



Federal Accounting Standards Advisory Board

1
2
3 October 4, 2004

4
5 **TO:** Members of FASAB

6
7 **FROM:** Penny Wardlow, Consultant

8
9 **THROUGH:** Wendy Comes, Executive Director

10
11 **SUBJECT: Elements of the Financial Statements: Liabilities**

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NOTE: FASAB staff prepares memos and other materials to facilitate discussion of issues at Board meetings. This material is presented for discussion purposes only; it is not intended to reflect authoritative views of the FASAB or its staff. Official positions of the FASAB are determined only after extensive due process and deliberations.

INTRODUCTION

The August 2004 meeting session on elements of financial statements was primarily an educational session. The Board received a staff paper that presented the FASB's definition of a liability and compared it with the definitions of several other standard-setting authorities. The Board began a discussion of the essential characteristics of a liability identified by the FASB in its Concepts Statement No. 6. These characteristics are (par. 36):

- (a) It embodies a present duty or responsibility to one or more other entities that entails settlement by probable future transfer or use of assets at a specified or determinable date, on occurrence of a specified event, or on demand.
- (b) The duty or responsibility obligates a particular entity leaving it little or no discretion to avoid the future sacrifice, and
- (c) The transaction or other event obligating the entity has already happened.

The goal of the discussion, which was expected to continue at subsequent meetings, was to decide:

- 1 1. Whether the essential characteristics of liabilities identified by the FASB for
2 private-sector entities also are essential characteristics of federal government
3 liabilities.
4
5 2. Whether federal government liabilities have any essential characteristics that
6 have not been identified for private-sector entities' liabilities.
7

8 Staff also raised several more specific issues, resolution of which would contribute to
9 resolution of the main issues. Three of those issues and the Board's tentative conclusions
10 are as follows.
11

12 **A. Is a liability a *present obligation*¹ to another entity or entities?**
13

14 Members appear to agree that a liability is an obligation of a specific federal entity to
15 another (different) entity or entity and that the obligation exists as a result of a past
16 event. In that sense, the obligation is a "present" one, or an existing one, at the time
17 an assessment of its existence is made.
18

19 **B. Does the Board agree that, conceptually, the federal government may
20 have a liability for the provision of goods and services, not just for
21 financial obligations?**
22

23 The Board did not complete its discussion of this issue. Some members were
24 concerned that the notion of a liability for the provision of goods and services
25 would include general commitments of the kind that underlie most
26 government programs—for example, the government's commitment to
27 provide defense or education to the citizenry. In this paper, staff further
28 explores this issue.
29

30 **C. Does the Board agree that, to be a liability, a present obligation does not
31 have to be legally enforceable? That is:**

- 32 **(a) Does the Board agree that constructive obligations may be liabilities?**
33 **(b) Does the Board agree that equitable obligations may be liabilities?**
34

35 The Board has discussed constructive and equitable obligations within the
36 Social Insurance project, and information about how other standard-setting
37 authorities treat the issue was included in the August paper on elements of the
38 financial statements. It appears that a majority of the Board has agreed that
39 certain constructive obligations may be liabilities. However, it would be
40 useful to clarify the characteristics of those constructive obligations that might
41 qualify as liabilities versus those that would not. Also, some members were

¹ In the August paper and in this paper, the term *obligation* is used with its general meaning of duty or responsibility and does not include its federal budgetary meaning. The Board has not yet discussed whether the term *obligation* should be used (with an appropriate definition and discussion of its scope) in its definition of a liability or in the wording of the essential characteristics of a liability, and the staff has not yet made a recommendation in that regard.

1 particularly concerned that certain equitable obligations might qualify as
2 liabilities. The concepts of legal, constructive, and equitable obligations are
3 discussed further in this paper.
4

5 The objective of the October meeting is to continue the discussion of the above
6 issues, with a view to identifying the essential characteristics of federal
7 government liabilities. The paper includes certain specific questions for the
8 Board. On other issues, the staff presents information and some discussion but is
9 not yet ready to make a recommendation.
10

11 **LIABILITIES FOR GOODS AND SERVICES**

12 **Provision of Goods and Services to Suppliers**

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16 In the FASB's framework, an entity may settle a liability through a transfer of
17 assets, which may include cash or goods, or through the provision of services
18 (Concepts Statement 6, par. 38). Settlements in cash may be the most common
19 form; they include repayments of borrowings, payments of amounts owed to
20 employees, and payments on account to vendors for purchases of goods and
21 services. However, entities may incur liabilities as a result of prepayments to
22 them by purchasers of goods or services and these liabilities normally would be
23 settled with goods or services, rather than cash.
24

