Criteria should be relevant to the subject matter.

In addition, the second general attestation standard states that the practitioner must have adequate knowledge of the subject matter.

.27 The matters relating to solvency mentioned in paragraph .23 are subject to legal interpretation under, and varying legal definition in, the Federal Bankruptcy Code and various state fraudulent conveyance and transfer statutes. Because these matters are not clearly defined in an accounting sense, and are therefore subject to varying interpretations, they do not provide the practitioner with suitable criteria required to evaluate the subject matter or an assertion under the third general attestation standard. In addition, lenders are concerned with legal issues on matters relating to solvency and the practitioner is generally unable to evaluate or provide assurance on these matters of legal interpretation. Therefore, practitioners are precluded from giving any form of assurance on matters relating to solvency or any financial presentation of matters relating to solvency.

.28 Under existing AICPA standards, the practitioner may provide a client with various professional services that may be useful to the client in connection with a financing. These services include the following:

- Audit of historical financial statements
- Review of historical financial information (a review in accordance with AU-C section 930, *Interim Financial Information*, of interim financial information, or in accordance with AR section 90, *Review of Financial Statements*)
- Examination or review of pro forma financial information (section 401, *Reporting on Pro Forma Financial Information*)
- Examination or compilation of prospective financial information (section 301, *Financial Forecasts and Projections*)

.29 In addition, under existing AICPA attestation standards (section 201, *Agreed-Upon Procedures Engagements*), the practitioner can provide the client and lender with an agreed-upon procedures report. In such an engagement, a client and lender may request that specified procedures be applied to various financial presentations, such as historical financial information, pro forma financial information, and prospective financial information, which can be useful to a client or lender in connection with a financing.

.30 The practitioner should be aware that certain of the services described in paragraph .28 require that the practitioner have an appropriate level of knowledge of the entity's accounting and financial reporting practices and its internal control. This has ordinarily been obtained by the practitioner auditing historical financial statements of the entity for the most recent annual period or by otherwise obtaining an equivalent knowledge base. When considering acceptance of an engagement relating to a financing, the practitioner should consider whether he or she can perform these services without an equivalent knowledge base.

.31 A report on agreed-upon procedures should not provide any assurances on matters relating to solvency or any financial presentation of matters relating to solvency (for example, fair salable value of assets less liabilities or fair salable value of assets less liabilities, contingent liabilities, and other commitments). A practitioner's report on the results of applying agreed-upon procedures should contain the report elements set forth in paragraph .31 of section 201 (or paragraph .55 of section 301 if applying agreed upon procedures to prospective financial information). The practitioner's report on the results of applying agreed-upon procedures should state that

- the service has been requested in connection with a financing (no reference should be made to any solvency provisions in the financing agreement).
- no representations are provided regarding questions of legal interpretation.
- no assurance is provided concerning the borrower's (a) solvency, (b) adequacy of capital, or (c) ability to pay its debts.
- the procedures should not be taken to supplant any additional inquiries and procedures that the lender should undertake in its consideration of the proposed financing.
- where applicable, an audit of recent historical financial statements has previously been performed and that no audit of any historical financial statements for a subsequent period has been performed. In addition, if any services have been performed pursuant to paragraph .28, they may be referred to.

.32 The report ordinarily is dated at or shortly before the closing date. The financing agreement ordinarily specifies the date, often referred to as the cutoff date, to which the report is to relate (for example, a date three business days before the date of the report). The report should state that the inquiries and other procedures carried out in connection with the report did not cover the period from the cutoff date to the date of the report.

.33 The practitioner might consider furnishing the client with a draft of the agreed-upon procedures report. The draft report should deal with all matters expected to be covered in the terms expected to be used in the final report. The draft report should be identified as a draft in order to avoid giving the impression that the procedures described therein have been performed. This practice of furnishing a draft report at an early point permits the practitioner to make clear to the client and lender what they may expect the accountant to furnish and gives them an opportunity to change the financing agreement or the agreed-upon procedures if they so desire.

[Issue Date: May 1988; Amended: February 1993;
Revised: January 2001; November 2006; Revised: December 2012.]

3. Applicability of Attestation Standards to Litigation Services

.34 Question—Paragraph .04 of section 101 provides an example of a litigation service provided by practitioners that would not be considered an attest engagement as defined by section 101. When does section 101 not apply to litigation service engagements?

.35 Interpretation—Section 101 does not apply to litigation services that involve pending or potential formal legal or regulatory proceedings before a *trier of fact*⁵ in connection with the resolution of a dispute between two or more parties in any of the following circumstances when the

- a. practitioner has not been engaged to issue and does not issue an examination, a review, or an agreed-upon procedures report on subject matter, or an assertion about the subject matter that is the responsibility of another party.
- b. service comprises being an expert witness.
- c. service comprises being a trier of fact or acting on behalf of one.
- d. practitioner's work under the rules of the proceedings is subject to detailed analysis and challenge by each party to the dispute.
- e. practitioner is engaged by an attorney to do work that will be protected by the attorney's work product privilege and such work is not intended to be used for other purposes.

