Federal Accounting Standards Advisory Board

Accounting for Fiduciary Activities

Statement of Federal Financial Accounting Standards

Exposure Draft

Written comments are requested by July 31, 2003

April 2003

THE FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

The Federal Accounting Standards Advisory Board (FASAB or "the Board") was established by the Secretary of the Treasury, the Director of the Office of Management and Budget (OMB), and the Comptroller General in October 1990. It is responsible for promulgating accounting standards for the United States Government. These standards are recognized as generally accepted accounting principles (GAAP) for the Federal Government.

An accounting standard is typically formulated initially as a proposal after considering the financial and budgetary information needs of citizens (including the news media, state and local legislators, analysts from private firms, academe, and elsewhere), Congress, Federal executives, Federal program managers, and other users of Federal financial information. The proposed standard is published in an exposure draft for public comment. In some cases, a discussion memorandum, invitation for comment, or preliminary views document may be published before an exposure draft is published on a specific topic. A public hearing is sometimes held to receive oral comments in addition to written comments. The Board considers comments and decides whether to adopt the proposed standard with or without modification. After review by the three officials who sponsor FASAB, the Board publishes adopted standards in a Statement of Federal Financial Accounting Standards. The Board follows a similar process for Statements of Federal Financial Accounting Concepts, which guide the Board in developing accounting standards and formulating the framework for Federal accounting and reporting.

Additional background information is available from the FASAB:

- *"Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and the Office of Management and Budget, on Federal Government Accounting Standards and a Federal Accounting Standards Advisory Board."*
- *"Mission Statement: Federal Accounting Standards Advisory Board."*

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April 21, 2003

TO: HEADS OF FEDERAL AGENCIES AND ALL OTHERS WHO USE, PREPARE, AND AUDIT FEDERAL FINANCIAL INFORMATION

The Federal Accounting Standards Advisory Board (FASAB or the Board) is requesting comments on the exposure draft of a proposed Statement of Federal Financial Accounting Standards entitled, *Accounting for Fiduciary Activities*. Specific questions for your consideration appear on page 5 but you are welcome to comment on any aspect of this proposal. If you do not agree with the proposed approach, your response would be more helpful to the Board if you explain the reasons for your position and any alternative you propose. Responses are requested by July 31, 2003.

We have experienced delays in mail delivery due to increased screening procedures. Therefore, please provide your comments in electronic form. Responses in electronic form should be sent by e-mail to comesw@fasab.gov. If you are unable to provide electronic delivery, we urge you to fax the comments to (202) 512-7366. Please follow up by mailing your comments to:

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The Board's rules of procedure provide that it may hold one or more public hearings on any exposure draft. No hearing has yet been scheduled for this exposure draft.

Notice of the date and location of any public hearing on this document will be published in the Federal Register and in the FASAB's newsletter.

David Mosso
Chairman

Executive Summary

What is the Board Proposing?

This standard defines "fiduciary activities" as those activities that relate to the collection or receipt, management, protection, accounting, investment and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities ("non-Federal parties") have an ownership interest that the Federal Government must uphold. For there to be a fiduciary activity, there must be a fiduciary relationship based on statutory or other legal authority and evidence exists that the Government activity is in furtherance of that relationship.

The standard requires that the term "fiduciary" be used in general purpose Federal financial reports for fiduciary activity as defined in this standard and summarized in the preceding paragraph. Assets held in a form that is designated in law as a "trust fund" but dedicated to Federal programs should not be characterized as held in a "fiduciary" or "trust" capacity in general purpose financial reports of Federal entities.

The standard provides accounting and reporting for fiduciary assets held by the Federal government:

(1) In the name of the Federal component entity
    a. in the U.S. Treasury, and
    b. outside the U.S. Treasury; and
(2) In the name of the non-Federal party, outside of the Treasury, under the supervision of the Federal component entity.

The standard requires that Federal entities recognize equal and offsetting assets and liabilities in their financial statements for fiduciary assets held in their name. Assets held in the name of the non-Federal party, outside the Treasury, under the supervision of the Federal component entity should not be recognized in the financial statements of the Federal entity. Note disclosure is required for fiduciary activity, whether the assets are held in the Federal entity's name or in the name of the non-Federal party.

The reporting in the Financial Report of the United States Government should reflect that of the Federal component entities. Equal and offsetting assets and liabilities will be recognized for fiduciary assets held in the name of the Federal entity. Assets held in the name of the non-Federal party, outside the Treasury, under the supervision of the Federal component entity should not be recognized in the financial statements but should be disclosed in notes to the financial statements. Note disclosure is required for fiduciary activity.

Why is the Board making this proposal?

The objective of this standard is to provide accounting and reporting guidance for fiduciary activities, and to differentiate them from Federal program activities. In many cases Federal program activities involve dedicated resources that are accounted for in accounts designated by law as "trust funds." This has resulted in a lack of clarity about how Federal "trust funds" differ from private trust funds and other Federal funds, about the linkage between "trust fund" activity and Federal program expenditures, and about the relationship between "trust fund" accounting and the Federal Government's overall financial condition.

This standard also clarifies the current accounting standards regarding fiduciary activities. Current accounting standards do not address the universe of fiduciary activities, which includes limited scope activity as well as activity requiring significant managerial discretion.

How does this proposal improve federal financial reporting?

This standard distinguishes between fiduciary activities, as defined above, and Federal program activity that is characterized as "fiduciary" or "trust fund." The standard provides reporting definitions and information to enhance users' understanding of Federal fiduciary activities.

How does this proposal contribute to meeting the federal financial reporting objectives?

This standard addresses Objectives #2 and #3, Statement of Federal Financial Accounting Concepts 1, *Objectives of Federal Financial Reporting*:

> Objective #2 – Federal financial reporting should assist report users in evaluating the service efforts, costs, and accomplishments of the reporting entity; the manner in which these efforts and accomplishments have been financed; and the management of the entity's assets and liabilities.
>
> Objective #3 – Federal financial reporting should assist report users in assessing the impact on the country of the government's operations and investments for the period and how, as a result, the government's and the nation's financial condition has changed and may change in the future.

By clarifying the nature of fiduciary activity, as defined above, in the Federal Government and developing more explicit accounting principles, the standard will assist report users in evaluating the service efforts, costs, and accomplishments of the Federal reporting entity; the manner in which these efforts and accomplishments have been financed; and the management of the Federal entity's assets and liabilities. Moreover, users will get a clearer picture of Federal program activity undertaken by "trust funds" and will be better able to assess the impact on the country of the Government's operations and investments for the period, and its financial condition.

Table of Contents

Executive Summary 1
What is the Board Proposing? 1
Why is the Board making this proposal? 2
How does this proposal improve federal financial reporting? 2
How does this proposal contribute to meeting the federal financial reporting objectives? 2
Request for Comments 5
Introduction 6
Scope 7
Materiality 7
Effective Date 7
Accounting Standard 8
Fiduciary Activities 8
Definition and Characteristics of Fiduciary Activities 8
Accounting and Reporting for Fiduciary Activities 9
Recognition of Assets and Liabilities 10
Note Disclosure 12
Statement of Custodial Activity 13
Financial Report of the United States Government 13
Basis of Accounting 13
Effect on Current Standards 13
Appendix A: Basis for Conclusions 15
Identifying Fiduciary Activity 15
Current Accounting Standards Need Clarification 16
Limited Scope Activity 16
Management Activity 16
Special Accountability Reporting 17
Income from Fiduciary Activity 18
New Standards 19
Basis for New Definition of Fiduciary Activity 19
Basis for Accounting Provisions 22
Pension, Post-employment Benefits, and Social Insurance 23
Statement of Custodial Activity 24
Appendix B: Glossary 25
Appendix C: Examples of Footnote Summary Financial Information 28
Appendix D: Pro Forma Illustrations 29
Illustration #1 – Federal component entity receives and holds non-federal party's cash 30
Illustration #2 – Federal component entity invests non-Federal party's assets in 32
Treasury securities. 32
Illustration #3 – Federal component entity invests non-Federal party's assets in 35
non-Treasury securities. 35
Illustration #4 – Federal component entity accrues a liability for fiduciary activity 38
Illustration #5 – Federal component entity receives and holds non-Federal party's cash
outside of the Treasury. 41

Request for Comments

1. Do you agree with the definition of fiduciary activities? See paragraph 11 for the definition, paragraphs 12-14 for characteristics, and paragraphs 62-74 in the basis for conclusions for the rationale.

2. Do you agree with the accounting treatment of fiduciary assets? See paragraphs 15-36 and 41 for the accounting standard with respect to Federal component entities; and, see paragraphs 37-40 and 41 for the standard regarding the Financial Report of the United States Government. See paragraphs 75-81 in the basis for conclusions for the rationale.

3. Do you agree that the information in paragraph 32 should be required for note disclosure? See paragraphs 32-35 for the accounting standard and paragraphs 75-81 in the basis for conclusions for the rationale for the accounting treatment generally.

4. Do you agree with the requirement in paragraph 33 that, with respect to certain financial information required in paragraph 32, there should be separate columns for major activity, all other activity, and total activity? A fiduciary activity would be major if it is equal to or greater than 25 percent of the value of the entity's total fiduciary activity. If you do not agree, what display would you recommend?

5. Do you agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government, that is, not eliminated during consolidation? See paragraphs 37-40 for the accounting standard and also see paragraph 77 in the basis for conclusions.