25 It would seem that a federal entity could incur liabilities to suppliers for goods
26 and services. *Does the Board agree?*
27

28 **Provision of Goods and Services to the Citizenry**

29
30 More problematic than transactions with suppliers is whether the government can
31 incur liabilities for the provision of goods and services to the citizenry. The
32 provision of goods and services is part of the government's mission, and the
33 administration and legislators frequently announce that certain services or benefits
34 will be provided, or that ongoing programs will be continued or expanded. Do
35 these announcements give rise to liabilities? If the announcement alone is not
36 sufficient, what actions following an announcement would give rise to a "present
37 obligation" to provide goods and services?
38

39 As noted at the August meeting, other standards boards are considering these
40 issues, including the United Kingdom's Accounting Standards Board (UK-ASB)
41 and the Public Sector Committee of the International Federation of Accountants
42 (IFAC-PSC).
43

44 In its 2003 *Proposed Interpretation for Public Benefit Entities* (2003) of its
45 *Statement of Principles for Financial Reporting*, the UK-ASB classifies
46 commitments to provide public benefits into general versus specific

1 commitments. It defines a *general* commitment as “a general or policy statement
2 of intention, that the entity stands ready to provide goods or services to certain
3 classes of potential beneficiaries in accordance with its objectives” (par. 4.29).

4
5 The UK-ASB indicates that a general commitment would not result in a liability
6 for the following reasons (par. 4.34, footnote omitted):

7 The commitments described at (a)(i) above [i.e. general
8 commitments] are expected to include political commitments made
9 by governments, for example the announcement of a forthcoming
10 new initiative to provide cash benefits to members of the public
11 meeting certain criteria. Political commitments are different from
12 commercial contracts. Such political commitments (whether
13 express or implied) are political promises; examples are the
14 general promise to provide health-care or education. Governments
15 make, and amend, such promises and policies as part of their
16 ongoing political processes to manage the economy and
17 redistribute wealth within or between periods and generations. As
18 such they should not be viewed as constructive commitments.

19
20 Further (par. 4.35):

21 A general commitment to provide public benefits contrasts with an
22 announcement by a profit-oriented entity where the announcement
23 has created a valid expectation that the decision will be
24 implemented such that the entity cannot withdraw from it, because
25 a general commitment could be changed (or withdrawn).

26
27 On the other hand, the UK proposal also included the alternative view (par. 33)
28 that:

29 . . . some general political promises are relied upon by individuals,
30 for example in taking financial decisions about investments for the
31 future, and therefore in these cases a liability has been created
32 because the outflow of economic resources cannot be avoided.

33
34 Note that the inability to avoid the future outflow of resources is one of the
35 defining characteristics of a liability for the UK-ASB, similar to the FASB’s
36 essential characteristic (b): The duty or responsibility obligates a particular entity
37 leaving it little or no discretion to avoid the future sacrifice.

38
39 In contrast to general commitments, the UK-ASB defines a specific commitment
40 as follows (par. 4.29):

1 . . . a specific commitment, or promise, to provide specified goods
2 or services to a beneficiary that has met any necessary criteria,
3 such that the beneficiary is able to rely on the entity fulfilling its
4 promise (ie the general commitment has become specific as a
5 result of certain past events) meaning that the entity could not
6 realistically withdraw from it.
7

8 In the UK-ASB's view, specific commitments create a liability because (par.
9 4.32):

10 . . . the general commitment has become specific and there is an
11 obligation to transfer economic benefits to an identified beneficiary
12 or group of beneficiaries as a result of past events. In general, the
13 definition of a liability does not require a reporting entity to know
14 the identity of the party to whom an obligation is owed.
15 Nevertheless, in distinguishing between general and specific
16 commitments to provide public benefits, in order to identify the
17 point at which a general commitment becomes specific,
18 identification of the beneficiary is usually necessary.
19

20
21 The UK-ASB proposal does not explain how a general commitment becomes
22 specific—that is, what the qualifying past events might be. Moreover, it is not
23 explained why, in distinguishing between general and specific commitments, it is
24 necessary to contravene one of the characteristics of a liability (in the FASB's
25 definition as well as the UK-ASB's)—namely, that it is not necessary to know the
26 identity of the claimant in order to conclude that an entity has a liability.
27

