85.74 Special Liabilities

85.74.20 Public works contracts - retention of payments

July 1, 2012

85.74.20.a General

85.74.20.a.(1)

RCW 60.28.011 requires, in part, that all contracts for public improvements or work, other than for professional services, by a public body must provide for retention from the amounts earned by the contractor those amounts provided by law. Such monies are to be retained in accordance with the provision of the law for the protection and payment of the claims of any person arising under the contract and the state for taxes due from the contractor.

Highway, street or road public improvement contracts funded in whole or in part by federal transportation funds are to rely upon the contract bond as referred to in Chapter 39.08 RCW for protection of payment and taxes, as described in the preceding paragraph.

85.74.20.a.(2)

The monies withheld from amounts due a contractor under the provisions of a public works contract, at the option of the contractor, shall be:

- Retained in an account by the agency, or
- Deposited by the agency in an interest bearing account in a qualified public depositary, or
- Placed in escrow with a bank or trust company by the agency.

- Alternatively, a contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the agency and from a bonding company meeting standards established by the agency.

85.74.20.a.(3)

Following the award of a contract for public improvements or work for which retained percentages are required to be withheld under the provisions of RCW 60.28.011, agencies are to require the contractor to exercise an option in writing as to whether monies withheld from amounts due to the contractor are to be retained by the agency, deposited in an interest bearing account, placed in escrow, and/or whether the contractor will submit a bond for all or a portion of the contract retainage. Agencies are to develop procedures for informing the contractor of the options and method for exercising the option selected.

An option must be exercised prior to or at the time of submission of the invoices for the first progress payment to be made under the contract. No progress payment is to be made until the contractor has exercised an option in writing.

85.74.20.a.(4)

Payments on contracts for public improvements or work should be made in accordance with Chapter 60.28 RCW.

85.74.20.a.(5)

Refer to Subsection 85.85.60 of this manual for illustrative entries related to retained percentages.

85.74.20.b Retainage Held by the Agency

When an election is made for the agency to hold the retainage in a state account, the agency records the amount retained in GL Code 5116 "Retained Percentages Payable." The agency should maintain a subsidiary record of the retainage held by contract number and contractor name.

85.74.20.c Retainage Deposited in Interest Bearing Accounts

85.74.20.c.(1)

When an election is made to deposit amounts withheld in an interest bearing account in a public depositary, the contractor and agency are to select an institution agreeable to both. The financial institution selected must be a qualified public depositary under Chapter 39.58 RCW.

85.74.20.c.(2)

Deposits in an interest bearing account are to be in the name of the agency and are not allowed to be withdrawn without the agency's written authorization.

85.74.20.c.(3)

Interest earned on deposits is to be paid to the contractor as said interest becomes payable under the terms of the deposit. The agency is to notify the institutions to withhold all further payments of interest in the event claims are filed against the contractor. After such notice, all unpaid interest is to be subject to the conditions of Chapter 60.28 RCW. The account is to be appropriately noted by the public depositary to enable that institution to report interest payments made to the contractor to the Internal Revenue Service in the proper format.

85.74.20.d Retainage Placed in Escrow

85.74.20.d.(1)

When the contractor elects to place amounts withheld in escrow, the contractor selects a bank or trust company as the escrow agent. The agency, contractor, and escrow agent are to then jointly execute an Escrow Agreement approved as to form by the Attorney General. The Escrow Agreement, in addition to other requirements, is to provide for payment of all escrow services and brokerage fees by the contractor and is to stipulate that the contractor agrees to assume all risks in connection with the investment of the retained percentages. A copy of the completed Escrow Agreement is to be provided to the escrow agent, contractor, and agency prior to the time the first progress payment is made.

85.74.20.d.(2)

When the moneys withheld are placed in escrow, the warrant or check representing the sum of the monies withheld is to be made payable to the bank or trust company and the contractor jointly. Such monies are to be converted into bonds and securities and held in escrow. The bonds and securities are to be chosen by the contractor and approved by the agency. Interest on the bonds and securities shall be paid to the contractor as said interest becomes payable under the terms of the Escrow Agreement.

In approving securities, the agency is to consider the probable safety of the securities and their liquidity in relation to completion of the project and the timing of retention payments per statute. The agency may approve investments in bonds or securities eligible for investment by public entities, pursuant to RCW 43.84.080 and Chapters 39.58, 39.59 and 43.250 RCW.

85.74.20.d.(3)

The agency is to retain in its files all documents, supporting data, and records which reflect all actions taken relating to the escrow account and the investment of escrow monies.