Introduction

1. This standard provides accounting and reporting guidance for fiduciary activities. Fiduciary activities should be distinguished from Federal programs designated in law as "trust funds." "Trust funds" included in the Federal budget are normally established to carry out Federal programs, and their activity differs from the common understanding of trust **fund**[*] activity outside of government. Most of the **revenue** received by Federal "trust funds" represents Government-owned collections "earmarked" or dedicated to finance or help to finance specific Federal programs rather than being held for the exclusive benefit of specific, identifiable **non-Federal parties**. The Airport and Airway Trust Fund, the Old-Age, Survivors, and Disability Trust Funds, and the Highway Trust Funds are examples of such "trust fund" activity.

2. Fiduciary activities involve non-Federal arrangements and **ownership interests** described in this statement (see paragraphs 11-14 below). The Federal employees' Thrift Savings Fund, the Indian tribal and individual Indian trust funds, and the Federal Communication Commission Fees, Suspense are examples of fiduciary activities.

3. Non-fiduciary "trust funds" serve useful purposes in allocating federal spending authority and accounting for earmarked collections. However, this terminology and usage has resulted in a lack of clarity about how the activity of Federal "trust funds" differ from **fiduciary activity**; about the linkage between "trust fund" activity and Federal program expenditures; and about the relationship between "trust funds" and the Federal Government's overall financial condition.

4. In order to clarify financial reporting in general purpose Federal financial reports, this standard defines fiduciary activity and provides accounting and reporting guidance for the activity and the related assets and liabilities.

5. This standard requires that the terms "fiduciary," "**fiduciary assets**," "fiduciary fund," and "fiduciary activity" be used in Federal general purpose financial statements to characterize only fiduciary activity. Non-fiduciary "trust fund" assets and activity related thereto should not be characterized as "fiduciary" or "trust" activity in general purpose financial reports of **Federal entities**. Such reporting would obscure an essential fact: that the Federal Government uses the non-fiduciary assets in support of its programs .

6. This standard requires that Federal entities recognize equal and offsetting assets and liabilities in their financial statements and disclose certain information in notes for fiduciary assets held in their name. Assets held in the name of the non-Federal party and under the supervision of a Federal entity are not to be recognized in the financial statements of the Federal entity. Note disclosure is required for fiduciary

[*] Words first appearing in **boldface** are defined in the Appendix B: Glossary.

activity, whether related assets are held in the Federal entity's name or in the name of the non-Federal party.

Scope

7. This statement provides accounting and reporting standards for fiduciary activities and related assets and liabilities in the general purpose financial statements for Federal entities. The standard does not affect reporting in the *Budget of the United States* or special-purpose reports. Employee retirement programs (defined benefit pension benefits and post–employment health care programs) and social insurance programs addressed in Statement of Federal Financial Accounting Standards (SFFAS) 5, *Accounting for Liabilities in the Federal Government,* and SFFAS 17, *Accounting for Social Insurance,* respectively, do not meet the definition of fiduciary activity for the purposes of this standard.

8. This standard does not change the requirements of SFFAS 3, *Accounting for Inventory*, paragraphs 59-78, regarding **seized property** and **forfeited property**.

Materiality

9. The provisions of this standard need not be applied to immaterial items.

Effective Date

10. This standard is effective for periods beginning after September 30, 2004. Earlier adoption is encouraged.

Accounting Standard

Fiduciary Activities

Definition and Characteristics of Fiduciary Activities

Definition

11. Fiduciary activities relate to the collection or receipt, management, protection, accounting, investment and disposition by the Federal Government of cash or other assets in which **non-Federal individuals or entities** (or "non-Federal parties") have an ownership interest that the Federal Government must uphold. Non-Federal parties must have an ownership interest in cash or other assets held by the Federal entity under provision of law, regulation, or other fiduciary arrangement. For there to be a fiduciary activity under this standard, there must be a **fiduciary relationship** based on statutory or other legal authority and evidence that the Government activity is in furtherance of that relationship. The ownership interest must be enforceable against the Federal Government. Judicial remedies must be available for the breach of the fiduciary obligation.

Characteristics

12. **In a fiduciary activity a Federal entity collects or receives, manages, protects, accounts for, invests, and/or disposes of cash or other assets in which non-Federal parties have an ownership interest that the Federal Government must uphold.** Fiduciary activities normally involve cash inflows. Cash is fungible and all cash received by Federal entities is deposited in the U.S. Treasury[1] (Treasury) unless authorized otherwise.[2] Occasionally, a Federal entity may receive assets other than cash under a fiduciary arrangement, e.g., real or personal property held temporarily pending disposition. Fiduciary activities do not necessarily pertain to a specific asset or the form in which an asset is held (e.g., a specifically identifiable cash account). In some cases, however, the ownership interest could pertain to specific assets.

13. **In a fiduciary activity a fiduciary relationship exists between a Federal entity and a non-Federal individual or entity.** For there to be a fiduciary activity under this standard, there must be a fiduciary relationship based on statutory or other legal authority and evidence that the Government activity is in furtherance of that relationship. An authorized agent or entity of the Government taking custody of, accepting, recognizing, agreeing to or consenting to undertake fiduciary activity

[1] The Treasury Department is the primary fiscal agent for the Federal Government, among its other duties. The Treasury collects money due to the United States, makes payments, manages borrowings, performs central accounting functions, and produces coins and currency sufficient to meet demand. The Treasury manages the Government's daily cash position and borrowing as well as the investment of funds in its custody and the trillion-dollar Federal Investment Program, which currently provides services for more than 200 funds for Federal agencies. The Treasury provides Central Accounting System (CAS) services to Federal agencies. CAS transactions involve appropriation credits, transfers-in and -out, collections, disbursements and related adjustments. Such transactions increase or decrease Federal entities' "**Fund Balances with Treasury**" (FBWT) maintained with Treasury.

[2] To the extent a Federal **component entity** has a Treasury account to conduct a fiduciary activity, the deposit of related cash inflows in the Treasury increases the entity's FBWT. See SFFAS 1, *Selected Assets and Liabilities*, pars. 31-39.

would, for example, constitute evidence of activity in furtherance of that fiduciary relationship. Fiduciary activities comprise a range of managerial involvement and time periods. Some fiduciary activity involves merely the collection or receipt, temporary custody, investment, and remittance of fiduciary resources to individuals, private organizations, or other governments. Other fiduciary activity may involve significant managerial discretion. Trust, bailment and similar binding agreements may reflect such a fiduciary relationship.

14. **In a fiduciary activity the non-Federal party's interest is enforceable.** The non-Federal parties' ownership interest pertains to enforceable claims to the monetary value of cash or other assets or some other specific legal right with respect to the Federal entity's treatment of an asset (e.g., a right to enjoin the Federal entity from acting or failing to act toward an asset) received or held under the fiduciary arrangement. Judicial remedies are available for the breach of the fiduciary obligation.[3]

Accounting and Reporting for Fiduciary Activities

15. The terms "fiduciary," "fiduciary assets," "fiduciary fund," and "fiduciary activity" should be used in Federal general purpose financial statements of Federal entities only to characterize fiduciary activity as defined in this standard. Assets of non-fiduciary "trust funds" and activity related thereto should not be characterized as "fiduciary" or "trust" activity in general purpose financial reports.

16. There are three methods used to account for fiduciary assets:

    1. Fiduciary assets held by a **component entity** of the Federal Government in the Treasury in the name of the Federal component entity. "Held in the name of" a Federal component entity means that a Federal component entity makes investment decisions, disburses funds or otherwise disposes of the asset pursuant to law and/or fiduciary arrangements, or makes other operational decisions. Most Federal component entities hold cash and investments in the Treasury.[4] With respect to investments of fiduciary assets, most Federal component entities invest in non-marketable par value Treasury securities and market-based or marketable Treasury securities expected to be held to maturity.[5] Some investments are purchased in the open market, including investment in Treasury securities.

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[3] See U.S. v. Mitchell, 463 U.S. 206 (1983) (Mitchell II) ; U.S. Dept. of Justice, Opinion of the Office of Legal Counsel, subject: Fiduciary Obligations Regarding Bureau of Prisons Commissary Fund, May 22, 1995. See also footnote 27 infra.

[4] Most Federal entities do not physically hold cash. A Federal entity's Fund Balance with Treasury is the aggregate amount of funds in the entity's accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. See Appendix B, Glossary.

[5] *Nonmarketable par value Treasury securities* are special Government account series debt securities that the Treasury issues to Federal entities at face value (par value). The securities are redeemed at face value on demand; thus investing entities recover the full amounts invested. *Market-based Treasury securities* are debt securities that the Treasury issues to federal entities without statutorily determined interest rates. Although the securities are not marketable, their terms (prices and interest rates) mirror the terms of marketable Treasury securities. *Marketable Treasury securities*, including Treasury bills, notes, and bonds, are initially offered by Treasury to the marketplace and can then be bought and sold on securities exchange markets. The bid and ask prices of such securities are publicly quoted by the marketplace. See SFFAS 1, pars. 62-73.

2. Fiduciary assets held by a component entity of the Federal Government, outside the Treasury, in the name of a Federal component entity, and

3. Fiduciary assets held by a component entity of the Federal Government, outside the Treasury, in the name of the non-Federal party but under the supervision of the Federal component entity.[6]

17. The accounting requirements below address each of these situations. For the accounting requirements for *seized property*, see SFFAS 3, *Accounting for Inventory*, paragraphs 59-66, and Technical Release 4, *Reporting on Non-Valued Seized and Forfeited Property*.[7]

Recognition of Assets and Liabilities[8]

Fiduciary Assets Held by a Component Entity of the Federal Government in the Treasury in the Name of the Federal Component Entity

18. Fiduciary cash that is held in the Treasury should be recognized as Fund Balance with Treasury (FBWT) and an equal and offsetting liability of the Federal component entity should be recognized. The liability should be titled to indicate that the amount is owed to a non-Federal entity. Any liability incurred by the Federal component entity with respect to the fiduciary activity in excess of amounts owed to the non-Federal party should be recognized as a liability of the Federal component entity.