28 **Possible obligating events**

29
30 The identification of all general “political” statements or promises as liabilities
31 would seem too broad and too problematic. If the promise is merely a statement
32 of intent and the government can cancel or modify the promise without penalty,
33 then the promise is not an “obligating event,” and without such an event there is
34 no liability. Thus, it would seem that some additional action is required that
35 would obligate the government to transfer assets or provide services to the
36 citizenry in the future. Some possibilities are:
37

- 38 1. Effective date of legislation to establish the program.
- 39 2. Appropriation of the necessary funds.
- 40 3. Specific identification of the classes or groups of individuals or entities who
41 are eligible to receive the assets or services.
- 42 4. Performance by individuals or entities making them eligible to apply.
- 43 5. Receipt of applications that meet eligibility requirements.
- 44 6. Approval of applications.
- 45 7. Approval of the transfer of assets (e.g., cash payment) or provision of services
46 to recipients.

1
2 *Does the Board regard any of these points as better candidates for obligating*
3 *events in general? Can any of these points be ruled out?*
4

5 An additional consideration is whether the obligating event creates a liability only
6 with respect to the current period, or a defined number of future periods, or
7 whether the liability extends for an indefinite number of periods.
8

9
10 **IFAC-PSC**

11
12 To date, little research has been done into when a government incurs a liability for
13 the provision of goods and services. However, some research is currently
14 underway. In addition to the UK-ASB's proposal, the IFAC-PSC has initiated a
15 study of liabilities for the provision of social benefits.
16

17 The IFAC-PSC began to consider the issue of potential obligations for the
18 provision of goods and services to the citizenry in IPSAS 19, *Provisions,*
19 *Contingent Liabilities and Contingent Assets*. IPSAS 19 is based substantially on
20 the IASC's International Accounting Standard 37, which has the same title. (In
21 both standards, the term *provision* is defined as "a liability of uncertain timing and
22 amount" and is distinguished by degree of uncertainty from trade payables and
23 accruals, such as those for amounts owed to employees. The distinction is used in
24 establishing standards for recognition or disclosure of a provision and does not
25 appear to affect the IFAC-PSC's view of the conceptual characteristics of a
26 liability.)
27

28 In IPSAS 19, the IFAC-PSC defines *social benefits* (par. 7) as "goods, services
29 and other benefits provided in the pursuit of the social policy objectives of a
30 government," including:
31

- 32 (a) The delivery of health, education, housing, transport and other
33 social services to the community. In many cases, there is no
34 requirement for the beneficiaries of these services to pay an
35 amount equivalent to the value of these services; and
36
37 (b) Payment of benefits to families, the aged, the disabled, the
38 unemployed, veterans and others. That is, governments at all
39 levels may provide financial assistance to individuals and
40 groups in the community to access services to meet their
41 particular needs, or to supplement their income.
42

43 **Exchange vs. nonexchange transactions**

44
45 The second sentence of (a) above indicates that the provision of social benefits is
46 generally a nonexchange transaction. The IFAC-PSC excluded potential

1 liabilities for social benefits from the scope of IPSAS 19 when “the entity
2 providing the benefit will not receive consideration that is approximately equal to
3 the value of goods and services provided, directly in return from the recipients of
4 the benefit” (that is, the transaction is nonexchange), even when “a charge is
5 levied in respect of the benefit but there is no direct relationship between the
6 charge and the benefit received” (par. 9).

7
8 The Committee explains that the exclusion is based on the Committee’s view
9 (para. 9):

10
11 . . . that both the determination of what constitutes the “obligating
12 event” and the measurement of the liability require further
13 consideration before proposed Standards are exposed. For
14 example, the Committee is aware that there are differing views
15 about whether the obligating event occurs when the individual
16 meets the eligibility criteria for the benefit or at some earlier stage.
17 Similarly, there are differing views about whether the amount of
18 any obligation reflects an estimate of the current period’s
19 entitlement or the present value of all expected future benefits
20 determined on an actuarial basis.

21
22 As the FASAB is aware, the IFAC-PSC is currently examining these and related
23 issues and has outstanding an Invitation to Comment on *Accounting for Social*
24 *Policies of Government*.

25
26 The FASAB’s reasoning in SFFAS 5, *Accounting for Liabilities of the Federal*
27 *Government*, appears similar to that contained in IPSAS 19. In SFFAS 5, the
28 Board concluded that “[f]or federal nonexchange transactions, a liability should
29 be recognized for any unpaid amounts due as of the reporting date” (par. 24).
30 Furthermore, “estimates of future nonexchange payments should not be
31 recognized as a current period liability,” even though the Board acknowledges
32 that “it is possible to make meaningful estimates of the future amounts required to
33 continue present policies regarding such programs” (par. 131). Liabilities for
34 exchange transactions, in contrast, should be recognized in the period when the
35 exchange occurs (par. 23).