85.74.30 Unclaimed property

Jan. 1, 2023

In accordance with state law, unclaimed personal property is held by the state in the absence of legal claimants. The state accounts for abandoned property in Account 196 "Unclaimed Personal Property

Account." Amounts in excess of a statutory limit are transferred to the General Fund. The state establishes a liability in Account 196 to reflect an estimate of the amount that will eventually be claimed using short-term GL Code 5193 "Liability for Unclaimed Property Refunds" and long-term GL Code 5293 "Liability for Unclaimed Property Refunds."

The state uses Account 527 "Administrator for Intestate Estates Account" for escheat property. Property escheats to the state from the estates of persons who die intestate without any known or discoverable heirs. Account 527 is used to account for the escheat property pending identification of rightful heirs.

Refer to RCW 63.30.040.

85.74.40 Claims and judgments

Oct. 1, 2011

85.74.40.a

Agencies are to record a liability for claims and judgments when all four of the following criteria are met:

- The event giving rise to the claim occurred prior to the end of the fiscal year,
- It is probable that a claim will be asserted,
- It is probable that the claim will prevail, and
- The amount of the loss is measurable or estimable.

85.74.40.b

In governmental fund type accounts, a claim or judgment is recognized as an expenditure and a liability as of the date that payment became due pursuant to the terms of a settlement agreement or court judgment (assuming there is no appeal) regardless of whether or not there are sufficient available spendable resources to liquidate them. The remaining portion of the liability is recorded in Account 999 “General Long-Term Obligation Subsidiary Account.”

85.74.40.c

In proprietary and trust fund type accounts, claims and judgments are always fund liabilities. They are separated into short-term GL Code 5113 "Claims and Judgments Payable" and long-term GL Code 5213 "Claims and Judgments Payable."

85.74.40.d

An example of a claims liability involves disallowed costs on federal programs. At the point that the agency determines that it is probable that a repayment will be made to the federal government and the amount is measurable, a claims liability is to be recorded. Additionally, an adjustment for the amount of the repayment is to be recorded to reduce both the federal revenue and expenditure/expense initially charged. Refer to Subsection 85.85.65 for an illustrative entry.

85.74.40.e

In instances where it is reasonably possible that a loss has occurred or an asset has been impaired, or a loss is probable but not measurable, a liability should not be recorded. These contingent obligations are reported by means of the year-end disclosure form process and disclosed in the notes to the state's financial statements.

85.74.45 Asset Retirement Obligations

June 1, 2019

85.74.45.a

Asset retirement obligations are legally enforceable liabilities associated with the retirement of a tangible capital asset. A liability and corresponding deferred outflow of resources should be recognized in the financial statements.

85.74.45.b

When both an external obligating event and an internal obligating event resulting from normal operations occur, agencies must attempt to estimate the expected current value of outlays expected to be incurred.

85.74.45.c

An external obligating event is one of the following:

- Approval of federal, state or local laws or regulations.
- Creation of a legally binding contract.
- Issuance of a court judgement.

85.74.45.d

An internally obligating event is an action taken by the government that requires the government to apply legal requirements to the government's specific circumstances.

An internally obligating event is one of the following:

- Contamination resulting from normal operations and is not in the scope of GASB statement 49 (Pollution Remediation).
- Non-contamination related:
- Consuming a portion of the usable capacity by the normal operations of that capital asset.
- Placing into operation a tangible capital asset that is required to be retired.
- Permanent abandonment of an asset before it is placed into operation.
- Acquiring a tangible capital asset that has an existing asset retirement obligation.

85.74.45.e

The liability for an asset retirement obligation should be measured at current value (not present value) using all available evidence. The current value is the amount that would be paid if all equipment, facilities, and services included in the estimate were acquired at the end of the current reporting period. The liability should be adjusted annually if there is a significant change in the estimate.

Best estimates should be determined by probability weighting of potential outcomes when sufficient evidence is available or can be obtained at reasonable cost.

When probability weighting cannot be accomplished at reasonable cost, the most likely amount in the range of potential outcomes should be used.

85.74.45.f

In governmental fund type accounts, goods and services that are used for asset retirement activities should be recognized as liabilities of the operating accounts only to the extent that the goods and services have been received and the liabilities are expected to be liquidated with current available spendable resources. An entry is required to reserve a portion of fund balance to indicate that the liability is not available for appropriation.

This is accomplished by debiting the appropriate Fund Balance GL Code and crediting GL Code 9265 "Restricted for Asset Retirement Obligations." The remaining portion of the liability is recorded in Account 999 "General Long-Term Obligation Subsidiary Account."

85.74.45.g

In proprietary and trust fund type accounts, asset retirement obligations are always fund liabilities. They are separated into short-term liabilities using appropriate general ledger codes (for example, accounts payable or accrued salaries) and long-term liabilities using GL Code 5289 "Asset Retirement Obligation."