19. The entity's FBWT representing fiduciary assets should be reported as **non-entity assets** on the face of the entity's balance sheet separately from entity assets.

20. Disbursements from FBWT to the non-Federal party should be recognized both as a decrease in FBWT and the appropriate liabilities of the Federal component entity.

21. Disbursements from FBWT to purchase investments on behalf of non-Federal parties should be recognized by the Federal component entity as an exchange of assets. FBWT should be decreased and investments in Treasury securities (or other securities) increased. Such investments should be reported separately on the face of the balance sheet as non-entity assets.

22. Interest and other income on investments due to the non-Federal party should be reported by the Federal component entity as an increase in assets and liabilities. Investment or other losses borne by the non-Federal party should be reported by the Federal component entity as decreases in assets and liabilities.

[6] A fourth possibility for holding fiduciary funds has been suggested: in the Treasury but "in the name of" a non-federal entity. The Board intends to define the phrase "held in the name of" so as to eliminate the possibility for such a category. If the assets were held in the Treasury, they would be, in effect, "held in the name of" the Federal entity because operationally the Federal entity would control them. If the Federal entity controls the assets, then the standard requires assets and liabilities to be recognized on the Federal entity's balance sheet – i.e., the treatment as for category (1) above – as well as note disclosure.

[7] These requirements can also be found in the FASAB *Codification*.

[8] See Appendix D: Pro Forma Illustrations examples of accounting entries and financial reporting.

23. Additional information should be disclosed in notes to the financial statements as described below in the section on note disclosures (see paragraphs 32-35).

Fiduciary Assets Held by a Component Entity of the Federal Government, outside the Treasury, in the Name of the Federal Component Entity

24. The accounting for fiduciary cash or other assets that are held outside the Treasury in the name of the Federal component entity is the same as the accounting for assets held in the Treasury. An asset and an equal and offsetting liability of the Federal component entity should be recognized. The liability should be titled to indicate that the amount is owed to a non-Federal entity. Any liability incurred by the Federal component entity with respect to the fiduciary activity in excess of amounts owed to the non-Federal party should be recognized as a liability of the Federal component entity.

25. The Federal component entity's cash or other assets representing fiduciary assets held outside the Treasury in the name of the entity should be reported as non-entity assets on the face of the entity's balance sheet.

26. Disbursements from cash accounts held outside the Treasury to the non-Federal party should be recognized as both a decrease in cash and the appropriate liabilities of the Federal component entity.

27. Disbursements from cash accounts held outside the Treasury to purchase investments on behalf of non-Federal parties should be recognized by the Federal component entity as an exchange of assets. Cash should be decreased and investments in Treasury securities (or other securities) increased. Such investments should be reported separately on the face of the balance sheet as non-entity assets.

28. Interest and other income on investments due the non-Federal party should be reported by the Federal component entity as an increase in assets and liabilities. Investment or other losses borne by the non-Federal party should be reported by the Federal component entity as decreases in assets and liabilities.

29. Additional information should be disclosed in notes to the financial statements as described below in the section on note disclosures (see paragraphs 32-35).

Fiduciary Assets Held by a Component Entity of the Federal Government, outside the Treasury, in the Name of the Non-Federal Party, under the Supervision of the Federal Component Entity

30. Cash or other assets held outside the Treasury in the name of the non-Federal party should not be recognized as assets and liabilities in the basic financial statements of the Federal component entity. Records would be maintained for these assets, consistent with the legal duties applicable to the fiduciary relationship, for the purposes of disclosure required by paragraphs 32-35 and any other purposes the

entity deems necessary. Any liability incurred by the Federal component entity with respect to the fiduciary activity in excess of amounts owed to the non-Federal party should be recognized as a liability of the Federal component entity.

31. Additional information should be disclosed in notes to the financial statements as described in the note disclosure section immediately below (see paragraphs 32-35).

Note Disclosure

32. Note disclosure is required for all three methods for the Federal Government to hold fiduciary assets listed in paragraph 16. Disclosure should include the following information about the Federal entity's fiduciary activities:

    1. A description of the fiduciary relationship, e.g., the applicable legal authority, the objectives of the fiduciary activity, and a general description of the beneficial owners or class of owners.
    2. A summary of changes in fiduciary assets displaying:
        (1) The dollar amount of inflows from the fiduciary activities by category (e.g., contributions, investment earnings) and outflows by category (e.g., benefit payments, refunds, administrative expenses),
        (2) The beginning balance of net assets,
        (3) The ending balance of net assets, and
        (4) The net change in net assets.
    3. A summary of fiduciary assets displaying:
        (1) Cash and any other assets by category (e.g., receivables, investments), liabilities by category (e.g., accounts payable, refunds payable) and
        (2) The ending balance of net assets.

(See Appendix C: Examples of Footnote Summary Financial Information for an illustration of the note disclosure required in paragraph 32, subparagraphs (2) and (3).)

33. With respect to the information required in paragraph 32, subparagraphs (2) and (3), separate columns should be provided for each major fiduciary activity, all other activity, and for total fiduciary activity. A fiduciary activity would be major if it is equal to or greater than 25 percent of the value of the entity's total fiduciary activity. Columns should be presented that report the fiduciary activity from the prior year. [See examples in Appendix C: Examples of Footnote Summary Financial Information.]

34. The note disclosure required in paragraph 32 is not required for seized assets. For the required note disclosure for seized assets, see SFFAS 3, *Accounting for Inventory*, paragraph 66, and Technical Release 4, *Reporting on Non-Valued Seized and Forfeited Property*.

35. Note disclosures are an integral part of the basic financial statements, essential for fair presentation in conformity with generally accepted accounting principles (GAAP) for the Federal Government.

Statement of Custodial Activity

36. Statements of Custodial Activity (SCA) are not required for fiduciary activity.

Financial Report of the United States Government

37. The Federal component entity's FBWT should be eliminated during preparation or Financial Report of the United States Government (FR). The fiduciary liability of the Federal component entity to the non-Federal party should not be eliminated during consolidation.

38. Cash, investments, and other assets held in a fiduciary capacity in the Federal component entity's name outside the Treasury and reported on the entity's financial statements should not be eliminated during consolidation of the FR.

39. Investments in Treasury securities held in a fiduciary capacity in the name of the Federal component entity should not be eliminated during consolidation of the FR. Such investments should be reported as non-entity assets and as debt held by the public. Material amounts of such investments should be reported separately from Government investments on the face of the balance sheet.

40. Note disclosure should summarize the information required of Federal entities in paragraphs 32.

Basis of Accounting

41. The assets and liabilities reported in the Federal entity's basic financial statements and disclosed in the notes thereto, as required in paragraphs 18-40 should be recognized and measured using the standards provided in generally accepted accounting principles applicable to the Federal Government.

Effect on Current Standards

42. This standard affects current standards dealing with fiduciary activity and fiduciary relationships in SFFAS 7 as described in this section. Paragraph 370 is rescinded. Other paragraphs are amended as follows:

> **SFFAS 7, par. 83**. A reporting entity may be responsible for funds financed with dedicated collections that are held for later use to accomplish the fund's purpose. ~~Some of these are held in a fiduciary capacity.~~ Special accountability is required for the sake of the taxpayers or other contributors who make payments to the fund with the expectation that the collections will be used for the purposes for which they were dedicated, and for the sake of those who expect to benefit from the fund's future expenditures. Such funds include funds

within the budget classified as "trust funds," and those funds within the budget that are classified as "special funds" but that are similar in nature to funds classified in the budget as "trust funds," ~~and those funds within the Federal universe (inside or outside the budget) that are fiduciary in nature~~. Management should, therefore, identify those special funds that are similar in nature to funds classified in the budget as "trust funds" ~~and those funds inside and outside the budget that are fiduciary in nature~~. Identification of funds that are similar in nature to trust funds is a judgmental matter; management is best qualified to make this judgment.

SFFAS 7, par. 230. **Funds covered by the standard.** Trust funds, as defined in pars. 83 are not the only type of fund that collects dedicated moneys. However, the exposure draft did not specifically delineate which funds might be included in the wider scope. The Board decided to limit these disclosures to funds where there was a need to show accountability to contributors and expected beneficiaries. Therefore, the funds that are covered by this standard are all funds classified in the budget as "trust funds," and all special funds that are similar to funds classified in the budget as "trust funds," ~~and all fiduciary funds whether or not in the budget.~~

43. Interpretation No. 1, Reporting on Indian Trust Funds in General Purpose Financial Reports of the Department of the Interior and in the Consolidated Financial Statements of the United States Government: An Interpretation of SFFAS 7, is superseded.

44. In this standard and elsewhere in its concepts and standard statements,[9] the Board has described the Federal usage of the term "trust fund" and cautioned preparers and users to be cognizant of the usual differences from activities commonly understood to be fiduciary. Budget accounts are classified as Federal funds or trust funds. Any account that is designated by the laws governing the Federal budget as being a trust fund is so classified. "Trust funds" included in the budget normally are not of a fiduciary nature. The use of the term "trust fund" in prior FASAB standards should be understood in this context.

[9] See SFFAC 2, pars. 18-19, SFFAS 7, pars. 228 and 231.

Appendix A: Basis for Conclusions

45. This appendix summarizes some of the considerations deemed significant by the Board in reaching the conclusions in this Statement. It includes the reasons for accepting certain approaches and rejecting others. Individual Board members gave greater weight to some factors than to others.