36
37 In SFFAS 5, the Board does not distinguish between *definition* and *recognition* of
38 a liability. That is, the standard addresses the timing of recognition of liabilities
39 and does not address the possibility that an item might meet the definition of a
40 liability and not be recognized in the balance sheet. In the elements project,
41 however, the Board distinguishes definition from recognition. This suggests that
42 the FASAB should discuss whether the differences between exchange and
43 nonexchange transactions affect *only the timing of recognition* of elements or
44 whether the differences are fundamental to the *definitions* of elements.

45
46 Specifically, does the Board believe that:

1
2 (a) In an *exchange* transaction, a liability is incurred when the exchange occurs?
3

4 (b) In a *nonexchange* transaction, a liability is incurred when the settlement
5 amount becomes due and payable (and not earlier)?
6

7 If the Board agrees with (b), then staff believes that the nature of a transaction—
8 whether it is exchange or nonexchange—is an essential characteristic of any
9 liability that results from that transaction. A key consideration is that the timing
10 of settlement would affect the definition of a liability under a nonexchange
11 transaction, but not under an exchange transaction. If the nature of the transaction
12 (exchange or nonexchange) affects the definition of a liability, then, the Board
13 should consider adding the nature of the transaction to the three essential
14 characteristics of a liability identified by the FASB (assuming that the FASAB
15 agrees with those characteristics).
16

17 Consideration also might be given to the concept of an “exchange-like” transaction. That
18 is, whether some transactions of the federal government are neither wholly exchange
19 transactions nor wholly nonexchange transactions, but have some features of each. If so,
20 how should those transactions be classified, and how, if at all, would they affect the
21 definition of a liability?
22

23 The GASB defines an *exchange-like transaction* as:
24

25 . . . one in which the values exchanged, though related, may not be quite
26 equal or in which the direct benefits may not be exclusively for the parties
27 to the transaction. Nevertheless, the exchange characteristics of the
28 transaction are strong enough to justify treating the transaction as an
29 exchange for accounting purposes (GASB Statement No. 33, *Accounting*
30 *and Financial Reporting for Nonexchange Transactions*, footnote 1).
31

32 It should be noted that GASB Statement 33 addresses the *recognition* of elements
33 resulting from nonexchange transactions, not their *definition*, and the GASB has not yet
34 developed proposed definitions of elements for public comment. Therefore, it is
35 unknown what effect, if any, the GASB’s classification of transactions into exchange,
36 nonexchange, and exchange-like would have on its definitions of elements of the
37 financial statements. The FASAB is not, of course, bound by the GASB’s definition of
38 “exchange-like” and, if the overall concept has appeal, the Board may wish to develop its
39 own definition.
40

41 42 **LEGAL VERSUS CONSTRUCTIVE OBLIGATIONS** 43

44 As previously discussed with the Board in the Social Insurance and Elements projects,
45 the FASB and other standard setters (those who have adopted essentially the FASB’s
46 conceptual framework) believe that liabilities are not limited to obligations that are

1 legally enforceable. Rather, they include so-called “constructive obligations.” The FASB
2 and others are not precise about the scope of constructive obligations. Most would
3 include promises made and announced to beneficiaries, reliance of the beneficiaries on
4 those promises, precedent or past practices of the entity, and so forth. Others would
5 appear to include more comprehensive notions of “fairness” or “doing what is right”—
6 notions that are more difficult to define and make operational than when there is evidence
7 of promises and past actions.

8
9 The FASB’s conceptual framework does not address governments, and the
10 frameworks that most of the other authorities we have consulted (e.g., Australia,
11 New Zealand, and the United Kingdom) have adopted for governments are based
12 on and very similar to their frameworks for businesses. Some believe that these
13 common business/governmental/not-for-profit frameworks are not appropriate for
14 governments because, in the pursuit of homogeneity of accounting standards
15 across sectors, they do not sufficiently take into account the unique features of
16 governments, including the rule of law. Thus, a significant issue for the FASAB
17 is whether “legal enforceability” is an essential characteristic of a liability of the
18 federal government.

