



Tribal Gaming Enterprises: Improved Guidance for Fiduciary Activities

by Michel Knott

In January 2017, the Governmental Accounting Standards Board (GASB) issued Statement No. 84, *Fiduciary Activities* (the Statement). The main objective of this Statement is to enhance the consistency and comparability of fiduciary activity reporting. Additionally, this Statement is intended to improve the usefulness of fiduciary activity information used in assessing the accountability of governments and their enterprises in their fiduciary responsibilities.

Applicability and Effective Date

The requirements of this Statement apply to the financial statements of all state and local governments. This includes all governmental activities, business-type activities, and component units of the government reporting entity. The provisions of this Statement need not be applied to immaterial items.

The requirements of this Statement are effective for reporting periods beginning after December 15, 2018 (i.e. the year ending on December 31, 2019 for those using the calendar year). Earlier application is encouraged.

Determining Fiduciary Activities

Generally, the activity is a fiduciary activity if all of the following criteria are met:

- The assets associated with the activity are controlled by the entity (see “Control of assets” section for details).
- The assets are not derived either:
 - Solely from the entity’s own-source revenues, which are revenues that are generated by an entity itself.
 - From entity-mandated nonexchange transactions or voluntary nonexchange transactions.
- The assets have one or more of the following characteristics:
 - The assets are (a) administered through a trust in which the entity itself is not a beneficiary; (b) dedicated to providing benefits to recipients in accordance with the benefit terms; and (c) legally protected from the creditors of the entity.
 - The assets are for the benefit of individuals and the entity does not have administrative involvement with the assets or direct financial involvement with the assets.
 - The assets are for the benefit of organizations or other entities that are not part of the financial reporting entity.

Component Unit Fiduciary Activity Determination

An organization that meets the component unit criteria in GASB Statement No. 14, as amended, is a fiduciary activity if it is one of the following arrangements:

- A pension plan that is administered through a trust that meets the criteria in paragraph 3 of GASB Statement No. 67.
- An other postemployment benefit (OPEB) plan that is administered through a trust that meets the criteria in paragraph 3 of GASB Statement No. 74.
- A circumstance in which assets from entities that are not part of the reporting entity are accumulated for (1) pensions as described in paragraph 116 of GASB Statement No. 73; or (2) OPEB as described in paragraph 59 of GASB Statement No. 74.

Generally, pension and OPEB plans that are administered through trusts are legally separate entities. In determining whether those legally separate entities are component units, a primary government is considered to have a financial burden if it is legally obligated or has otherwise assumed the obligation to make contributions to the pension plan or OPEB plan.

A component unit, that is not a pension arrangement or OPEB arrangement as described above, is a fiduciary activity if the assets associated with the activity have one or more of the following characteristics:

- The assets are (a) administered through a trust agreement or equivalent arrangement (hereafter jointly referred to as a trust) in which the entity itself is not a beneficiary; (b) dedicated to providing benefits to recipients in accordance with the benefit terms; and (c) legally protected from the creditors of the entity.
- The assets are for the benefit of individuals and the entity does not have administrative involvement with the assets or direct financial involvement with the assets. In addition, the assets are not derived from the entity’s provision of goods or services to those individuals.
- The assets are for the benefit of organizations or other entities that are not part of the financial reporting entity. In addition, the assets are not derived from the entity’s provision of goods or services to those organizations or other entities.

In determining whether a component unit is a fiduciary component unit, control of the assets of the component unit by the primary government is not a factor to be considered.

Non-Component Unit Pension and OPEB Arrangements Fiduciary Activity Determination

If they are not component units, the following pension and OPEB arrangements are fiduciary activities if the entity controls the assets of the arrangement (see “Control of Assets” section for details):

- A pension plan that is administered through a trust that meets the criteria in paragraph 3 of GASB Statement No. 67.
- An OPEB plan that is administered through a trust that meets the criteria in paragraph 3 of GASB Statement No. 74.
- A circumstance in which assets from entities that are not part of the reporting entity are accumulated for (1) pensions as described in paragraph 116 of GASB Statement No. 73; or (2) OPEB as described in paragraph 59 of GASB Statement No. 74.