When performing such litigation services, the practitioner should comply with the "General Standards Rule" (ET sec. 1.300.001) of the AICPA Code of Professional Conduct. [Revised, January 2015, to reflect conforming changes necessary due to the issuance of the revised AICPA Code of Professional Conduct, effective December 15, 2014.]

.36 Question—When does section 101 apply to litigation service engagements?

.37 Interpretation—Section 101 applies to litigation service engagements only when the practitioner is engaged to issue or does issue an examination, a review, or an agreed-upon procedures report on subject matter, or an assertion about the subject matter, that is the responsibility of another party.

.38 Question—Paragraph .04(c) of section 101 provides the following example of litigation service engagements that are not considered attest engagements: "Services performed in accordance with the Statement on Standards for Consulting Services, such as . . . engagements in which a practitioner is engaged to testify as an expert witness in accounting, auditing, taxation, or other matters, given certain stipulated facts."

What does the term *stipulated facts* as used in paragraph .04(c) of section 101 mean?

.39 Interpretation—The term *stipulated facts* as used in paragraph .04(c) of section 101 means facts or assumptions that are specified by one or more parties to a dispute to serve as the basis for the development of an expert opinion. It is not used in its typical legal sense of facts agreed to by all parties involved in a dispute.

.40 Question—Does Interpretation No. 2, "Responding to Requests for Reports on Matters Relating to Solvency," of section 101 (par. .23–.33), prohibit

⁵ A *trier of fact* in this section means a court, regulatory body, or government authority; their agents; a grand jury; or an arbitrator or mediator of the dispute.

a practitioner from providing expert testimony, as described in paragraph .04(c) of section 101 before a trier of fact on matters relating to solvency?

.41 Interpretation—No. Matters relating to solvency mentioned in paragraph .25 are subject to legal interpretation under, and varying legal definition in, the Federal Bankruptcy Code and various state fraudulent conveyance and transfer statutes. Because these matters are not clearly defined in an accounting sense, and therefore subject to varying interpretations, they do not provide the practitioner with the suitable criteria required to evaluate the assertion. Thus, Interpretation No. 2 (par. .23–.33) prohibits a practitioner from providing any form of assurance in reporting upon examination, review, or agreed-upon procedures engagements about matters relating to solvency (as defined in paragraph .25).

.42 However, a practitioner who is involved with pending or potential formal legal or regulatory proceedings before a trier of fact in connection with the resolution of a dispute between two or more parties may provide an expert opinion or consulting advice about matters relating to solvency. The prohibition in paragraphs .23–.33 does not apply in such engagements because as part of the legal or regulatory proceedings, each party to the dispute has the opportunity to analyze and challenge the legal definition and interpretation of the matters relating to solvency and the criteria the practitioner uses to evaluate matters related to solvency. Such services are not intended to be used by others who do not have the opportunity to analyze and challenge such definitions and interpretations.

[Issue Date: July 1990; Revised: January 2001.]

4. Providing Access to or Copies of Attest Documentation to a Regulator

.43 Question—Interpretation No. 1, "Providing Access to or Copies of Audit Documentation to a Regulator," of AU-C section 230, *Audit Documentation* (AU-C sec. 9230 par .01–.15), contains guidance relating to providing access to or copies of audit documentation to a regulator. Is this guidance applicable to an attest engagement when a regulator requests access to or copies of the attest documentation?

.44 Interpretation—Yes. The guidance in Interpretation No. 1 (AU sec. 9230 par .01–.15) is applicable in these circumstances; however, the letter to a regulator should be tailored to meet the individual engagement characteristics or the purpose of the regulatory request, for example, a quality control review. Illustrative letters for an examination engagement performed in accordance with section 601, *Compliance Attestation*, and an agreed-upon procedures engagement performed in accordance with section 201, follow.

.45 Illustrative letter for examination engagement:

Illustrative Letter to Regulator⁶

[Date]

[Name and Address of Regulatory Agency]

Your representatives have requested access to our attest documentation in connection with our engagement to examine (*identify the subject matter examined*)

⁶ The practitioner should appropriately modify this letter when the engagement has been conducted in accordance with Statements on Standards for Attestation Engagements (SSAE) and also in accordance with additional attest requirements specified by a regulatory agency (for example, the requirements specified in *Government Auditing Standards* issued by the Comptroller General of the United States).

or restate management's assertion). It is our understanding that the purpose of your request is (*state purpose*: for example, "to facilitate your regulatory examination").⁷

Our examination was conducted in accordance with attestation standards⁸ established by the American Institute of Certified Public Accountants, the objective of which is to form an opinion as to whether the subject matter (or management's assertion) is fairly stated, in all material respects, based on (*identify criteria*). Under these standards, we have the responsibility to plan and perform our examination to provide a reasonable basis for our opinion and to exercise due professional care in the performance of our examination. Our examination is subject to the inherent risk that material noncompliance, if it exists, would not be detected. In addition, our examination does not address the possibility that material noncompliance may occur in the future. Also, our use of professional judgment and the assessments of attestation risk and materiality for the purpose of our examination means that matters may have existed that would have been assessed differently by you. Our examination does not provide a legal determination on (*name of entity*)'s compliance with specified requirements.