19 20 **Legal Enforceability**

21
22 In considering this issue, the FASAB would need to determine first of all what is
23 meant by “legal enforceability.” Some would say that it means that “the federal
24 government can be sued”—e.g., for settlement of the liability, in the context of
25 this paper. More precisely, the supposed beneficiary of the liability has the right
26 to sue for redress. It should be noted, however, that individuals also may have the
27 ability to sue for redress, and prevail, on the basis of “constructive” rather than
28 “legal” obligations. So, it is appropriate to examine what is meant by each.

29
30 The IFAC-PSC has addressed “legal obligations” and “constructive obligations”
31 in its January 2004 ITC, *Accounting for Social Policies of Governments*.

32
33 Legal obligations are defined (par. 3.9) as (a) contracts, (b) legislation, or (c)
34 other operation of law (e.g., court judgments that may be sought for negligence or
35 other matters not covered by contract or statute; common law in some
36 jurisdictions, etc.). A contract is defined (footnote 1) as having the “general
37 meaning of an agreement with specific terms between two or more persons or
38 entities in which there is a promise to do something in return for valuable benefits
39 known as consideration.” It seems likely that the FASAB would agree that
40 contracts give rise to a liability that has “legal enforceability.”

41
42 The IFAC-PSC notes (par. 3.10) that:

43
44 Legislation frequently imposes obligations on governments to
45 provide social benefits on a collective basis to the community or
46 sections of the community, rather than to identifiable individuals.

1 IPSAS 19 paragraph 28 . . . clarifies that the inability to identify
2 specific recipients of benefits does not itself preclude a present
3 obligation from arising.
4

5 Note how the last sentence differs from the proposal of the UK-ASB discussed
6 earlier. The UK proposal suggests that, to qualify as a liability, a specific
7 commitment of a government might require identification of recipients or
8 beneficiaries, contrary to the FASB's (and the UK-ASB's) definition of a liability.
9 The IFAC-PSC proposal disagrees with that view.

10
11 Paragraph 28 of IPSAS 19 states as follows:

12
13 An obligation always involves another party to whom the
14 obligation is owed. It is not necessary, however, to know the
15 identity of the party to whom the obligation is owed—indeed the
16 obligation may be to the public at large. Because an obligation
17 always involves a commitment to another party, it follows that a
18 decision by an entity's management, governing body or controlling
19 entity does not give rise to a constructive obligation at the
20 reporting date unless the decision has been communicated before
21 the reporting date to those affected by it in a sufficiently specific
22 manner to raise a valid expectation in them that the entity will
23 discharge its responsibilities.
24

25 The IFAC-PSC elaborates (par. 3.11) that

26
27 Constructive obligations may arise with respect to rights specified
28 in legislation, but the existence of legislation is not necessary for
29 such obligation to arise. The key issue is identifying what
30 constitutes the obligating event—that is the past event that leads to
31 a present obligation that the entity has no realistic alternative to
32 settling.
33

34 Some believe that the federal government always has an alternative to settling
35 obligations, especially those incurred in nonexchange transactions, in that the
36 Congress can agree on a different course of action. However, the emphasis of the
37 IFAC-PSC proposal is on whether there is a *realistic* alternative. It may be that,
38 technically, the government can adopt an alternative, but if the consequences are
39 likely to be significant enough, economically, socially, or politically, that the
40 Congress would not take alternative action, then it would appear that the
41 government has a liability (a present obligation to transfer assets or provide
42 services in the future), whether it is technically “legally enforceable” or not.
43

44 Further, it should be noted that so-called constructive obligations can be legally
45 enforceable. In a June 2004 memo to the FASAC (the FASB's advisory council),
46 FASB staff states that the indication, in FASB Concepts Statement 6, that

1 constructive obligations are not legally enforceable appears to be inconsistent
2 with the legal literature. Citing Black’s Law Dictionary (7th edition), the staff
3 notes that “constructive” is defined as “legally imputed; having an effect in law
4 though not necessarily in fact,” and references the term “legal fiction.” According
5 to the same Dictionary, a legal fiction is “an assumption that something is true
6 even though it may be untrue, made esp. in judicial reasoning to alter how a legal
7 rule operates. The constructive trust is an example of a legal fiction.”
8

9 As a result of these considerations, the FASB staff, in the same memo, defines a
10 legal obligation as “an obligation that a party is required to settle as a result of
11 existing or enacted law, statute, ordinance, written or oral contract or by legal
12 construction under the doctrine of promissory estoppel.” This is a broader
13 concept than the IFAC-PSC’s reference to “legal enforceability.” The FASB staff
14 memo explains promissory estoppel as follows:
15

