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Implementation Guidance for GASB 96, SBITAs

June 5, 2023

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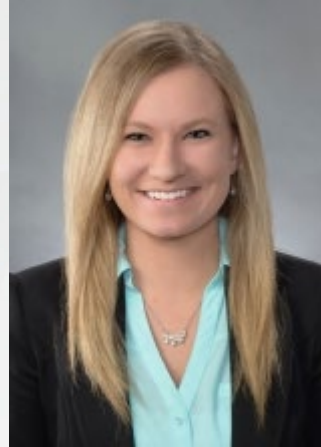


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Agenda

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● Introduction

● Effective Dates, Scope, Term

● Recognition & Measurement

● Disclosures & Transition

Effective Date



Implement for Fiscal Years Ending				
Fiscal Years Beginning After	March 31	June 30	September 30/ October 31	December 31
June 15, 2022	2024	2023	2023	2023

Definition – SBITA

A subscription-based information technology arrangement (SBITA) “is a contract that conveys control of the right to use (RTU) another party’s (a SBITA vendor’s) IT software, alone or in combination with tangible capital assets (the underlying IT assets) as specified in the contract for a period of time in an exchange or exchange-like transaction”

What Does “Control” Mean?

To determine whether a contract conveys control of the right to use the underlying IT assets, a government should assess whether it has both

1. The right to obtain the present service capacity from use of the underlying IT assets as specified in the contract
2. The right to determine the nature & manner of use of the underlying IT assets as specified in the contract

Scope Exclusions

- Statement 96 does not apply to
 - Contracts that convey control of the RTU another party's combination of IT software & tangible capital assets that meets the lease definition (Statement 87), in which the software component is insignificant compared to the cost of the underlying tangible capital asset
 - Governments that provide the RTU their IT software & associated tangible capital assets to other entities through SBITAs
 - Contracts that meet the public-private partnership (PPP) definition (Statement 94)
 - Licensing arrangements that provide a **perpetual** license to governments to use a vendor's computer software, which are subject to Statement 51

Examples



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Subscription Term

The period during which a government has a noncancelable right to use the underlying IT assets & includes periods covered by an extension option (if it is reasonably certain that either party—the government or the SBITA vendor—will exercise that option) or to terminate (if it is reasonably certain either party will not exercise that option)

Subscription Term Considerations

At commencement, a government should assess all relevant factors to determine the likelihood of exercise options, whether contract-based, asset-based, market-based, or government-specific, including

- A significant economic incentive, such as favorable contractual terms & conditions for the optional periods compared with the current market
- A potential change in technological development that significantly affects the IT asset's technology
- A potential significant change in the government's demand for the SBITA vendors' IT assets
- A significant economic disincentive, such as costs to terminate the SBITA & sign a new SBITA, *i.e.*, negotiation costs, costs of identifying another suitable IT asset or suitable SBITA vendor, implementation costs, or a substantial cancellation penalty
- Option exercise history
- The extent to which the SBITA's IT assets are essential to the provision of government services

Subscription Term Considerations

- **Rolling month-to-month SBITA** – would not be enforceable if both parties have an option to terminate & either could cancel the SBITA at any time. Provisions that allow for termination of a SBITA as a result of either payment of all sums due or default on subscription payments are not considered termination options
- **Fiscal funding or cancellation clause** – would affect the subscription term only if it is reasonably certain that the clause will be exercised

Subsequent Update

GASB Statement 99, *Omnibus 2022*, clarifies that a provision that gives a party to the SBITA the right to terminate the SBITA contract only in certain circumstances or upon the occurrence of certain events, such as the action or inaction of the other party to the SBITA contract, would not be considered an option to terminate the SBITA when determining the SBITA term

- For example, provisions that allow for the termination of a SBITA due to a violation of SBITA terms & conditions, such as a default on payments, are not considered options to terminate the SBITA

Short-Term Exception

- GASB has provided an exception for short-term SBITAs, which are 12 months or less (including extension options), regardless of their probability of being exercised
- For a SBITA that is cancelable by either the government or SBITA vendor, such as a rolling month-to-month SBITA or a year-to-year SBITA, the maximum possible term is the noncancelable period, including any notice periods
- Subscription payments for short-term SBITAs would be recognized as outflows of resources over the subscription term. A government should recognize an asset if subscription payments are made in advance or a liability if subscription payments are to be made subsequent to the reporting period. A government should not recognize an outflow of resources for the period for which the SBITA vendor grants the right to use the underlying hardware or software to the government free of charge, e.g., one or more months free