The attest documentation was prepared for the purpose of providing the principal support for our opinion on (*name of entity*)'s compliance and to aid in the performance and supervision of our examination. The attest documentation is the principal record of attest procedures performed, information obtained, and conclusions reached in the examination. The procedures that we performed were limited to those we considered necessary under attestation standards⁹ established by the American Institute of Certified Public Accountants to provide us with reasonable basis for our opinion. Accordingly, we make no representation as to the sufficiency or appropriateness, for your purposes, of either the procedures or information in our attest documentation. In addition, any notations, comments, and individual conclusions appearing on any of the attest documentation do not stand alone and should not be read as an opinion on any part of management's assertion or the related subject matter.

Our examination was conducted for the purpose stated above and was not planned or performed in contemplation of your (*state purpose*: for example, "regulatory examination"). Therefore, items of possible interest to you may not have been specifically addressed. Accordingly, our examination, and the attest documentation prepared in connection therewith, should not supplant other inquiries and procedures that should be undertaken by the (*name of regulatory agency*) for the purpose of monitoring and regulating (*name of entity*). In addition, we have not performed any procedures since the date of our report with respect to the subject matter (*or management's assertion related thereto*), and significant events or circumstances may have occurred since that date.

The attest documentation constitutes and reflects work performed or information obtained by us in the course of our examination. The documents contain trade secrets and confidential commercial and financial information of our firm and (*name of entity*) that is privileged and confidential, and we expressly reserve all rights with respect to disclosures to third parties. Accordingly, we request confidential treatment under the Freedom of Information Act or similar laws and regulations when requests are made for the attest documentation or

⁷ If the practitioner is not required by law, regulation, or engagement contract to provide a regulatory access to the attest documentation but otherwise intends to provide such access (see Interpretation No. 1, "Providing Access to or Copies of Audit Documentation to a Regulator," of AU-C section 230, *Audit Documentation* [AU-C sec. 9230 par. .11–.15]), the letter should include a statement that: "Management of (*name of entity*) has authorized us to provide you access to our attest documentation for (*state purpose*)." [Footnote revised, December 2012, to reflect conforming changes necessary due to the issuance of SAS Nos. 122–126.]

⁸ Refer to footnote 6.

⁹ Refer to footnote 6.

information contained therein or any documents created by the (*name of regulatory agency*) containing information derived therefrom. We further request that written notice be given to our firm before distribution of the information in the attest documentation (or copies thereof) to others, including other governmental agencies, except when such distribution is required by law or regulation.¹⁰

[If it is expected that copies will be requested, add the following:]

Any copies of our attest documentation we agree to provide you will contain a legend "Confidential Treatment Requested by (*name of practitioner, address, telephone number*)."

[Firm signature]

.46 Example letter for agreed-upon procedures engagements:

Illustrative Letter to Regulator¹¹

[Date]

[Name and Address of Regulatory Agency]

Your representatives have requested access to our attest documentation in connection with our engagement to perform agreed-upon procedures on (*identify the subject matter or management's assertion*). It is our understanding that the purpose of your request is (*state purpose*: for example, "to facilitate your regulatory examinations").¹²

Our agreed-upon procedures engagement was conducted in accordance with attestation standards¹³ established by the American Institute of Certified Public Accountants. Under these standards, we have the responsibility to perform the agreed-upon procedures to provide a reasonable basis for the findings expressed in our report. We were not engaged to, and did not, perform an examination, the objective of which would be to form an opinion on (*identify the subject matter or management's assertion*). Our engagement is subject to the inherent risk that material misstatement of (*identify the subject matter or management's assertion*), if it exists, would not be detected. (*The practitioner may add the following: "In addition, our engagement does not address the possibility that material misstatement of (*identify the subject matter or management's assertion*) may occur in the future."*) The procedures that we performed were limited to those agreed to by the specified users, and the sufficiency of these procedures is solely the responsibility of the specified users of the report. Further, our engagement does not provide a legal determination on (*name of entity*)'s compliance with specified requirements.

The attest documentation was prepared to document agreed-upon procedures applied, information obtained, and findings reached in the engagement. Accordingly, we make no representation, for your purposes, as to the sufficiency

¹⁰ This illustrative paragraph may not in and of itself be sufficient to gain confidential treatment under the rules and regulations of certain regulatory agencies. The practitioner should consider tailoring this paragraph to the circumstances after consulting the regulations of each applicable regulatory agency and, if necessary, consult with legal counsel regarding the specific procedures and requirements necessary to gain confidential treatment.

¹¹ The practitioner should appropriately modify this letter when the engagement has been conducted in accordance with the SSAEs and also in accordance with additional attest requirements specified by a regulatory agency (for example, the requirements specified in *Government Auditing Standards* issued by the Comptroller General of the United States).

¹² If the practitioner is not required by law, regulation or engagement contract to provide a regulator access to the attest documentation but otherwise intends to provide such access (see Interpretation No. 1 of AU-C section 230) the letter should include a statement that: "Management of (*name of entity*) has authorized us to provide you access to our attest documentation for (*state purpose*)."
[Footnote revised, December 2012, to reflect conforming changes necessary due to the issuance of SAS Nos. 122–126.]