Identifying Fiduciary Activity

46. The objective of this standard is to provide accounting and reporting guidance for fiduciary activities, and to differentiate such activity from Federal program activity. In many cases the latter employ resources that are dedicated to a specific program and accounted for in accounts designated by law as "trust funds." This has resulted in a lack of clarity about how such "trust fund" activity differs from fiduciary trust fund activity as commonly understood outside government; about the linkage between "trust fund" activity and Federal program expenditures; and the relationship between "trust fund" accounting and the Federal Government's overall financial condition.

47. Whether a particular fund is designated in law as a "trust fund" does not necessarily depend upon traditional trust concepts. According to General Accounting Office (GAO) and Office of Management and Budget (OMB) publications, there is no substantive difference in the budget between "trust funds" and special or revolving funds. The larger "trust funds" finance social insurance payments to individuals and pensions to retired employees. A few of the other "trust funds" are credited with resources earmarked by law to carry out a cycle of business-like operations, and a few small funds carry out the terms of conditional gifts or bequests made to a Federal entity.

48. "Trust funds" included in the Federal budget normally are not of a fiduciary nature. They are used in Federal financing in a way that differs from the common understanding of trust funds outside government.[10] In many ways, these "trust funds" can be similar to special or revolving funds in that their spending is financed by earmarked collections.[11] Most of the assets held by such "trust funds" represent Government-owned assets "earmarked" or dedicated to finance or help to finance specific Federal programs rather than the property of non-Federal parties. "Trust funds" and other entities established to account for such activity serve useful purposes in allocating Federal spending authority and accounting for earmarked collections and other receipts.

49. Federal "trust fund" programs differ in a number of ways from other government programs. The earmarked collections, when received by Treasury, are often accounted for by crediting "trust funds" where the program generally has an appropriation to spend the fund balance subject to benefit formulas or other program

[10] See SFFAC 2, *Entity and* Display, par. 17-21, and *FY 2004 Analytical Perspectives*, Chapter 16, "Trust Funds and Federal Funds," pp. 369.
[11] See GAO, *Federal Trust and Other Earmarked Funds*, January 2001, GAO-01-199SP.

limitations.[12] Fiduciary activities on the other hand involve the collection or receipt, management, and disposition by a Federal entity of cash or other assets in which non-Federal parties have an ownership interest that the Federal Government must uphold. The non-Federal parties' ownership interest pertains to enforceable claims to the monetary value of cash or other assets received and held by a Federal entity under provision of law, regulation, or the fiduciary arrangement.

Current Accounting Standards Need Clarification

50. Current accounting standards do not address the universe of fiduciary activity, which ranges from activity of limited scope to significant management involvement. Most fiduciary activity, in terms of number of accounts, represents escrow or bailment activity. Such funds generally serve short-term goals, are not invested, and involve little management discretion.[13] Fiduciary activity requiring significant management activity involves fewer accounts but significant amounts and operational complexity.

Limited Scope Activity

51. Current accounting standards are incomplete with respect to the accounting required for limited scope fiduciary activity. Current accounting standards state that limited scope activity involves inflows that the Government (a) holds temporarily until ownership is determined or (b) holds as an agent for others. Current accounting standards only address such activity as follows:

    - First, the Federal entity may classify the activity as part of the reporting entity.
    - Second, a disclosure may be necessary under the special accountability reporting provisions of SFFAS 7 (see below, paragraphs 54-57) because there is a fiduciary relationship between the activity and the Federal entity.[14]

    The standards have not previously defined "fiduciary relationship."

52. Regarding the inclusion of the activity in the reporting entity, the standards have not provided explicit guidance as to how the activity should be reported within the entity, i.e., record in the accounts, note disclosure, or supplementary reporting.

Management Activity

53. In addition to limited scope activity, other fiduciary activities involve significant management aspects. A Federal entity might hire fund managers to actively manage investments, while the Federal entity records the transaction, and executes instructions from account holders. An example of this is the Thrift Savings Fund.[15]

[12] Congressional Budget Office, Policy Brief No. 5, *The Impact of Trust Fund Programs on Federal Budget Surpluses and Deficits*, Nov. 4, 2002, pp. 1-2.
[13] *FY 2004 Analytical Perspectives*, Chapter 24, "Budget System and Concepts and Glossary," p. 471.
[14] SFFAS 7, pars. 239, 370.
[15] For the Thrift Savings Fund, see *FY2004 Analytical Perspectives*, Chapter 20, "Off-budget Federal Entities and Non-budgetary

Alternatively, fund managers may actively manage the funds themselves according to the provisions of the applicable law (e.g., Indian tribal monies), regulation, or trust agreement.[16] This standard will clarify current accounting for all Federal fiduciary activity.

Special Accountability Reporting

54. As described in paragraph 51 above, disclosure may be necessary under the special accountability reporting provisions of SFFAS 7 because there is a fiduciary relationship between the activity and the Federal entity. In order to understand what special accountability reporting entails, paragraphs 54-57 describe special accountability reporting. Where material (to either the reporting entity, the beneficiaries, or contributors), SFFAS 7 requires special accountability disclosures for:

    1. Funds classified within the budget as trust funds.
    2. Funds classified within the budget as "special funds" but that are similar in nature to trust funds.
    3. Funds (inside or outside the budget) of a fiduciary nature.[17]

    Under the prior standard, management was to use its judgment to identify funds in categories 2 and 3.

55. SFFAS 7 requires the following special accountability information, at a minimum, for individual funds that account for dedicated collections.[18]

    1. A description of each fund.
    2. The sources of revenue.
    3. Condensed information about assets and liabilities.
    1. Condensed information on net cost and changes to fund balance.
    2. Any revenues, **other financing sources**, or costs attributable to the fund under accounting standards, but not legally allowable as credits or charges to the fund.

Activities," section on "Deposit Funds," p. 401. "The largest deposit fund is the Thrift Savings Fund [TSF] … a defined contribution retirement plan. Because [TSF] assets are the property of the employees [i.e., not Government property] and are held by the Government in a fiduciary capacity, the transactions of the fund are not transactions of the Government itself and therefore are non-budgetary in concept."

[16] *FY 2004 Analytical Perspectives*, Chapter 16, "Trust Funds and Federal Funds," p. 369-382; GAO, *Federal Trust and Other Earmarked Funds*, January 2001, GAO-01-199SP, p. 8. Beginning in FY 2000, Indian tribal monies are generally accounted for in deposit funds, the same as individual Indian monies. Deposit funds are non-budgetary accounts that record amounts held by the Government temporarily until ownership is determined (such as earnest money paid by bidders for mineral leases) or held by the Government as an agent for others (such as State income taxes withheld from Federal employees' salaries and not yet paid to the States). Prior to FY 2000, Indian tribal monies had been included in the budget as Indian tribal "trust funds." FASAB Interpretation No. 1, *Reporting on Indian Trust Funds in General Purpose Financial Reports of the Department of Interior and the Consolidated Financial Statement of the United States: An Interpretation of SFFAS 7*, was issued when the budgetary treatment of tribal and individual Indian monies differed, i.e., tribal monies were budgetary, while individual Indian monies were nonbudgetary deposit funds. For more on deposit funds, see *FY2004 Analytical Perspectives*, pp. 401 and 471.

[17] SFFAS 7, par. 83.

[18] Dedicated collections are collections by the Government that are earmarked by law to finance a specific federal program. FASAB *Consolidated Glossary*.

56. The current accounting standards require that the special accountability information be reported on the face of the Federal entity's general purpose financial statements or disclosed in the notes to the financial statements. Also, when not material to the reporting entity, the information could be provided separately in special reports to the contributors and beneficiaries (or their representatives), rather than separately in the reporting entity's statements or notes.[19] However, when reported separately, the condensed financial information required in (3) and (4) above (see paragraph 55) is to be combined for all such funds and included in the notes to the financial statements described as "amounts for immaterial funds not presented separately in this general purpose report."[20]

57. In addition, FASAB Interpretation No. 1 states that the assets, liabilities, etc., related to the Indian trust funds should not be included in the Department of the Interior's financial statements, but that the special accountability disclosure requirements do apply to Indian trust funds. Thus, even though at the time of the Interpretation most Indian money was on-budget – supposedly a conclusive criterion for entity determination – recognition in the accounts and statements was not required.

Income from Fiduciary Activity

58. This standard also clarifies how to account for income from fiduciary activity. Normally the ownership interest in the fiduciary assets includes any income generated by the fiduciary assets, but governing legal authority varies. Accordingly, ownership in the income generated by fiduciary assets is not a requirement for the activity to be labeled as fiduciary.

59. Current Federal financial accounting standards have not directly addressed income from fiduciary activity. However, the standards specify that income retains the original revenue classification of the source of the funds.[21] For example, interest earned on investedbalances derived from **nonexchange revenue** should be classified as non-exchange revenue.

60. Finally, this standard clarifies how income is to be accounted during consolidation. Although the accounting used within a given entity (e.g., a statutory "trust fund") should be in accordance with the applicable legal requirements, the standards require the larger reporting entity of which the special purpose entity is a component, or the administrative entity, or the next higher level of the Government (e.g., a department or the Government as a whole), to recognize the revenues, other financing sources, or costs associated with but not legally allowable to the fund.[22] The word "recognize" in this paragraph, if applied to fiduciary inflows, might lead to financial statement recognition or at least to uncertainty with respect to what is required.

[19] SFFAS 7, par. 84.
[20] SFFAS 7, par. 85.
[21] See SFFAS 7, pars. 36(d), 154, and 306.
[22] SFFAS 7, par. 86.

61. Given the constraints of the current standards with respect to fiduciary activity, the Board decided that a broader standard was needed. This standard deals with more of the conditions and circumstances of fiduciary activity.

