



MEMO

To: Sherry Novick, First 5 Association of California
From: Anne Kinney, GFOA
Subject: Question on how to report AB 99 payment requirements by First 5 county commissions for FY 2010-11 annual financial reports
Date: August 9, 2011

The First 5 Association has asked GFOA for its perspective regarding how county commissions should report the amount required to be remitted to the State per AB 99. GFOA's perspective is that county commissions should report this amount, which is known to each commission, as a liability on the balance sheet in their 2010-11 annual financial report. Commissions would list the amount with a description such as "Amount to be paid to State of California per AB 99." As with all of the information GFOA provides to First 5 organizations, it is important to add that each commission's independent auditor will make the final decision as to the accuracy and completeness of the commission's annual financial report, so it is critical that commission staff discuss this matter with their independent auditor and heed the auditor's advice.

GFOA bases its perspective on the fact that AB 99 gives the State a claim on these funds, the amount is known, it is a present obligation, and the commissions have little discretion on whether to pay, given that the requirement is in state law.

While it is our understanding that some commissions are talking about not paying until a legal action regarding AB 99 has been resolved, our perspective is that this has no effect on how to report the payment in the 2010-11 annual financial report. One of the references for this may be found in FASB (Financial Accounting Standards Board) Statement 5, which says that entities must report a "probable" liability on the balance sheet; however, entities should not report as assets a "gain contingency."

In addition, we understand that some commissions may be considering the advantages and disadvantages of not remitting their payment to the State of California based on their perception that they would be better off if they kept the 50 percent of the amount that AB 99 defines as "funding," thus causing the State not to send them their 2012-13 trust fund payments. Our perspective is that this factor also would have no effect on how to report the AB 99 payment for the 2010-11 fiscal year. While AB 99 says the 2012-13 payment would be withheld until a commission remits payment, it does not say that county commissions may either remit the payment and receive their 2012-13 trust fund payments or keep the payment and not receive the 2012-13 trust fund payments. It simply says that 2012-13 trust fund payments will not be made to commissions "prior to full payment [50 percent of funds as of June 30, 2010, as defined in AB 99] being made."