¹³ Refer to footnote 6.

or appropriateness of the information in our attest documentation. In addition, any notations, comments, and individual findings appearing on any of the attest documentation should not be read as an opinion on management's assertion or the related subject matter, or any part thereof.

Our engagement was performed for the purpose stated above and was not performed in contemplation of your (*state purpose*: for example, "regulatory examination"). Therefore, items of possible interest to you may not have been specifically addressed. Accordingly, our engagement, and the attest documentation prepared in connection therewith, should not supplant other inquiries and procedures that should be undertaken by the (*name of regulatory agency*) for the purpose of monitoring and regulating (*name of client*). In addition, we have not performed any procedures since the date of our report with respect to the subject matter or management's assertion related thereto, and significant events or circumstances may have occurred since that date.

The attest documentation constitutes and reflects procedures performed or information obtained by us in the course of our engagement. The documents contain trade secrets and confidential commercial and financial information of our firm and (*name of client*) that is privileged and confidential, and we expressly reserve all rights with respect to disclosures to third parties. Accordingly, we request confidential treatment under the Freedom of Information Act or similar laws and regulations when requests are made for the attest documentation or information contained therein or any documents created by the (*name of regulatory agency*) containing information derived therefrom. We further request that written notice be given to our firm before distribution of the information in the attest documentation (or copies thereof) to others, including other governmental agencies, except when such distribution is required by law or regulation.¹⁴

[If it is expected that copies will be requested, add the following:

Any copies of our attest documentation we agree to provide you will contain a legend "Confidential Treatment Requested by (*name of practitioner, address, telephone number*)."]

[Firm signature]

[Issue Date: May 1996; Revised: January 2001; January 2002;
Revised: December 2012.]

5. Attest Engagements on Financial Information¹⁵ Included in eXtensible Business Reporting Language Instance Documents

.47 Question—What is eXtensible Business Reporting Language (XBRL) and an XBRL Instance Document?

.48 Interpretation—XBRL, the business reporting aspect of the Extensible Markup Language (XML), is a freely licensable open technology standard, which makes it possible to store and transfer data along with the complex hierarchies, data processing rules, and descriptions that enable analysis and

¹⁴ This illustrative paragraph may not in and of itself be sufficient to gain confidential treatment under the rules and regulations of certain regulatory agencies. The practitioner should consider tailoring this paragraph to the circumstances after consulting the regulations of each applicable regulatory agency and, if necessary, consult with legal counsel regarding the specific procedures and requirements necessary to gain confidential treatment.

¹⁵ Financial information includes data presented in audited or reviewed financial statements or other financial information (for example, management discussion and analysis).

distribution.¹⁶ An entity may make its financial information available in the form of an XBRL Instance Document (instance document). An *instance document* is essentially a machine-readable format of financial information (that is, a computer can read the data, search for information, or perform calculations). Through the XBRL tagging process, a mapping of the financial information is created that enables a user to extract specific information, facilitating analysis. For example, XBRL would enable a user to use a software tool to automatically extract certain financial line items and automatically import those amounts into a worksheet calculating financial ratios.

.49 The instance document consists of various data points and their corresponding XBRL tags (that describe the financial information) and may include references to other items such as a PDF (Adobe Acrobat) version of financial information. Hence, an instance document is a stand-alone document that may be published using a website, e-mail, and other electronic distribution means.

.50 Question—What are the practitioner's considerations when the practitioner has been engaged to examine and report on whether the instance document accurately reflects the financial information?

.51 Interpretation—The third general attestation standard states that the practitioner shall perform the engagement only if he or she has reason to believe that the subject matter is capable of evaluation against criteria that are suitable and available to users. Two related criteria, XBRL taxonomies and XBRL International Technical Specifications, meet the available and suitable attributes under the attestation standards because a panel of experts developed the criteria and followed due process procedures that included exposure of the proposed criteria for public comment. The entity has the ability to extend the XBRL taxonomy by creating its own entity extension taxonomy. The entity may also create one or more custom entity taxonomies (for example, for a unique industry that is not yet represented by an XBRL taxonomy). Because neither the XBRL entity extension nor the custom taxonomy typically undergoes due process procedures when developed, the practitioner should evaluate whether the XBRL entity extension or custom taxonomy represents suitable and available criteria as described in paragraphs .24–.34 of section 101.

.52 The practitioner should perform procedures he or she believes are necessary to obtain sufficient evidential matter to form an opinion. Example procedures the practitioner should consider performing include the following:

- Compare the rendered¹⁷ instance document to the financial information.
- Trace and agree the instance document's tagged information to the financial information.
- Test that the financial information is appropriately tagged and included in the instance document.
- Test for consistency of tagging (for example, an entity may use one taxonomy tag for one year and then switch to a different tag for the same financial information the following year. In this case, the financial information for both years should use the same tag).

¹⁶ The eXtensible Business Reporting Language (XBRL) tags and their relationship to other XBRL tags are represented in a taxonomy. The XBRL taxonomy is needed for a full rendering of the XBRL Instance Document.

¹⁷ A rendered instance document converts the machine-readable format to a human readable version through a software tool.