New Standards

Basis for New Definition of Fiduciary Activity

62. The definition of fiduciary activity in this standard is based on U.S. Supreme Court decisions in the "Mitchell" cases.[23] The Court addressed the concepts of "trust" and "fiduciary obligations" because the Congress charged the Government with holding certain assets "in trust." [24]

63. Congress and many agencies have inconsistently applied the term "trust" or similar concepts to a host of Federal programs or resources. Examples include the "Trust Fund" statute, 31 U.S.C. § 1321, the "Trust Fund Code of 1981," 26 U.S.C., Subtitle I, and the Social Security Trust Funds, 42 U.S.C. §§ 401, *et. seq*.

64. The definition of fiduciary activity used in this standard focuses on three characteristics. In a fiduciary activity:

    1. A Federal entity collects or receives, manages, protects, accounts for, invests, and/or disposes of cash or other assets in which non-Federal parties have an ownership interest that the Federal Government must uphold.
    2. A fiduciary relationship exists between a Federal entity and a non-Federal individual or entity.
    3. The non-Federal party's interest in enforceable.

65. First, with respect to a Federal entity collecting or receiving, managing, protecting, accounting for, investing, or otherwise holding and/or disposing of cash or other assets[25] in which non-Federal parties have an ownership interest that the Federal Government must uphold, several concepts are important. In customary usage, the term "trust fund" refers to money belonging to one party held "in trust" by another party operating as a fiduciary. The money in a trust fund must be used in accordance with the trust's terms, which the trustee cannot unilaterally modify, and is maintained separately and not commingled with the trustee's own funds. Non-Federal individuals or entities contribute assets (directly or indirectly) to the fund and often bear the investment risk, if any. The non-Federal beneficial owner has a right to

[23] *United States v. Mitchell*, 445 U.S. 535 (1980) ("Mitchell I"); *United States v. Mitchell*, 463 U.S. 206 (1983) ("Mitchell II").

[24] Mitchell I, 445 U.S., at 541 (reviewing the General Allotment Act of 1887, codified as amended at 25 U.S.C. §§ 331-58); *see also*, *National Ass'n of Counties v. Baker*, 842 F.2d 369, 375-76 (D.C. Cir. 1988), *cert. denied*, 488 U.S. 1005 (1989) (assessing another statute that used "trust language" similar to that considered by the Supreme Court). While the General Allotment Act of 1887 established a "limited trust," it did not prescribe fiduciary duties of management. However, the Supreme Court ultimately identified such specific "fiduciary duties" arising from separate statutes and regulations that were not a part of, or contemporaneously enacted with, the General Allotment Act of 1887. Mitchell II, 463 U.S., at 224.

[25] *Restatement (Third) of Trusts* (1994), § 86. A "fiduciary relationship" requires an identifiable asset (*corpus*, *res*, bailment, escrow, cash flow, *etc*.), ownership in which can be transferred. However, "[a]n expectation or hope of receiving property in the future cannot be held in trust."

receive its income and/or assets. Often specific individual accounts are established for the non-Federal individuals and/or entities that can make withdrawals.

66. In contrast, many Federal "trust fund" activities use Federal resources that are dedicated to a specific Federal program and non-Federal parties do not have an ownership interest in the assets. Federal "trust funds" included in the Federal budget normally do not have what is commonly understood to be "trust fund" characteristics. They do not involve a Federal entity having a recognized fiduciary relationship with a non-Federal party. The Federal Government owns the assets and earnings of Federal "trust funds," and it can, and frequently does, through legislation,[26] unilaterally raise or lower payments or inflows and change the purpose for which the inflows are used.

67. The nature and extent of the Government's conduct depends upon the specific benefits or interests that must be served.[27] One of the basic, if not the principal, distinctions between Federal "fiduciary activity" and other "trust fund" activity*, e.g.,* Social Security Trust Funds, is whether the Congress or an agency establishes or manages the resource to carry out the Federal Government's programs and objectives. For example, the Revenue Sharing Act established the State and Local Government Fiscal Assistance Trust Fund "in order to ensure constant funding for the Revenue Sharing Programs" by appropriating "funds in advance, for the life of the program, thus enabling local governments to budget their programs in advance."[28] The courts have concluded that the use of the term "trust" is sometimes employed primarily to avoid state taxation on certain lands. The courts applied similar concepts in determining that the Social Security Trust Funds were established to further "general welfare" goals of the Nation, and that an individual's "vested" entitlements to future payments from them constituted only an "expectation."[29]

68. In SFFAS 17, *Accounting for Social Insurance*, the FASAB considered *Flemming v. Nestor*, (363 U.S. 608-611) to reach a compromise in establishing accounting standards for five social insurance "trust funds." In the basis for conclusions for SFFAS 17 (par. 65) the Board noted the argument Mr. Justice Harlan delivered for the Court in *Flemming*:

> [T]he entire [Social Security System] rests on the legislative judgment that those who in their productive years were functioning members of the economy may justly call upon that economy, in their later years, for protection from the "rigors of the poor house."..

and

[26] See *FY 2004 Analytical Perspectives*, Chapter 16, "Trust Funds and Federal Funds," p. 369.

[27] Mitchell II, 463 U.S. at 224 (statutes and regulations "defined the contours of the United States' fiduciary responsibilities"); Contrast, e.g., 29 USC § 1342(d) and (h) (powers granted to trustees of terminated defined-benefit pension plans) with *United States v. Alcea Band of Tillamooks*, 341 U.S. 48 (1951) (no award of interest where not authorized by statute); *see also*, *Principles of Federal Appropriations Law*, vol. IV, at 17-296. The obligation to act for the benefit or interest ***of another*** creates the "fiduciary" nature of the obligation. See *Principles of Federal Appropriations Law*, vol. IV, pp. 17—298 –300 for many cases where fiduciary duties found.

[28] *National Ass'n of Counties v. Baker*, 842 F.2d 369, 376 (1988), *cert. denied*, 488 U.S. 1005 (1988).

[29] *Richardson v. Belcher*, 404 U.S. 78 (1971); *Flemming v. Nestor*, 363 U.S. 603 (1960).

> It is apparent that the noncontractual interest of an employee covered by the Act cannot be soundly analogized to that of the holder of an annuity, whose right to benefits are bottomed on his contractual premium payments.... *To engraft upon the Social Security System a concept of "accrued property rights" would deprive it of the flexibility and boldness in adjustment to ever-changing conditions which it demands.* (Emphasis added.)

69. The collection or receipt, custody, and disposal of Federal assets by one Federal component entity on behalf of another Federal component entity would not constitute fiduciary activity for the purposes of this standard. Such activity would not meet the criteria provided herein. However, such assets reported in the financial statements of the custodial Federal component entity would constitute "non-entity assets" and should be reported as such on the face of the balance sheet.

70. Second, in fiduciary activity a fiduciary relationship exists between a Federal entity and a non-Federal individual or entity. A fiduciary relationship must be based on (1) statutory or other legal authority[30] and (2) evidence that the Government activity is in furtherance of that relationship.[31] All Federal fiduciary activity must be based on Congressional authorization. Fiduciary activity is usually based on explicit authority granted by Congress. In some cases, the authority of a Federal entity to engage in fiduciary activity may be inferred from one or more laws. In either case, where there is no explicit fiduciary relationship identified by Congress or by the Federal entity, the existence of an implied fiduciary relationship is assessed on the basis of current facts and circumstances. A fiduciary relationship may be implied from the actions of Federal parties acting within the scope of general operational authority. For example, a Federal entity may be authorized to seize assets under specified circumstances, hold the assets during adjudication, and either take ownership of forfeited property or return the property to the owner. The entity would be engaging in fiduciary activity during the time the assets were held pending adjudication.

71. The objective of including the concept of implicit authority and implicit relationships in the definition of fiduciary activity is to consider the substance of the relationship and whether the activity is fiduciary. Fiduciary obligations might exist absent the use of explicit language. However, the application of this criterion must be weighed together with evidence that the Federal entity is engaging in such activity.[32]

72. Third, the non-Federal party's interest is enforceable. Judicial remedies are available for the breach of the fiduciary obligation. At common law, a trust is characterized by the trustee's legal title to the asset being subject to the equitable "ownership" rights

[30] See Mitchell II, 463 U.S., at 224, "The language of [the pertinent] statutory and regulatory provisions directly supports the existence of a fiduciary relationship."
[31] Mitchell II, 463 U.S. at 225; Dept. of Justice, Opinion of Office of Legal Counsel, May 22, 1995, at 3. Both of these opinions referred to basic common law applicable to trusts. For a discussion on the authority of particular Government agents, see GAO, *Principles of Federal Appropriations Law*, vol. IV, at 17-285.
[32] For one assessment of this criterion, *see* Opinion of Office of Legal Counsel, *Fiduciary Obligations Regarding Bureau of Prisons Commissary Fund*, May 22, 1995, footnote 7 and accompanying text; *see also*, 31 U.S.C. § 1321(b) (requiring deposit into an account in the Treasury all funds "that are analogous to the funds named in subsection (a) and are received by the Unites States Government as trustee"); 31 U.S.C. § 1323(c) (addressing "donations, quasi-public amounts, and unearned amounts"); and, TFM Bulletin Number 2000-2.

of another.[33] However, within the meaning of this standard, a non-Federal party may have both types of ownership interests (i.e., legal title and equitable rights). For example, in the case of escrow accounts and bailments, beneficiaries retain the legal title to the property.

73. In contrast, many Federal "trust funds" employ dedicated collections to provide future benefits, but the intended **beneficiary** does not have an ownership right in the assets of the fund, if any, or to future payments. Some Federal "trust funds" would appear to represent ownership interests. However, in such statutory programs, Congress reserves to itself the right to change the underlying law or affect payments by amounts or limitations on amounts it appropriates. In some Federal "trust funds" the description of beneficiaries and the amounts to be paid are categorical and lack the specificity necessary for a fiduciary relationship.