Control of Assets

An entity controls the assets of an activity if the entity (a) holds the assets; or (b) has the ability to direct the use, exchange, or employment of the assets in a manner that provides benefits to the specified or intended recipients. Restrictions from legal or other external restraints that stipulate the assets can be used only for a specific purpose do not negate an entity’s control of the assets.

Reporting Fiduciary Activities in Fiduciary Funds

Entities should report fiduciary activities in the fiduciary fund financial statements of the basic financial statements. The fiduciary fund used to report the activities should be based on the requirements in the following “Types of fiduciary funds” section.

Business-type activities, including enterprise funds, may report assets with a corresponding liability that otherwise should be reported in a custodial fund in the statement of net position of the business-type activity if those assets, upon receipt, are normally expected to be held for three months or less. A business-type activity that chooses to report such assets and liabilities in its statement of net position should separately report additions and deductions, if significant, as cash inflows and cash outflows, respectively, in the operating activities category of its statement of cash flows.

Types of Fiduciary Funds

Fiduciary fund name	Fiduciary fund description
Pension (and other employee benefit) trust fund	This fund reports pension plans and OPEB plans that are administered through trusts as well as other employee benefit plans for which (a) resources are held in a trust and (b) contributions to the trust and earnings on those contributions are irrevocable.
Investment trust fund	External portion of investment pools and individual investment accounts that are held in a trust are reported in this fund.
Private-purpose trust fund	Reports fiduciary activities that (a) are not required to be reported in pension (and other employee benefit) trust funds or investment trust funds and (b) are held in a trust.
Custodial fund	Reports all fiduciary activities that are not required to be reported in the other three fiduciary fund types above.

Presentation of Fiduciary Funds

The statement of fiduciary net position should be used to report the assets, deferred outflows of resources, liabilities, deferred inflows of resources, and fiduciary net position of each of the four types of fiduciary funds. Some exceptions apply (see the full Statement for details).

The statement of changes in fiduciary net position should be used to report additions to and deductions from each type of fiduciary fund. With exceptions, the statement of changes in fiduciary net position should disaggregate additions by source including, if applicable, separate display of:

- Investment earnings.
- Investment costs (including investment management fees, custodial fees, and all other significant investment-related costs).
- Net investment earnings (investment earnings minus investment costs).

When reported in the fiduciary fund financial statements of a primary government, a fiduciary component unit should include the combined information of its own component units that are fiduciary component units. That combined information should be aggregated with the primary government’s fiduciary funds based on the types, described previously.

What Does this Statement Mean to Tribal Gaming Enterprises?

If the tribal gaming enterprise is an enterprise fund or component unit of the tribe, then this Statement will apply to its operations.

Within its operations, the gaming enterprise may have a pension plan or OPEB plan where the gaming enterprise controls the assets. If these assets are either in a trust or are not part of the enterprise but are accumulated for pension or OPEB purposes, then the activity for these plans must be broken out from the enterprise and presented as a pension (and other employee benefit) trust fund. The trust fund

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activity will be accumulated on a statement of fiduciary net position and statement of changes in fiduciary net position.

Pension plans include not just defined benefit plans but also defined contribution plans. If your gaming enterprise offers a defined contribution plan to employees, such as a 401(k) or Individual Retirement Account (IRA), and controls the assets of the respective plan, then this plan should be assessed under the Statement.

Other tribal gaming enterprise activity to consider for fiduciary activity classification under this Statement include external investment pools, individual retirement investment accounts, and other funds held on behalf of others such as unclaimed jackpots and properties.

Keep in mind that this Statement is intended to be applied

to only material or large/important amounts in relation to the enterprise’s activity. Business-type activities, including enterprise funds, may choose to aggregate fiduciary activity, which would normally be reported in a custodial fund, with its main operations presentation if those assets are normally expected to be held for three months or less.

Take the time to apply the improved guidelines for determining fiduciary activities above to tribal gaming enterprise activity. It may be surprising how much this new Statement might impact its financial statement presentation. ♣

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