- Test that the entity extension or custom taxonomy meets the XBRL International Technical Specification (for example, through the use of a validation tool).

.53 When the client is the responsible party, the client will provide the practitioner with a written assertion regarding the subject matter. An example of a written assertion follows:

We assert that the accompanying XBRL Instance Document accurately reflects the data presented in the financial statements of XYZ Company as of December 31, 20XX, and for the year then ended in conformity with *[identify the criteria—for example, specify XBRL taxonomy, such as "XBRL U.S. Consumer and Industrial Taxonomy," and where applicable, the company extension taxonomy, such as "XYZ Company's extension taxonomy" and the XBRL International Technical Specifications (specify version)]*.

.54 The practitioner should identify in his or her report whether the underlying financial information has been audited or reviewed, and should refer to the report of such audit or review.¹⁸ If the underlying information has not been audited or reviewed, the practitioner should disclaim an opinion on the underlying information. Any information in the Instance Document that is not covered by the practitioner's report should clearly be identified as such.

.55 Report Examples

Example 1: Reporting on the Subject Matter

Independent Accountant's Report

We have examined the accompanying XBRL Instance Document of XYZ Company, which reflects the data presented in the financial statements of XYZ Company as of December 31, 20XX, and for the year then ended *[optional to include the location of the financial statements, such as "included in the Company's Form 10-K for the year ended December 31, 20XX"]*. XYZ Company's management is responsible for the XBRL Instance Document. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the XBRL Instance Document and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the XBRL Instance Document of XYZ Company referred to above accurately reflects, in all material respects, the data presented in the financial statements in conformity with *[identify the criteria—for example, specific XBRL taxonomy, such as the "XBRL U.S. Consumer and Industrial Taxonomy," and where applicable, the company extension taxonomy, such as "XYZ Company's extension taxonomy," and the XBRL International Technical Specifications 2.0]*.

We have also audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of XYZ Company as of December 31, 20XX, and for the year then ended, and in our report dated

¹⁸ When no audit or review report has been issued, no reference to a report is required.

[Month] XX, 20XX, we expressed an unqualified opinion on those financial statements.^{19, 20}

[Signature]

[Date]

Example 2: Reporting on Management's Assertions

Independent Accountant's Report

We have examined management's assertion that *[identify the assertion—for example, the accompanying XBRL Instance Document accurately reflects the data presented in the financial statements of XYZ Company as of December 31, 20XX, and for the year then ended in conformity with (identify the criteria—for example, specific XBRL taxonomy, such as the "XBRL U.S. Consumer and Industrial Taxonomy," and where applicable, the company extension taxonomy, such as "XYZ Company's extension taxonomy," and the XBRL International Technical Specifications 2.0)]*. XYZ Company's management is responsible for the assertion. Our responsibility is to express an opinion on the assertion based on our examination.

We have also audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of XYZ Company, which comprise the balance sheet as of December 31, 20XX, and the related statements of income, changes in stockholders' equity, and cash flows, for the year then ended, and the related notes to the financial statements. In our report dated [Month] XX, 20XX, we expressed an unmodified opinion on those financial statements.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the XBRL Instance Document and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, management's assertion referred to above is fairly stated, in all material respects, in conformity with *[identify the criteria—for example, specific XBRL taxonomy, such as the "XBRL U.S. Consumer and Industrial Taxonomy," and where applicable, the company extension taxonomy, such as "XYZ Company's extension taxonomy," and the XBRL International Technical Specifications 2.0)]*.

[Signature]

[Date]

[Issue Date: September 2003; Revised: December 2012.]

¹⁹ If the financial statements have been reviewed, the sentence would read: "We have also reviewed, in accordance with *[standards established by the American Institute of Certified Public Accountants]* *[Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants]*, the financial statements of XYZ Company as of March 31, 20XX, and for the three months then ended, the objective of which was the expression of limited assurance on such financial statements, and issued our report thereon dated [Month] XX, 20XX, *[describe any modifications of such report]*."

If the financial information has not been audited or reviewed, no reference to a report is required. The sentence would read: "We were not engaged to and did not conduct an audit or review of the *[identify information]*, the objectives of which would have been the expression of an opinion or limited assurance on such *[identify information]*. Accordingly, we do not express an opinion or any other assurance on *[it]* *[them]*."

²⁰ If the audit opinion on the related financial statements is other than unqualified, the practitioner should disclose that fact, and any substantive reasons therefore.

6. Reporting on Attestation Engagements Performed in Accordance With Government Auditing Standards²¹

.56 Question—Chapter 5, "Standards for Attestation Engagements," of the 2011 revision of *Government Auditing Standards* (commonly referred to as the Yellow Book) sets forth additional fieldwork and reporting standards for attestation engagements performed pursuant to generally accepted government auditing standards (GAGAS). Practitioners performing attestation engagements under GAGAS are also required to follow the general standards set forth in chapter 3, "General Standards," of the Yellow Book, as well as the guidance and requirements in chapters 1, "Government Auditing: Foundation and Ethical Principles," and 2, "Standards for Use and Application of GAGAS." For examination attestation engagements performed pursuant to GAGAS, paragraph 5.18 of the Yellow Book prescribes additional reporting standards²² that go beyond the standards of reporting set forth in paragraphs .63–.90 of section 101. When a practitioner performs an attestation examination in accordance with GAGAS, how should the report be modified?