74. The available remedies for the breach of a fiduciary obligation must be judicially enforceable against the Government. For example, as the "Mitchell" cases established, the Tucker Act and its Indian Trust Fund equivalent provide the requisite waiver of sovereign immunity[34] for monetary damages for "claims against the United States 'founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department,' [where] the source of substantive law can fairly be interpreted as mandating compensation by the Federal Government for the damages sustained." A host of other general or specific statutory waivers exist that may be applicable to "fiduciary funds."[35]

Basis for Accounting Provisions

75. The objective of this accounting standard is to clarify current accounting requirements for all Federal fiduciary activity. Such activity encompasses limited scope activity and broader management activity.[36] Prior accounting standards address agent-type activity when the Federal entity classifies the activity as part of the reporting entity; or, when there is a fiduciary relationship between the fiduciary activity and the Federal entity.[37]

76. The Board considered the accounting treatment for investments of fiduciary assets in Treasury securities. The Board decided to require Federal entities to recognize such investments as non-entity assets when they are held in the name of the Federal entity. The Board also decided not to eliminate such investments during consolidation for the Financial Report of the United States Government. Thus, such investments are considered held by the public.

77. The only fiduciary asset eliminated during consolidation is "Fund Balance with Treasury." The Board decided to eliminate assets held as "Fund Balance with

[33] *Restatement (Third) of Trusts* (1994), § 2, Comments d, f.
[34] Mitchell II, 463 U.S. at 215-16.
[35] See *Dep't of the Army v. Blue Fox, Inc.*, 525 U.S. 255, 260 (1999).
[36] SFFAS 7, pars. 239, 370.
[37] SFFAS 7, pars. 239, 370.

Treasury" because that account is intra-governmental. A Federal component entity's fund balance with the Treasury is the aggregate amount of funds in the entity's accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. From the Federal component entity's perspective, a fund balance with Treasury is an asset because it represents the entity's claim to the Federal Government's resources. However, from the perspective of the Federal Government as a whole, it is not an asset; and while it represents a commitment to make resources available to Federal departments, agencies, programs and other entities, it is not a liability.

78. The standard requires that the collection or receipt of fiduciary assets be recognized as an increase in assets and liabilities rather than revenue. The collection or receipt of fiduciary assets by a Federal reporting entity does not meet the FASAB definition of revenue or of other financing sources.[38] The Government has not demanded or earned fiduciary assets; nor have they been donated, transferred-in, or appropriated from the **General Fund** for the Federal entity's use.

Pension, Post-employment Benefits, and Social Insurance

79. This standard does not apply to assets held by Federal employee defined benefit pension plans and post-employment health plans, or to assets held by social insurance funds, e.g., Social Security. In previous accounting standards[39] the Board has required comprehensive information regarding these programs. The fiduciary activity that is the focal point of this standard pertains to assets in which non-Federal parties have an ownership interest that the Federal Government must uphold. As stated elsewhere in this basis for conclusions, the assets held by employee retirement and social insurance programs essentially serve as spending authority: to the extent that the fund has a balance, there is legal authority to make program expenditures, subject to appropriation. Participants pay social insurance payroll taxes and expect to receive future benefits, but they do not possess an ownership interest in the assets of the fund except as noted in paragraph 80.

80. With respect to Federal employee defined benefit pension plans, the Board considered that a fiduciary relationship exists with respect to the employees' contributions. Such contributions are refundable, under certain conditions, to the employee should his or her employment terminate before benefits vest; or, at the election of a departing employee after vesting — which would, of course, void any future retirement benefits; or, at the request of the employee's estate should the employee die before his or her contributions are fully paid to him or her or to the surviving spouse. However, such refunds are not a significant part of these programs as a whole. The Board concluded that the accounting and reporting required of such programs by SFFAS 5 is satisfactory.

[38] See SFFAS 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*, pars. 33, 48, 70, and the *Glossary* to this standard.
[39] For employee benefit programs see SFFAS 5, *Accounting for Liabilities of the Federal Government*¸ paragraphs 56-96 and Interpretations 3, *Measurement Date for Pension and Retirement Health Care Liabilities*, and 4, *Accounting for Pension Payments in Excess of Pension Expense*. For social insurance, see SFFAS 17, *Accounting for Social Insurance*.

Statement of Custodial Activity

81. A Statement of Custodial Activity is not required for fiduciary activity. A SCA is appropriate for custodial collections, which are amounts collected by one Federal component entity on behalf of another Federal component entity and associated with that other entity in the Federal budget. For example, the Internal Revenue Service (IRS) and the Customs Service (Customs) make collections of income taxes and customs duties, respectively, and they are deposited into designated accounts of the Treasury, which are unavailable to either for use in their operations.[40] The IRS and Customs would report such collections on a SCA and the responsible program entity would report revenue and the related assets. Thus, SCA is appropriate for those Federal component entities whose primary mission is collecting taxes or other Federal revenues, particularly sovereign revenues that are intended to finance the entire Government's operation, or at least the programs of other Federal component entities, rather than their own activities.[41] Guidance with respect to SCA is provided in SFFAC 2 and SFFAS 7.

[40] Implementation Guide to Statement of Financing in Statement of Federal Financial Accounting Standards 7, *Accounting for Revenue and Other Financing Sources*: Detailed Information on the Statement of Financing, par. 25.
[41] SFFAC 2, par. 101.

Appendix B: Glossary

Beneficiary – An individual or other entity legally entitled to enforce an obligation against the United States such as specified benefits from a fiduciary trust or agent fund.

Component Entity– The term "component entity" is used to distinguish between the U.S. Federal Government and its components. The U.S. Federal Government as a whole is composed of organizations that manage resources and are responsible for operations, i.e., delivering services. These include major departments and independent agencies, which are generally divided into sub-organizations, i.e., smaller organizational units with a wide variety of titles, including bureaus, administrations, agencies, and corporations. Use of "component entity" in this standard is only intended to distinguish between the Financial Report of the United States Government's consolidated financial statements and financial statements of its components. Also see "Entity."

Entity – The U.S. Federal Government as a whole and/or units within the Federal Government, such as a department, agency, bureau, or program, for which a set of financial statements would be prepared. Entity also encompasses a group of related or unrelated commercial functions, revolving funds, "trust funds," and/or other accounts for which financial statements will be prepared in accordance with OMB guidance. Also see "Component Entity."

Exchange Revenue – Inflows of resources to a Government entity that the entity has earned. They arise from exchange transactions, which occur when each party to the transaction sacrifices value and receives value in return.

Federal Entity – See "Entity" and "Component Entity."

Fiduciary Activity – An activity that relates to the collection or receipt, management, protection, accounting, investment and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. Non-Federal parties must have an ownership interest in cash or other assets held by the Federal entity under provision of law, regulation, or other fiduciary arrangement, usually including an ownership interest in any related income generated. For there to be a fiduciary activity under this standard, there must be a fiduciary relationship based on statutory or other legal authority and evidence that the Government activity is in furtherance of that relationship. The ownership interest must be enforceable against the Federal Government. Judicial remedies must be available for the breach of the fiduciary obligation.

Fiduciary Asset – Fiduciary assets are assets subject to fiduciary activity.

Fiduciary Relationship – An authorized agent or entity of the Government has custody of, accepts, recognizes, agrees to or consents to undertake fiduciary activity. A fiduciary relationship is based on statutory or other legal authority and evidence that the Government activity is in furtherance of that relationship. A fiduciary relationship may be implied from the actions of Federal parties acting within the scope of general operational authority.

Forfeited Property – Forfeited property is property for which title has passed to the Government. Forfeited property consists of (1) monetary instruments, intangible property, real property, and tangible personal property acquired through forfeiture proceedings; (2) property acquired by the government to satisfy a tax liability; and (3) unclaimed and abandoned merchandise.

Fund – Fund has more than one meaning. Depending on the context it may mean merely a resource as in funds available to pay an obligation. Or, for budgetary accounting, it may mean Federal funds or "trust funds," the two major groups of funds in the budget. The Federal funds include all transactions not classified by law as being in trust funds. The main financing component of the Federal funds group is referred to as the General Fund, which is used to carry out the general purposes of Government rather than being restricted by law to a specific program and consists of all collections not earmarked by law to finance other funds. [Also see the *Budget of the United States Government, Analytical Perspectives*, Chapter 16, "Trust Funds and Federal Funds," pp. 369-382.]

A fund can also mean a fiscal and accounting entity with a self-balancing set of accounts recording cash and other assets, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

The term "fund" is used in both contexts in this standard. For example, the introductory and background material discusses funds in the context of budget accounting. On the other hand, when the standard refers to a fiduciary fund in the illustrations that follow this Glossary, it is in the context a self-balancing set of accounts.

Fund Balance with Treasury – A Federal entity's fund balance with the Treasury is the aggregate amount of funds in the entity's accounts with Treasury for which the entity is authorized to make expenditures and pay liabilities. Fund balance with Treasury is an intra-governmental item. From the reporting entity's perspective, a fund balance with Treasury is an asset because it represents the entity's claim to the Federal Government's resources. However, from the perspective of the Federal Government as a whole, it is not an asset; and while it represents a commitment to make resources available to Federal departments, agencies, programs and other entities, it is not a liability. An entity's fund balance with Treasury is increased by, among other things, amounts collected and credited to a fund that the entity is authorized to spend or use to offset its expenditures. Disbursements made to pay liabilities or to purchase assets, goods, and services, investments in Treasury or other securities, transfers and reimbursements to other entities or to the Treasury, and similar transactions reduce an entity's fund balance with Treasury.