Short-Term Exception Subsequent Update

- Statement 99 clarifies that a SBITA that previously had been determined to be short-term & that has been modified to extend the initial maximum possible term under the SBITA contract should be reassessed from the contract's inception
- If the reassessed maximum possible term is greater than 12 months, the SBITA should no longer be considered a short-term SBITA. For a SBITA that is reclassified from a short-term SBITA, the SBITA term should be assessed beginning at the date of the modification for purposes of measuring the subscription liability

Recognition & Measurement

A SBITA should be reported under provisions effectively the same as those for a lessee under Statement 87—recognize a subscription asset & a subscription liability (except for short-term SBITAs)

- Relationship between leases & SBITAs
 - All SBITAs meet definition of lease
 - Depends on what the underlying asset is
 - Tangible capital assets alone – Statement 87
 - IT software alone – Statement 96
 - IT software in combination with tangible capital assets
 - + Software component is insignificant compared to cost of underlying tangible capital asset – Statement 87
 - + Otherwise – Statement 96

Terminology

Terminology Differences		
	SBITA (GASB 96)	Lease (GASB 87)
Parties	Vendor Government	Lessor Lessee
Liability	Subscription liability	Lease liability
Intangible RTU Asset	Subscription asset	Lease asset
Underlying Asset	Underlying IT asset	Underlying asset

Recognition

Subscription Liability

- Present value of subscription payments expected to be made during the subscription term

RTU Asset

- Initial liability +
- Upfront payments to the SBITA vendor +
- Capitalizable implementation costs

Subscription Liability

The subscription liability would be measured at the present value of subscription payments expected to be made during the subscription term, including the following

- Fixed payments
- Variable payments that depend on an index or rate (such as the Consumer Price Index or a market interest rate), initially measured using the index or rate as of the subscription term's commencement
- Variable payments that are fixed in substance
- Termination penalties, if the subscription term reflects the government exercising a termination option or a fiscal funding or cancellation clause
- Any subscription contract incentives receivable from the SBITA vendor. These may include assumption of a government's pre-existing subscription obligations to a third party, other reimbursements of end-user costs, free subscription periods, & reductions of interest or principal charges by the SBITA vendor
- Any other payments to the SBITA vendor that are reasonably certain of being required based on an assessment of all relevant factors

Pre-Commencement Payments

- Pre-commencement payments to the SBITA vendor, as well as pre-commencement payments made for the capitalizable initial implementation costs, should be reported as a prepayment (an asset)
- Such prepayments should be reduced by any incentives received from the SBITA vendor if a right of offset exists
- At term commencement, the prepayment should be reclassified as an addition to the subscription asset's initial measurement. If the vendor incentives are greater than the vendor prepayments, the difference should be reported as a liability until the subscription term commencement, at which time that amount should reduce the subscription asset's initial measurement

Accounting for Related Costs

Preliminary project stage

- Includes activities such as conceptual formulation, evaluating alternatives, determining needed technology, & final selection
- Expense as incurred

Initial implementation stage

- Includes all ancillary charges necessary to place the subscription asset into service, including design, configuration, coding testing, & installation
- Capitalized, except for short-term SBITA. Outlays would then be expensed as incurred

Operation & additional implementation stage

- Includes activities such as maintenance, troubleshooting, & other activities for a government's ongoing access to the underlying IT assets
- Expensed as incurred, unless meets specific capitalization criteria

Remeasurement

Certain changes will require remeasurement of the subscription liability if—individually or in the aggregate—they are expected to significantly affect the amount of the subscription liability since the previous measurement

- Change in the subscription term
- Change in the estimated amounts for subscription payments already included in the measurement of the subscription liability
- Change in the interest rate the SBITA vendor charges the government, if used as the initial discount rate
- Resolution of a contingency, upon which some or all of the variable payments that will be made over the remainder of the subscription term are based & now meet the criteria for measuring the subscription liability

Remeasurement – Subsequent Update

- Statement 99 clarifies that a subscription liability should not be remeasured solely for a change in an index or a rate used to determine variable payments, nor should the discount rate be reassessed solely for a change in a government's internal borrowing rate (IBR)

Impairment

A change in the manner, duration, or use of the subscription asset may indicate there is a significant, unexpected reduction in the service utility & is impaired

- The length of time during which the government cannot use the underlying IT assets or is limited to using them in a different manner should be compared to previous expectations to determine if there is a significant decline in the asset's service utility
- If impaired, the subscription asset carrying value should be reduced first for any change in the corresponding subscription liability. Any remaining amount should be recognized as an impairment

