

CAS Board Moves Forward

Written by Nick Sanders

Tuesday, 01 December 2020 00:00

As readers know, we are not super satisfied with the recent pace of CAS Board activity. You can blame COVID-19, or you can blame the lack of an industry representative. You can even assert that the CAS Board Chair has other things to think about right now. Whatever the reason, it's a rare day when we can post anything about CAS Board activity.

This is one of those days.

But before we discuss the CAS Board's action, we need to put it into context. As part of that context, let's look at the five stages of grief. They are:

1.

denial

2.

anger

3.

bargaining

4.

depression

5.

acceptance

In fairness, we understand that there is much to criticize in the above model. It's not necessarily

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a series of discrete steps that one checks off along the way towards acceptance of loss. But we still think it provides context here: just as there are stages of grief, there are also stages of CAS Board rulemaking.

The difference between the stages of grief and the stages of CASB rulemaking are many; but one fundamental difference is that the CASB rulemaking process is defined by statute. According to the statute, the following summarize the steps of CAS Board rulemaking:

1.

Prepare and publish in the Federal Register a report on the issues associated with the proposed rulemaking (often called a Staff Discussion Paper or SDP)

2.

Publish an advanced notice of proposed rulemaking (ANPRM) in the Federal Register to solicit comments on the report

3.

Publish a notice of proposed rulemaking (NPRM) in the Federal Register and provide all parties affected at least 60 days after publication to submit their views and comments

4.

Publish the final rule

Recently we [discussed](#) a Staff Discussion Paper (SDP) regarding possible revisions to Standards 404 and 411. The interesting thing about the SDP was that it didn't seem to fully embrace the statutory requirement to discuss the issues associated with the proposed rulemaking. Instead, it just asked a bunch of questions. Will the answers lead to publication of an ANPRM or another SDP? We couldn't say.

The CAS Board moves in mysterious ways.

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The CASB also recently [published](#) an ANPRM. It wasn't published in the Federal Register, as statute requires, but there was a Federal Register notice and a link to the ANPRM. So—good enough for government work?

The latest ANPRM aims to conform CAS and GAAP with respect to the concepts of “operating revenue” and “lease accounting.” Most readers will understand that there has been a lot of relatively recent movement in GAAP with respect to those issues; and most readers will similarly understand that there has been zero movement in CAS *for decades* with respect to those issues. Thus, what was once similar has now diverged, and the CAS Board aims to bring them back together.

Maybe.

We'll have to see.

With respect to the concept of “operating revenue,” the CAS Board—

... believes that the definition in GAAP is essentially equivalent to the CAS definition, except that the Board notes that, for purposes of management contracts under which the contractor essentially acts as an agent of the Government in the erection or operation of Government-owned facilities, the CAS definition of operating revenue includes only the fee earned for managing the contracts. GAAP provides no such limitation.

So: essentially equivalent but different with respect to GOCO and M&O contracts. The CAS Board proposed to adopt the GAAP definition but retain the exception for such contracts. “The Board solicits public comments to the proposed change to the CAS definition of operating revenue.”

The Board would also like to know “whether changes to cost accounting practices to conform Operating Revenue to ASC 606 should be considered to be a required change, a unilateral

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change, or desirable change.” In other words, if, by changing the CAS definition of “operating revenue,” there is a need for a corresponding change in a contractor’s cost accounting practice, how should that change be treated for purposes of determining whether there has been a cost increase in aggregate and how that cost increase (if any) should be treated. That’s kind of an important question and CAS-covered contractors should think long and hard about their answer.

With respect to the concept of “lease accounting,” the CAS Board is aware that adoption of ASC 842 means that contractors are putting more leases on their balance sheets, as well as creating a new type of asset called “right-of-use assets.” As the Board explained—

Right-of-use assets were formerly classified as operating leases. Right-of-use assets are recorded on the balance sheet by the lessee as assets and amortized on a systematic basis representative of the pattern in which the lessee expects to consume the right-of-use asset’s future economic benefits. A corresponding lease liability is also recorded by the lessee at the present value of the lease payments not yet paid. It is the recording of right-of-use assets on the balance sheet that may cause the potential confusion as to whether these “assets” are intangible capital assets or tangible capital assets for CAS purposes.

(Readers may recall that, in 2016, the ASBCA ruled that CAS 404 didn’t apply to leases (whether classified as operating or capital leases) because “by its terms” CAS 404 “applies only to ‘tangible capital assets’ and does not apply to a lease because a lease is an intangible asset.” We wrote about that decision [here](#) .)

With the wisdom of Solomon, the CAS Board found a solution to any confusion caused by right-of-use assets. It proposed to define them as being neither tangible nor intangible assets “at this time.” This is because “Before right-of-use assets are considered for inclusion on balance sheets, the Board would need to further analyze the impact of these changes [on various other Standards]. Thus, the proposed rulemaking would be to make no rules, pending further analysis.

And some readers wonder why we have issues with the CAS Board’s speed of activity....

In summary, this ANPRM, which represents one of the most significant actions taken by the CAS Board in several years, accomplishes the following:

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1.

Makes minor changes that acknowledge GAAP treatment, while preserving the status quo.

2.

Asks more questions.

And ... that's about it.

Great job, CAS Board!

Now go get your rulemaking participation ribbons.