.57 Interpretation—The practitioner should modify the scope paragraph of the attestation report to indicate that the examination or review was "conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States."

.58 Additionally, GAGAS require the practitioner's attestation report to disclose any matters (often referred to as findings) that are set forth in paragraphs 5.20–.26 of the revised Yellow Book. Paragraphs 5.27–.28 of the revised Yellow Book set forth the presentation requirements that the practitioner should use, to the extent possible, in reporting a finding. The following illustration is a standard examination report modified to make reference to a schedule of findings when any of the matters set forth in paragraphs 5.20–.26 have been identified. This report pertains to subject matter for which suitable criteria exist and are available to all users through inclusion in a clear manner in the presentation of the subject matter. A written assertion has been obtained from the responsible party. Although the following illustrative report modifications would comply with the Yellow Book requirement, this illustration is not intended to preclude a practitioner from complying with these additional Yellow Book reporting requirements in other ways. In this illustrative report, the practitioner is reporting on the subject matter.

Independent Accountant's Report

We have examined [*identify the subject matter—for example, the accompanying schedule of performance measures of XYZ Agency for the year ended December*]

²¹ Although separate interpretations for other AT sections have not been issued to deal with attestation engagements performed in accordance with *Government Auditing Standards*, a practitioner may use this guidance to help him or her appropriately modify an attest report pursuant to other AT sections.

²² Paragraph 5.18 of the Yellow Book sets forth the additional reporting requirements: (a) reporting auditors' compliance with generally accepted government auditing standards, (b) reporting deficiencies in internal control, fraud, noncompliance with provisions of laws, regulations, contracts, and grant agreements, and abuse, (c) reporting views of responsible officials, (d) reporting confidential or sensitive information, and (e) distributing reports. [Footnote revised, January 2008, to reflect conforming changes necessary due to the issuance of the 2007 revised *Government Auditing Standards*. Footnote revised, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

31, 20XX].²³ XYZ Agency's management is responsible for the [identify the subject matter—for example, schedule of performance measures]. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting [identify the subject matter—for example, XYZ Agency's schedule of performance measures] and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

[Additional paragraph(s) may be added to emphasize certain matters relating to the attest engagement or the subject matter.]

In our opinion, the schedule referred to above presents, in all material respects, [identify the subject matter—for example, the performance measures of XYZ Agency for the year ended December 31, 20XX], in conformity with [identify criteria—for example, the criteria set forth in Note 1].

[When any of the matters set forth in paragraphs 5.20–26 of the *Yellow Book* have been identified the following paragraph would be added.]

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on [identify the subject matter—for example, XYZ Agency's schedule of performance measures]; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the subject matter.²⁴ We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether [identify the subject matter—for example, XYZ Agency's schedule of performance measures] is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over [identify the subject matter—for example, reporting of performance measures] or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards* and

²³ If the practitioner is reporting on an assertion about the subject matter, the practitioner would identify the assertion rather than the subject matter, for example, "management's assertion that the accompanying schedule presents the performance measures of XYZ Agency for the year ended December 31, 20XX in conformity with the criteria in Note 1." [Footnote added, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

²⁴ Note that paragraph 5.25 of *Government Auditing Standards* states that when auditors detect instances of noncompliance with provisions of contracts or grant agreements, or abuse that have an effect on the subject matter or an assertion about the subject matter that is less than material but warrant the attention of those charged with governance, they should communicate those findings in writing to entity officials. When auditors detect any instances of fraud, noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse that do not warrant the attention of those charged with governance, the auditors' determination of whether and how to communicate such instances to audited entity officials is a matter of professional judgment. [Footnote added, January 2008, to reflect conforming changes necessary due to the issuance of the 2007 revised *Government Auditing Standards*. Footnote renumbered and revised, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

those findings, along with the views of responsible officials, are described in the attached Schedule of Findings.^[25]

[Signature]

[Date]

^[25] [Footnote renumbered and deleted to reflect conforming changes necessary due to the issuance of the 2007 revised *Government Auditing Standards*. Footnote renumbered, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

Illustrative Schedule of Findings

**XYZ Agency
Schedule of Findings²⁶
Year Ended December 31, 20XX**

Finding No. 1

Criteria

Condition

Cause

Effect or Potential Effect

Management's Response

Finding No. 2

Criteria

Condition

Cause

Effect or Potential Effect

Management's Response

[Issue Date: December 2004; Revised: January 2008;
Revised: December 2012.]