Contract Modifications & Terminations

- The guidance covers contract amendments that change the SBITA contract provisions, including price updates, term changes, adding or removing underlying IT assets, & changing the variable payment index or rate
- An amendment should be considered a modification unless the government's right to use the underlying IT assets decreases, which would be considered a partial or full SBITA termination
- Exercising an option or change due to LIBOR sunset are NOT modifications

Contract Modifications & Terminations

A modification would be treated as a separate SBITA arrangement only if both of the following conditions are present

- A modification that gives the government an additional subscription asset by adding access to more underlying IT assets that were not included in the original SBITA contract
- The increase in subscription payments for the additional subscription asset does not appear to be unreasonable based on the amended contract terms & professional judgment, maximizing the use of observable information, *i.e.*, readily available observable standalone prices

Unless a modification is reported as a separate contract, a government should account for a SBITA modification by remeasuring the subscription liability. The subscription asset should be adjusted by the difference between the remeasured liability & the liability immediately before the SBITA modification. If the change reduces the carrying value of the subscription asset to zero, any remaining amount should be reported in the resource flows statement, *i.e.*, a gain

Disclosures

- A general description, including the basis, terms, & conditions on which variable payments not included in the subscription liability's measurement are determined
- The total amount of subscription assets—& the related accumulated amortization—disclosed separately from other capital assets
- The amount of outflows of resources recognized in the reporting period for variable payments not previously included in the subscription liability's measurement
- The amount of outflows of resources recognized in the reporting period for other payments, such as termination penalties, not previously included in the subscription liability's measurement
- Principal & interest requirements to maturity—presented separately—for the subscription liability for each of the five subsequent fiscal years & in five-year increments thereafter
- Pre-commencement SBITA commitments
- The components of any impairment—the impairment loss & any related change in the subscription liability

Transition

- Changes should be applied **retroactively** by restating financial statements, if practicable, for all prior fiscal years presented. If restatement is not practicable, the cumulative effect—if any—should be reported as a restatement of beginning net position for the earliest fiscal year restated. In the first fiscal year the amendments are applied, note disclosure is required for the nature of the restatement & its effect, as well as the reason for not restating prior fiscal years presented, if applicable
- SBITA assets & liabilities should be recognized & measured using the facts & circumstances at the beginning of the fiscal year of implementation. If applied to earlier fiscal years, those assets & liabilities should be recognized & measured using the facts & circumstances at the beginning of the earliest fiscal year restated. Governments are permitted—but not required—to include in the measurement of the subscription asset capitalizable outlays associated with the initial implementation stage & the operation & additional implementation stage incurred prior to the implementation

2023 Implementation Guide

4.7. Q – Is a licensing agreement for a vendor’s computer software that automatically renews until cancelled a licensing agreement that provides a perpetual license?

A – No. A provision under which a licensing agreement automatically renews until cancelled is an option to terminate the agreement at each renewal date. An agreement that includes an option to terminate is not a purchase, whereas a perpetual license is a purchase in which a government is granted a permanent right to use the vendor’s computer software. Therefore, a licensing agreement for a vendor’s computer software that automatically renews until cancelled does not provide a perpetual license

2023 Implementation Guide

4.8. Q—A government enters into a six-year subscription-based information technology arrangement (SBITA) contract with no options to extend or terminate the contract and begins making semiannual subscription payments to the SBITA vendor immediately after the contract takes effect. The initial implementation stage is not completed until the end of the second year after the contract takes effect. What is the subscription term?

A—The subscription term is four years. The initial implementation stage is completed at the end of the second year of the contract. Therefore, in accordance with paragraphs 9 and 15 of Statement 96, the subscription term commences at the beginning of the third year and ends at the conclusion of the sixth year when the SBITA contract ends

2023 Implementation Guide

GASB is meeting on June 5, 2023 to review and approve for issuance a final draft of the 2023 Implementation Guide. The proposal included the following clarification (which is subject to change pending the final GASB vote)

4.10. Q – Does a cloud computing arrangement meet the definition of a SBITA?

A – A cloud computing arrangement may or may not meet the definition of a SBITA in paragraph 6 of Statement 96. Cloud computing arrangements have three common deployment models: Software as a Service, Platform as a Service, and Infrastructure as a Service. All three deployment models provide the customer with the right to use a combination of another party's IT software and tangible capital assets. The definition of a SBITA requires, in part, that a contract convey control of the right to use another party's IT software, alone or in combination with tangible capital assets (the underlying IT assets). Therefore, as part of its determination of whether a cloud computing arrangement meets the definition of a SBITA, a government should evaluate whether the contract conveys control of the right to use the underlying IT assets in accordance with paragraph 7 of Statement 96

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