16 The courts have developed the doctrine of *promissory estoppel* as a
17 legal means for dealing with certain injustices that might otherwise
18 be done by business enterprises and others absent legislation,
19 regulation, or contractual relationships. The requirements for
20 promissory estoppel include:

- 21 (a) a promise that the promisor should foresee is likely to induce
 - 22 reliance on the part of the promisee,
 - 23 (b) significant reliance on the promise by the promisee, and
 - 24 (c) injustice as a result of reliance if the promise is not enforced.
- 25

26 Promissory estoppel is fundamentally different from the traditional
27 theory of contract law in that it protects reliance rather than
28 bargained exchanges. It is used to enforce promises that are not
29 supported by consideration and oral promises that ordinarily would
30 be required to be in writing. As a result, certain obligations can
31 now be accorded legal compulsion under the doctrine of
32 promissory estoppel.
33

34 FASAB staff notes the similarity between the concept of promissory estoppel and
35 the notion of constructive obligations, as presented by the IFAC-PSC, the FASB,
36 and other standard-setting authorities. Although most of those presentations have
37 been oriented to the obligations of business entities, staff believes that the same
38 principles apply to governments—perhaps more so, in the sense that the mission
39 of governments is to provide for the welfare of the citizenry, in contrast to the
40 objectives of private profit and wealth-maximization of businesses.
41

42 Staff believes, moreover, that the doctrine of promissory estoppel offers an
43 appropriate bridge or compromise between two different positions: (a) that federal
44 liabilities should be based on legally enforceable actions and (b) that government
45 commitments, whether technically legally enforceable or not, can give rise to

1 liabilities, especially when the commitments have been made public and potential
2 recipients have relied upon them and have adjusted their actions accordingly.

3
4 Staff has not found clear support in the U.S. or international accounting literature
5 for a notion that liabilities could be based purely on considerations of equity
6 (fairness), custom, moral sanction, etc., except to the extent that those notions are
7 subsumed in the notion of constructive obligation. Moreover, staff believes that
8 such an equity or moral sanctions approach is insufficient alone and should be
9 supported by some notion of legal enforceability, such as the notion of promissory
10 estoppel just described.

11
12 Staff recommends that the Board not establish strict legal enforceability as an
13 essential characteristic of a liability. Rather, staff would propose the Board
14 develop a definition of “constructive obligation” that would include a broader
15 notion of legal enforceability than references to contracts and legislation.

16 17 18 **SUMMARY OF QUESTIONS FOR THE BOARD**

19 20 **Provision of Goods and Services to Suppliers**

- 21
22 1. Does the Board agree that a federal entity can incur liabilities to suppliers for
23 goods and services, rather than cash? [Discussion: page 3]

24 25 **Provision of Goods and Services to the Citizenry**

- 26
27 2. Does the Board regard any of the following points as, generally, better
28 candidates for obligating events than the other points? Can any of these
29 points be ruled out? [Discussion: pages 3 through 8]

- 30
31 1. Effective date of legislation to establish the program.
32 2. Appropriation of the necessary funds.
33 3. Specific identification of the classes or groups of individuals or
34 entities who are eligible to receive the assets or services.
35 4. Performance by individuals or entities making them eligible to
36 apply.
37 5. Receipt of applications that meet eligibility requirements.
38 6. Approval of applications.
39 1) Approval of the transfer of assets (e.g., cash payment) or provision
40 of services to recipients.

41 42 **Exchange vs. nonexchange transactions**

43
44 [Discussion: pages 6 through 8]

- 1 3. Does the Board believe that, in an *exchange* transaction, a liability is incurred
2 when the exchange occurs?
3
4 4. Does the Board believe that, in a *nonexchange* transaction, a liability is
5 incurred when the settlement amount becomes due and payable (and not
6 earlier)?
7
8 5. Does the Board wish to explore further the concept of *exchange-like*
9 transactions?

10
11 **Legal vs. constructive obligations**

12
13 [Discussion: pages 8 through 12]

- 14
15 6. Does the Board agree that liabilities do NOT have to be legally enforceable, in
16 the sense of being based on contracts and legislation?
17
18 7. Does the Board agree that liabilities should include certain kinds of
19 constructive obligations, particularly those contemplated in the doctrine of
20 promissory estoppel?
21
22 8. Does the Board agree that liabilities should NOT be based on notions of
23 equity (fairness), custom, moral sanction, etc., except to the extent that those
24 notions are subsumed in the notion of construction obligation underlying
25 question 7?