²⁶ Refer to paragraphs 5.11–.15 of the Yellow Book regarding the content of the schedule of findings. [Footnote renumbered and revised: January 2008, to reflect conforming changes necessary due to the issuance of the 2007 revised *Government Auditing Standards*. Footnote renumbered and revised, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

7. Reporting on the Design of Internal Control

.59 Question—A practitioner may be asked to report on the suitability²⁷ of the design of an entity's internal control over financial reporting (internal control) for preventing or detecting and correcting material misstatements of the entity's financial statements on a timely basis. Such requests may be made by, for example,

- an entity applying for a government grant or contract that is required to submit a written preaward survey by management about the suitability of the design of the entity's internal control or a portion of the entity's internal control, together with a practitioner's report thereon.
- a new casino applying for a license to operate that is required by a regulatory agency to submit a practitioner's report on whether the entity's internal control *that it plans to implement* is suitably designed to provide reasonable assurance that the control objectives specified in the regulatory agency's regulations would be achieved. (In this situation the casino would not yet have begun operations, and audited financial statements or financial data relevant to the period covered by the engagement may not exist.)

May a practitioner report on the suitability of the design of an entity's internal control based on the risk assessment procedures the auditor performs to obtain a sufficient understanding of the entity and its environment, including its internal control, in an audit of the entity's financial statements?

.60 Interpretation—No. In a financial statement audit, the purpose of the auditor's understanding of the entity and its environment, including its internal control, is to enable the auditor to assess the risk of material misstatement of the financial statements whether due to error or fraud, and to design the nature, timing, and extent of further audit procedures. The understanding obtained in a financial statement audit does not provide the practitioner with a sufficient basis to report on the suitability of the design of an entity's internal control or any portion thereof.

.61 Question—How may a practitioner report on the suitability of the design of an entity's internal control or a portion thereof?

.62 Interpretation—The practitioner may perform an examination under section 101, or apply agreed-upon procedures under section 201, to management's written assertion about the suitability of the design of the entity's internal control. Footnote 4 of section 501, *An Examination of an Entity's Internal Control Over Financial Reporting That is Integrated With an Audit of Its Financial Statements*, states that although section 501 does not directly apply when an auditor is engaged to examine the suitability of design of an entity's internal control, it may be useful in planning and performing such engagements. Paragraphs .57–.59 of section 501 discuss how the auditor evaluates the design effectiveness of controls.

.63 When the engagement involves the application of agreed-upon procedures to a written assertion about the suitability of the design of an entity's internal control over compliance with specified requirements, the practitioner should also follow the provisions of paragraphs .09 and .11–.29 of section 601.

²⁷ In this interpretation, the *suitability of the design of internal control* means the same thing as the *design effectiveness of an entity's internal control*. [Footnote renumbered, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

.64 The following is an illustrative report a practitioner may issue when reporting on the suitability of the design of an entity's internal control that has been implemented. The report may be modified, as appropriate, to fit the particular circumstances.

Independent Accountant's Report

[Introductory paragraph]

We have examined the suitability of the design of W Company's internal control over financial reporting to prevent or detect and correct material misstatements in its financial statements on a timely basis as of December 31, 20XX, based on *[identify criteria]*.²⁸ W Company's management is responsible for the suitable design of internal control over financial reporting. Our responsibility is to express an opinion on the design of internal control based on our examination.

[Scope paragraph]

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included obtaining an understanding of internal control over financial reporting, evaluating the design of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. We were not engaged to examine and report on the operating effectiveness of W Company's internal control over financial reporting as of December 31, 20XX, and, accordingly, we express no opinion on operating effectiveness.

[Inherent limitations paragraph]

Because of its inherent limitations, internal control over financial reporting may not prevent or detect and correct misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

[Opinion paragraph]

In our opinion, W Company's internal control over financial reporting was suitably designed, in all material respects, to prevent or detect and correct material misstatements in the financial statements on a timely basis as of December 31, 20XX, based on *[identify criteria]*.

[Signature]

[Date]

.65 When reporting on the suitability of the design of an entity's internal control that has not yet been implemented, the practitioner would be unable to confirm that the controls have been implemented and should disclose that information in the practitioner's report. In those circumstances, the practitioner should modify (1) the scope paragraph of the illustrative report in paragraph .64 to inform readers that the controls identified in the report have not yet been implemented and (2) the inherent limitations paragraph to reflect the related risk. Following are modified illustrative report paragraphs for use when controls have not yet been implemented. (New language is shown in boldface italics. Deleted language is shown in strikethrough.)

²⁸ This report assumes that the control criteria are both suitable and available to users as discussed in paragraphs .23–.33 of section 101. Therefore, the use of this report is not restricted. [Footnote renumbered, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included obtaining an understanding of internal control over financial reporting, evaluating the design of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. ***Because operations had not begun as of December 31, 20XX, we could not confirm that the specified controls were implemented. Accordingly, our report solely addresses the suitability of the design of the Company's internal control and does not address whether the controls were implemented. Furthermore, because the specified controls have not yet been implemented, we were unable to test, and did not test,*** the operating effectiveness of W Company's internal control over financial reporting as of December 31, 20XX, and, accordingly, we express no opinion on operating effectiveness.

[*Inherent limitations paragraph*]

Because of its inherent limitations, internal control over financial reporting may not prevent or detect and correct misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls ***may not be implemented as intended when operations begin*** or may become inadequate because of changes in conditions, ~~or that the degree of compliance with the policies or procedures may deteriorate.~~

.66 Question—A practitioner may be asked to sign a prescribed form developed by the party to whom the form is to be submitted regarding the design of an entity's internal control. What are the practitioner's responsibilities when requested to sign such a form if it includes language that is not consistent with the practitioner's function or responsibility or with the reporting requirements of professional standards?