85.74.45.h

Agencies should recognize deferred outflow of resources equal to the same amount of the corresponding liability upon initial measurement using GL Code 1976 "Deferred Outflows on Asset Retirement Obligations."

A reduction of the deferred outflow should be recognized in a systematic and rational manner over a period of time. That is, either over the entire estimated useful life of the tangible asset or over the remaining estimated useful life of the tangible asset starting from when the outflow is initially recognized.

85.74.45.i

Agencies that have or believe they may have asset retirement obligations should contact their OFM Accounting Consultant for assistance. Refer to Subsection 90.40.75 for fiscal year-end disclosure requirements related to asset retirement obligations.

85.74.50 Pollution remediation obligations

July 1, 2009

85.74.50.a

Pollution remediation obligations are liabilities related to the State's responsibility to clean up pollution or contamination. They do not include obligations for pollution prevention or control activities.

85.74.50.b

When one of the following five events or circumstances occurs, agencies must attempt to estimate the expected pollution remediation outlays:

- Pollution poses an imminent danger to the public or environment and the agency has little choice but to take action.
- The agency violates a pollution prevention-related permit or license.
- A regulator identifies the agency as responsible or potentially responsible for cleaning up pollution.
- The agency is named (or evidence indicates that it will be named) in a lawsuit to compel it to address pollution.
- The agency begins or legally obligates itself to begin clean up or post-clean up activities.

85.74.50.c

Pollution remediation efforts should be broken down into components, such as legal services, site investigation, and post remediation monitoring. On an on-going basis, the efforts should be analyzed by component to determine if costs are reasonably estimable. A liability should be recognized as the ranges within a component become reasonably estimable.

85.74.50.d

The liability for the pollution remediation should be measured at current value (not present value) using the expected cash flow technique. The expected cash flow technique is the sum of probability-weighted amounts in a range of possible estimated amounts.

85.74.50.e

In governmental fund type accounts, goods and services that are used for pollution remediation activities should be recognized as liabilities of the operating accounts only to the extent that the goods and services have been received and the liabilities are expected to be liquidated with current available spendable resources. The remaining portion of the liability is recorded in Account 999 "General Long-Term Obligation Subsidiary Account."

85.74.50.f

In proprietary and trust fund type accounts, pollution remediation obligations are always fund liabilities. They are separated into short-term liabilities using appropriate general ledger codes (for example, accounts payable, claims and judgments payable, or accrued salaries) and long-term liabilities using GL Code 5287 "Pollution Remediation Obligation."

85.74.50.g

Agencies that have or believe they may have pollution remediation obligations should contact their OFM Accounting Consultant for assistance. Refer to Subsection 90.40.75 for fiscal year-end disclosure requirements related to pollution remediation obligations.

85.74.55 Other post employment benefit (OPEB) obligations

July 1, 2008

Obligations for other post employment benefits (OPEB), such as retiree medical and dental insurance subsidies, are recognized as the benefits are being earned. Even though Washington's OPEB are not formalized in a contract or plan document, GAAP require that the actuarially determined value of the annual required contribution be recognized on an annual basis. To the extent that the annual required contribution is not funded, an OPEB obligation accrues.

In governmental fund type accounts, the OPEB obligation is recorded in Account 999 "General Long-Term Obligation Subsidiary Account.

In proprietary and trust fund type accounts, the OPEB obligation is recorded as a fund liability.

85.80 Fund Balance/Net Position

85.80.10 Fund balance/net position

July 1, 2023

85.80.10.a

In governmental fund type accounts, the difference between assets, liabilities, deferred inflows of resources, and deferred outflows of resources is called fund balance. Fund balance is classified as nonspendable, restricted, committed, assigned or unassigned. These classifications reflect the extent to which the state is bound to honor constraints on the purposes for which the amounts can be spent. Adjustments to fund balance are made at the account level to identify the degree of constraint.

85.80.10.b

In proprietary fund type accounts, the difference between assets, liabilities, deferred inflows of resources, and deferred outflows of resources is called net position. Net position is comprised of three components - net investment in capital assets; restricted; and unrestricted.

85.80.10.c

For reporting at the government-wide level, the difference between assets, liabilities, deferred inflows of resources, and deferred outflows of resources is presented in the net position format consistent with proprietary funds.

85.80.10.d

Except under specific circumstances, direct entries to fund balance/net position, other than adjustments to record amounts that are nonspendable, restricted, committed or assigned, are not allowed. Examples of circumstances where direct entries to fund balance/net position are allowed include implementation of new accounting standards and correction of material prior period errors. Refer to Subsection 90.20.15.

85.80.10.e

Refer to Subsection 75.40.20 of this manual for a description of the various fund balance/net position general ledger codes.