General Fund – The General Fund accounts for receipts not earmarked by law for specific purposes, the proceeds of general borrowing, and the expenditure of these monies. General Fund receipts constitute the greater part of the budget, e.g., almost all income tax receipts are General Fund receipts. General Fund appropriations draw from General Fund receipts and borrowing collectively and, therefore, are not specifically linked to earmarked receipts. [See *The Budget of the United States FY 2004, The Budget System and Concepts and Glossary*.]

Non-Entity Assets – Non-entity assets are assets held by a Federal entity that are not available to support that entity's Federal programs, e.g., escrow accounts that the entity would receive but would have no authority to spend except pursuant to the escrow agreement. Both entity assets and non-entity assets under a Federal entity's custody and management should be reported in the entity's financial statements. Non-entity assets reported in an entity's financial statements should be segregated from entity assets. Non-entity assets may or may not be Federally owned. Assets under a Federal entity's custody and management that belong to another Federal entity or to the Government as a whole would constitute non-entity Federal assets. Assets under a Federal entity's custody and management that belong to a non-Federal party would constitute non-entity non-Federal assets.

Nonexchange Revenue – Nonexchange revenue is an inflow of resources to the Government that the Government demands or that it receives by donations. The inflows that it demands include taxes, duties, fines, and penalties.

Non-Federal Individuals or Entities – Individuals and entities acting in their private capacities outside of the authority and control of the Federal Government. Federal employees are "non-Federal individuals" when acting in their private capacities, e.g., with respect to their private retirement assets managed by the Federal plan.

Non-Federal Parties – See "Non-Federal Individuals and Entities."

Other Financing Sources – Inflows of resources that increase net position of a reporting entity during the reporting period but that are not revenues or gains. They include appropriations used, transfers of assets from other Government entities, and financing imputed with respect to any cost subsidies. Financing outflows may result from transfers of the reporting entity's assets to other Government entities or from exchange revenues earned by the entity but required to be transferred to the General Fund or another Government entity. Unexpended appropriations are recognized separately in determining net position but are not financing sources until used.

Ownership Interest – The possession of substantially all of the benefits and risks incident to ownership.

Revenue – See "Exchange Revenue" and "Nonexchange Revenue."

Seized Property – Seized property is property held in a fiduciary capacity pending determination of final disposition. Seized property includes monetary instruments, real property and tangible personal property of others in the actual or constructive possession of the custodial agency. Seized property is accounted for in the financial records of the entity that is operating as the central fund. Seized monetary instruments are recognized as seized assets when seized, and a liability is established in an amount equal to the seized asset value. Seized monetary instruments are recognized upon seizure due to (1) the fungible nature of monetary instruments and (2) the high level of control over the assets that is necessary. Seized property other than monetary instruments is disclosed in the footnotes. The value of the seized property is accounted for in an agency's property management records until the property is forfeited, returned, or otherwise liquidated.

Appendix C: Examples of Footnote Summary Financial Information

The following illustrates the summary financial information required in paragraph 32, subparagraphs (2) and (3), of the standard for all fiduciary activity.

Department XYZ
Changes in Fiduciary Assets
As of September 30, 2002 and 2001

	2002 A1 Fund	2002 Other Funds	2002 Total	2001 A1 Fund	2001 Other Funds	2001 Total
Contributions	$ 233,450	$ 116,550	$ 350,000	$ 200,000	$ 125,000	$ 325,000
Investment earnings	116,725	58,275	175,000	100,000	65,000	165,000
Gain (Loss) on disposition of investments, net	6,670	3,330	10,000	4,000	1,000	5,000
Disbursements to beneficiaries	(300,150)	(149,850)	(450,000)	(200,000)	(150,000)	(350,000)
Increases in fiduciary fund balances	56,695	28,305	85,000	104,000	41,000	145,000
Fiduciary net assets, beginning of year	1,810,905	904,095	2,715,000	1,570,000	1,000,000	2,570,000
Fiduciary net assets, end of year	$ 1,867,600	$ 932,400	$2,800,000	$1,674,000	$1,041,000	$2,715,000

Department XYZ
Fiduciary Assets
As of September 30, 2002 and 2001

	2002 A1 Fund	2002 Other Funds	2002 Total	2001 A1 Fund	2001 Other Funds	2001 Total
ASSETS						
Current Assets						
Cash and cash equivalents	$ 567,600	$ 254,654	$ 822,254	$ 250,000	$ 275,000	$ 525,000
Investments	1,300,000	677,746	1,977,746	1,424,000	766,000	2,190,000
TOTAL ASSETS	$ 1,867,600	$ 932,400	$2,800,000	$1,674,000	$1,041,000	$2,715,000

Appendix D: Pro Forma Illustrations

Table of Illustrations

Illustration # 1 – Federal component entity receives and holds non-Federal party's cash.

1.A – Pro forma entries reflecting the Federal entity's recording of the initial fiduciary activity
1.B – Effect on the Federal entity's general purpose financial report
1.C – Financial Report of the United States Government consolidation worksheet

Illustration #2 – Federal component entity invests non-Federal party's assets in Treasury securities.

2.A – Pro forma entries reflecting the Federal entity's purchase of Treasury securities on behalf of non-Federal party
2.B – Effect on the Federal entity's general purpose financial report
2.C – Financial Report of the United States Government consolidation worksheet

Illustration #3 – Federal component entity invests non-Federal party's assets in non-Treasury securities.

3.A – Pro forma entries reflecting the Federal entity's purchase of non-Treasury securities on behalf of non-Federal party
3.B – Effect on the Federal entity's general purpose financial report
3.C – Financial Report of the United States Government consolidation worksheet

Illustration #4 – Federal component entity accrues a liability for fiduciary activity.

4.A – Pro forma entries reflecting the Federal entity's accrual of the liability
4.B – Effect on the Federal entity's general purpose financial report
4.C – Financial Report of the United States Government consolidation worksheet

Illustration #5 – Federal component entity receives and holds non-Federal party's cash outside of the Treasury.

5.A – Pro forma entries reflecting Federal entity's recording of the initial fiduciary activity
5.B – Effect on the Federal entity's general purpose financial report
5.C – Financial Report of the United States Government consolidation worksheet

Illustration #1 – Federal component entity receives and holds non-federal party's cash

1.A Pro Forma Entries for Federal entity's recording of initial fiduciary activity:

	DR	CR
Federal Component Entity		
Fund Balance with Treasury (FBWT)	1,000	
Liability for Fiduciary Activity		1,000
To record cash received on behalf of a non-federal party.		
Treasury Governmentwide Accounts		
Treasury's Governmentwide Cash Account	1,000	
Treasury's Liability for FBWT		1,000
To record cash received on behalf of a non-federal party.		

Fiduciary Fund*	DR	CR
Cash	1,000	
Net Assets		1,000
To record cash received.		

** Note: A "fiduciary fund" would be a self-balancing set of accounts used to account for the owner's interest. Fund information could be used for footnote disclosures in Federal general purpose financial reports prepared per Federal GAAP. The account balances in the fund would not be recognized in the Federal entity's financial statements. The Federal entity would account for its fiduciary responsibility via its own accounts and records.*

1.B Effect on Federal component entity's general purpose financial report (GPEFR):

1.B. (i) Balance sheet

ASSETS	
* * *	
Non-Entity Assets	
Fund balance with Treasury	$ 1,000
Total assets	$ 1,000
LIABILITIES	
Liability for fiduciary activity	$ 1,000
NET POSITION	-
Total liabilities and net position	$ 1,000

1.B.(ii) Footnote disclosure:

Fiduciary Funds:

"The XYZ Department maintains fiduciary funds…. The balances in the fund(s) result from fiduciary activity undertaken pursuant to statutory direction and authority. The following information is provided on assets held in a fiduciary capacity and changes therein:"

ASSETS	
Cash	$ 1,000
LIABILITIES	
None [i.e., no liabilities]	$ -
Net assets available	$ 1,000

[Note that the above footnote is for illustration. The actual footnote disclosure would have more information, including changes in net assets.]

1.C Financial Report of the United States Government (FR) consolidation worksheet:

	Federal Compo. Entity	Treasury Department	Eliminations	FR
ASSETS				
Fund balance with Treasury	$ 1,000	$ -	$ (1,000)	$ -
Treasury's Governmentwide cash account		1,000		1,000
Total assets	$ 1,000	$ 1,000	$ (1,000)	$1,000
LIABILITIES				-
Liability for fiduciary activity	$ 1,000	$ -	$ -	$1,000
Treasury's liability for FBWT		1,000	(1,000)	-
				-
NET POSITION	-	-	-	-
Total liabilities and net position	$ 1,000	$ 1,000	$ (1,000)	$1,000

[Note: FR footnote disclosure of fiduciary funds would be required.]

Illustration #2 – Federal component entity invests non-Federal party's assets in Treasury securities.

2.A Pro forma entries for Federal component entity's purchase of Treasury securities on behalf of Non-Federal party

Initial collection or receipt of cash:

	DR	CR
<u>Federal Component Entity</u>		
Fund Balance with Treasury (FBWT)	1,000	
Liability for Fiduciary Activity		1,000
To record cash received on behalf of a non-federal party.		
<u>Treasury Governmentwide Accounts</u>		
Treasury's Governmentwide Cash Account	1,000	
Treasury's Liability for FBWT		1,000
To record cash received on behalf of a non-federal party.		

Invest cash:

	DR	CR
<u>Federal Component Entity</u>		
Investments in Treasury Securities	1,000	
Fund Balance with Treasury		1,000
To record Treasury securities purchased on behalf of non-federal parties.		

<u>Treasury Governmentwide Accounts</u>

[Note: Treasury's entries are shown in two steps to illustrate all the steps -- conceptually -- that would be taking place.]