.67 Interpretation—Paragraphs .22–.23 of AU-C section 800, *Special Considerations—Audits of Financial Statements Prepared in Accordance With Special Purpose Frameworks*, address such situations in the context of an audit of financial statements and indicate that the auditor should either reword the prescribed form of report or attach an appropriately worded separate report that conforms with the auditor's function or responsibility and professional standards. When reporting on the suitability of the design of an entity's internal control under section 101, the practitioner's report should contain all of the elements in either paragraphs .85 or .86, as applicable, which can be accomplished by either rewording the prescribed form of report or attaching an appropriately worded separate report in place of the prescribed form.

.68 Question—An entity may be required to submit a practitioner's report about an entity's *ability* to establish suitably designed internal control (or its assertion thereon). May a practitioner issue such a report based on (a) the risk assessment procedures related to existing internal control that the auditor performs in an audit of an entity's financial statements or (b) the performance of an attest engagement?

.69 Interpretation—No. Neither the risk assessment procedures the auditor performs in an audit of an entity's financial statements nor the performance of an attest engagement provide the practitioner with a basis for issuing a report on the *ability* of an entity to establish suitably designed internal control. There are no suitable criteria for evaluating an entity's ability to establish suitably designed internal control. The requesting party may be willing to accept a report of the practitioner on a consulting service. The practitioner may include in the consulting service report

- a. a statement that the practitioner is unable to perform an attest engagement that addresses the entity's ability to establish suitably designed internal control because there are no suitable criteria for evaluating the entity's ability to do so;
- b. a description of the nature and scope of the practitioner's services; and
- c. the practitioner's findings.

The practitioner may refer to the guidance in CS section 100, *Consulting Services: Definitions and Standards*.

[Issue Date: December 2008; Revised: December 2012.]

8. Including a Description of Tests of Controls or Other Procedures, and the Results Thereof, in an Examination Report

.70 Question—Section 801, *Reporting on Controls at a Service Organization*, addresses examination engagements undertaken by a service auditor to report on controls at organizations that provide services to user entities when those controls are likely to be relevant to user entities' internal control over financial reporting (ICFR). For a type 2 report resulting from such an examination engagement, section 801 provides for a separate section of the report that includes a description of the service auditor's tests of controls likely to be relevant to user entities' ICFR and the results of those tests. This information is intended for user auditors who may need detailed information about the results of such tests of controls to determine how the results affect a particular user entity's financial statements.

.71 Paragraph .02 of section 801 refers the practitioner to section 101, when a practitioner is engaged to examine and report on controls at a service organization other than those likely to be relevant to user entities' ICFR (for example, controls at a service provider that are relevant to user entities' compliance with laws or regulations or controls at a service provider that are relevant to the privacy of user entities' information).²⁹ If a practitioner performs an examination engagement under section 101, may the practitioner's examination report include, in a separate section, a description of tests of controls or other procedures performed in support of the practitioner's opinion resulting from such an engagement?

.72 Interpretation—Nothing in section 101 precludes a practitioner from including in a separate section of his or her examination report a description of tests of controls or other procedures performed and the results thereof. However, in some cases, such a description may overshadow the practitioner's overall opinion or may cause report users to misunderstand the opinion. Therefore, the circumstances of the particular engagement are relevant to the practitioner's consideration regarding whether to include a description of tests of controls or other procedures performed, and the results thereof, in a separate section of the practitioner's examination report. In determining whether to include such a description in the practitioner's examination report, the following considerations are relevant:

²⁹ As indicated in paragraph A2 of section 801, *Reporting on Controls at a Service Organization*, paragraph .02 of section 801 is not intended to permit a report that combines reporting on a service organization's controls likely to be relevant to user entities' internal control over financial reporting (ICFR) with reporting on controls that are not likely to be relevant to user entities' ICFR. [Footnote renumbered, December 2012, to reflect conforming changes necessary due to the issuance of the 2011 revision of *Government Auditing Standards*.]

- Whether there has been a request for such information and whether the specified parties making the request have an appropriate business need or reasonable basis for requesting the information (for example, the specified parties are required to maintain and monitor controls that either encompass or are dependent on controls that are the subject of the examination and, therefore, need information about the tests of controls to enable them to have a basis for concluding that they have met the requirements applicable to them)
- Whether the specified parties have an understanding of the nature and subject matter of the engagement and experience in using the information in such reports
- Whether including such a description in the examination report is likely to cause report users to misunderstand the opinion
- Whether the practitioner's tests of controls or other procedures performed directly relate to the subject matter of the engagement

Paragraph .79 of section 101 states, "The need for restriction on the use of a report may result from a number of circumstances, including the purpose of the report, the criteria used in preparation of the subject matter, the extent to which the procedures performed are known or understood, and the potential for the report to be misunderstood when taken out of the context in which it was intended to be used." The addition of a description of tests of controls or other procedures performed, and the results thereof, in a separate section of an examination report may increase the need for use of the report to be restricted to specified parties.

[Issue Date: July 2010.]