	DR	CR
Treasury's Liability for FBWT	1,000	
Treasury's Governmentwide Cash Account		1,000
To record cash withdrawal.		
Treasury's Governmentwide Cash Account	1,000	
Debt Held by the Public		1,000
To record sale of securities.		

<u>Fiduciary Fund</u>	DR	CR
Investments in Treasury Securities	1,000	
Cash		1,000
To record purchase of Treasury securities.		

2.B Effect on Federal component entity's GPEFR reporting:

2.B. (i) Balance sheet:

ASSETS	
* * *	
Non-Entity Assets	
Fund balance with Treasury	$ -
Investments in Treasury securities	1,000
Total assets	$ 1,000
LIABILITIES	
Liability for fiduciary activity	$ 1,000
NET POSITI0N	-
Total liabilities and net position	$ 1,000

2.B.(ii) Footnote disclosure:

Fiduciary Funds:

"The XYZ Department maintains fiduciary funds…. The balances in the fund(s) result from fiduciary activity undertaken pursuant to statutory direction and authority. The following information is provided on assets held in a fiduciary capacity and changes therein:"

ASSETS	
Cash	$ -
Investments in Treasury Securities	1,000
Total assets	$ 1,000
LIABILITIES	
[No liabilities]	$ -
Net assets available	$ 1,000

[Note that the above footnote is for illustration. The actual footnote disclosure would have more information, including changes in net assets.]

2.C FR consolidation worksheet:

No eliminations would be required, as follows:

	Federal Component Entity	Treasury Department	Eliminations	FR
ASSETS				
Fund Balance with Treasury	$ -	$ -	$ -	$ -
Investment in Treasury securities	1,000			1,000
Treasury's Governmentwide cash account		1,000		1,000
Total assets	$ 1,000	$ 1,000	$ -	$2,000
LIABILITIES				
Liability for fiduciary activity	$ 1,000			$1,000
Treasury's liability for FBWT		-		0
Debt held by the public		1,000		1,000
NET POSITION	-	-		0
Total liabilities and net position	$ 1,000	$ 1,000	$ -	$2,000

[Note: FR footnote disclosure of fiduciary funds would be required at the FR level.]

Illustration #3 – Federal component entity invests non-Federal party's assets in non-Treasury securities.

3.A Pro forma entries for the Federal component entity's purchase of NON-Treasury securities on behalf of non-Federal party:

[Note: For pro forma illustrations of the accounting for the initial collection or receipt of non-federal cash, see pro forma example 1.A.]

	DR	CR
Initial collection or receipt of cash:		
Federal Component Entity		
Fund Balance with Treasury (FBWT)	1,000	
Liability for Fiduciary Activity		1,000
To record cash received on behalf of a non-federal party.		
Treasury Governmentwide Accounts		
Treasury's Governmentwide Cash Account	1,000	
Treasury's Liability for FBWT		1,000
To record cash received on behalf of a non-federal party.		
Invest cash:		
Federal Component Entity		
Investments in Securities (non-Treasuries)	1,000	
Fund Balance with Treasury		1,000
To record securities purchased on behalf of non-federal parties.		
Treasury Governmentwide Accounts		
Treasury's Liability for FBWT	1,000	
Treasury's Governmentwide Cash Account		1,000
To record cash withdrawal.		

Fiduciary Fund	DR	CR
Investments in Securities	1,000	
Cash		1,000
To record purchase of non-Treasury securities.		

3.B Effect on Federal component entity's GPEFR reporting:

3.B.(i) Balance sheet:

ASSETS		
* * *		
Non-Entity Assets		
Fund balance with Treasury	$	-
Investments in securities [non-Treasuries]		1,000
Total assets	$	1,000
LIABILITIES		
Liability for fiduciary activity	$	1,000
NET POSITI0N		-
Total liabilities and net position	$	1,000

3.B.(ii) Footnote disclosure:

[Note: footnote would report the same information under both alternatives above, as follows:]

Fiduciary Funds:

"The XYZ Department maintains fiduciary funds…. The balances in the fund(s) result from fiduciary activity undertaken pursuant to statutory direction and authority. The following information is provided on assets held in a fiduciary capacity and changes therein:"

ASSETS		
Cash	$	-
Investments in securities [non-Treasuries]		1,000
Total assets	$	1,000
LIABILITIES		
[No liabilities]	$	-
Net assets available	$	1,000

[Note that the above footnote is for illustration. The actual footnote disclosure would have more information, including changes in net assets.]

3.C FR consolidation worksheet:

No eliminations would be required, as follows:

	Federal Component Entity	Treasury Department	Eliminations	FR
ASSETS				
Fund Balance with Treasury	$ -	$ -	$ -	$ -
Investments in securities [non-Treasuries]	1,000			1,000
Total assets	$ 1,000	$ -	$ -	$1,000
LIABILITIES				
Liability for fiduciary activity	$ 1,000			$1,000
Treasury's liability for FBWT		-		-
NET POSITION	-			-
Total liabilities and net position	$ 1,000	$ -	$ -	$1,000

[Note: FR footnote disclosure of fiduciary funds would be required at the FR level.]

Illustration #4 – Federal component entity accrues a liability for fiduciary activity

[Note: For pro forma illustrations of the accounting for the initial receipt of non-federal cash, see pro forma example 1.A.]

4.A Pro forma entries reflecting Federal entity's accrual of the liability:

Federal Entity	DR	CR
Liability for Fiduciary Activity	100	
Administrative Expense Payable		100
To provide for administrative expenses incurred.		

When the payment is made, then:		
Administrative Expense Payable	100	
Fund Balance with Treasury		100

Treasury Governmentwide Accounts

NO ENTRIES

When payment is made, then:		
Liability for FBWT	100	
Treasury's Governmentwide Cash Account		100

Fiduciary Fund	DR	CR
Administrative Expense	100	
[The expense would ultimately reduce the equity account "Net Assets Available."]		
Administrative Expense Payable		100
To accrued liability for salaries payable.		
Also, at the time of payment:		
Administrative Expense Payable	100	
Cash		100
To liquidate administrative expense payable for salaries expense.		

4.B Effect on Federal component entity's GPEFR reporting:

4.B.(i) Balance sheet:

ASSETS	
* * *	
Non-Entity Assets	
Fund Balance with Treasury	$ 1,000
Total assets	$ 1,000
LIABILITIES	
Liability for Fiduciary Activity	$ 900
Accounts Payable	100
NET POSITION	-
Total liabilities and net position	$ 1,000

4.B(ii) Footnote disclosure:

[Note: footnote would report the same information under both alternatives:]

Fiduciary Funds:

"The XYZ Department maintains fiduciary funds…. The balances in the fund(s) result from fiduciary activity undertaken pursuant to statutory direction and authority. The following information is provided on assets held in a fiduciary capacity and changes therein:"

ASSETS	
Cash	$ 1,000
Total assets	$ 1,000
LIABILITIES	
Account payable	$ 100
Net assets available	$ 900

[Note that the above footnote is for illustration. The actual footnote disclosure would have more information, including changes in net assets.]

4.C FR consolidation worksheet:

	Federal Compo. Entity	Treasury Department	Eliminations	FR
ASSETS				
Fund Balance with Treasury	$ 1,000		$ (1,000)	$ -
Treasury's Governmentwide cash account		$ 1,000		1,000
Total assets	$ 1,000	$ 1,000	$ (1,000)	$1,000
LIABILITIES				-
Liability for fiduciary activity	$ 900	$ -	$ -	$ 900
Account payable	$ 100			100
Treasury's liability for FBWT		1,000	(1,000)	-
				-
NET POSITION	-	-	-	-
Total liabilities and net position	$ 1,000	$ 1,000	$ (1,000)	$1,000

[Note: Footnote disclosure of fiduciary funds would be required at the FR level.]

Illustration #5 – Federal component entity receives and holds non-Federal party's cash outside of the Treasury.

5.A Pro forma entries reflecting Federal component entity's recording of fiduciary activity:

	DR	CR
Federal Component Entity		
Other Cash	1,000	
Liability for Fiduciary Activity		1,000
To record cash received on behalf of a non-Federal party.		
Treasury Governmentwide Accounts		
NO ENTRIES		

	DR	CR
Fiduciary Fund		
Cash	1,000	
Net Assets		1,000
To record non-Federal cash received.		

5.B Effect on Federal component entity's GPEFR reporting:

5.B.(i) Balance sheet:

ASSETS	
Fund balance with Treasury	$ -
Other cash	1,000
Total assets	$ 1,000
LIABILITIES	
Liability for fiduciary activity	$ 1,000
NET POSITION	-
Total liabilities and net position	$ 1,000

5.B.(ii) Footnote disclosure:

Fiduciary Funds:

"The XYZ Department maintains fiduciary funds…. The balances in the fund(s) result from fiduciary activity undertaken pursuant to statutory direction and authority. The following information is provided on assets held in a fiduciary capacity and changes therein:"

ASSETS	
Cash	$ 1,000
LIABILITIES	
None [i.e., no liabilities]	$ -
Net assets available	$ 1,000

[Note that the above footnote is for illustration. The actual footnote disclosure would have more information, including changes in net assets.]

5.C FR consolidation worksheet:

	Federal Component Entity	Treasury Department	Eliminations	FR
ASSETS				
Fund balance with Treasury	$ -	$ -	$ -	$ -
Other cash	1,000	-		1,000
Treasury's Governmentwide cash account		-		-
Total assets	$ 1,000	$ -	$ -	$1,000
LIABILITIES				
Liability for fiduciary activity	$ 1,000	$ -	$ -	$1,000
Treasury's liability for FBWT		-	-	-
				-
NET POSITION	-	-	-	-
Total liabilities and net position	$ 1,000	$ -	$ -	$1,000

[Note: FR footnote disclosure of fiduciary funds would be required at the FR level.]

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