

March 1, 2007

Ms. Sue Bielstein  
Director of Major Projects and Technical Activities  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, CT 06856-5116

**Re: File Reference No. 1500-100**

Dear Ms. Bielstein:

The Accounting Standards Executive Committee of the American Institute of Certified Public Accountants (AcSEC) is pleased to offer comments on the FASB's October 9, 2006 Exposure Draft of a proposed Statement of Financial Accounting Standards, *Not-for-Profit Organizations: Mergers and Acquisitions*.

AcSEC supports the Board's decision to provide guidance on mergers and acquisitions of not-for-profit organizations (NPOs). We believe the proposed statement is a step in the right direction. We support the differences-based approach (differences from Statement No. 141, *Business Combinations*) in developing standards for NPOs in this area.

We believe that, based on differences between NPOs and business enterprises, an acquirer sometimes does not exist in mergers and acquisitions of NPOs. In fact, in some transactions in which NPOs come together, the transaction is carefully structured so that no one entity is or appears to be the acquirer or acquiree. In circumstances in which an acquirer cannot be clearly identified, fresh-start accounting is more appropriate than arbitrarily designating an acquirer and revaluing only a portion of the resulting new organization. Also, we believe smaller NPOs that are not public entities should be given the option to elect carryover basis accounting based on cost-benefit concerns.

We oppose reporting goodwill merely to balance the accounts in circumstances in which the value of the consideration transferred (if any) exceeds the net amount assigned to identifiable assets acquired and liabilities assumed. Goodwill should be recognized only in circumstances in which it can objectively be demonstrated that goodwill has been acquired. In all other situations, we believe the "dangling debit" should be reported as a reduction of net assets in the statement of activities.

Some transactions between NPOs include opt-out clauses at one or more entity's choice. The existence of such opt-out clauses raises issues pertaining to both

recognition and measurement of transactions. The Board should consider the implications of opt-out clauses.

We have provided more specific comments in the attachments to this letter.

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We appreciate the opportunity to comment on the proposed Statement and request the opportunity to discuss our comments at the March 27, 2007 Roundtable. In addition, we are available to discuss our comments with Board members or staff at their convenience.

Sincerely,

Ben Neuhausen  
Chairman  
Accounting Standards Executive Committee

Martha Garner  
Chair  
NPO Mergers and  
Acquisitions Comment  
Letter Task Force

## Attachment A

*Question 1—Are the objectives in this proposed Statement appropriate for all mergers and acquisitions by a not-for-profit organizations? If not, for which mergers or acquisitions are those objectives inappropriate, why are they inappropriate, and what alternative objectives do you suggest? What criteria do you suggest to distinguish those transactions to which a different financial reporting objective should apply?*

### Fair Value Objective

The Notice to Readers states that one of the objectives is to measure the assets and liabilities at their fair values as of the acquisition date, with certain exceptions. We agree that fair value should be the measurement objective for most mergers and acquisitions of NPOs. We believe, however, that the final Statement should include a scope exception based on size. Further, we believe fresh start accounting<sup>1</sup> is appropriate in circumstances in which an acquirer cannot be clearly identified. Specifically, we believe the following model would be more appropriate and provide more useful measurement guidance than the model in the ED:

- Nonpublic NPOs under a specified size threshold should be given the option to use carryover basis accounting, rather than the acquisition method or fresh-start accounting. (We suggest that the Board seek input from regulators and other financial statement users in establishing the size threshold, and consider basing it on total assets and/or annual expenses.)
- In circumstances in which an acquirer can be clearly identified, NPOs should use the acquisition method as per the ED.
- In circumstances in which an acquirer cannot be clearly identified, NPOs should use fresh-start accounting.

*Carryover basis for some NPOs.* Smaller nonpublic NPOs should be permitted to use carryover basis accounting. On a relative basis, the costs to those smaller NPOs to implement the provisions of the ED would be greater than they would for larger NPOs, without proportionate increased benefits. In particular, we note that many smaller NPOs have relatively unsophisticated financial reporting staff and would face hardship in applying the provisions of the ED.

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<sup>1</sup> Consistent with the overall model in the ED, fresh start accounting in this context refers to reporting identified assets and liabilities of the combined entity at fair value, rather than reporting the entity as a whole at fair value.

*Fresh start for some NPOs.* Paragraph B26 notes that the FASB concluded that the acquisition method is the appropriate method of accounting for all mergers and acquisitions for which the economic substance is an acquisition of the net assets of a business or nonprofit activity by a controlling or surviving NPO. Paragraph B26 observes that NPOs merge or acquire for many of the same reasons as businesses, and cites various reasons, including reducing costs through economies of scale, expanding existing product or service offerings into new markets, and expanding the range of product or service offerings available to existing customers. While we acknowledge that those activities and the reasons for them exist, we believe that an important characteristic distinguishing those activities as undertaken by NPOs from those activities as undertaken by for-profit entities exists. Specifically, NPOs regularly undertake those activities with the ultimate aim of increasing service potential and achieving mission accomplishments, whereas for-profit entities undertake those activities with the ultimate aim of enriching business owners. That difference may result in NPOs coming together without one acquiring the other, rather than as parties negotiating a transaction that includes a change of control. For example, it is not uncommon for two or more NPOs to transfer their net assets to a newly formed entity and share equally in control of the newly formed entity.<sup>2</sup> In fact, in many transactions in which NPOs come together, the transaction is carefully structured so that no one entity is or appears to be the acquirer or acquiree. In fact, the transaction would not occur in many circumstances without structuring it so that neither party is or appears to be the acquirer or acquiree.

In circumstances in which NPOs come together and no acquirer can be clearly identified, a merger of equals formed to pursue a joint/common mission has occurred, rather than a contribution or acquisition. In such circumstances we believe it is not representationally faithful to effectively apply acquisition accounting (fair value) to a portion of the NPO while retaining carryover basis for the remainder. In this respect, we support the minority Board view and rationale described in paragraph B185. Applying acquisition accounting in such circumstances does a disservice to financial statement users and management wishing to analyze metrics such as operating margin, net margin, debt service coverage, days cash on hand, return on invested capital, and cost per case for healthcare facilities. Management would likely repeatedly adjust amounts reported in the financial statements for purposes of budgeting, forecasting, and benchmarking.

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<sup>2</sup> As noted elsewhere in this letter, we believe in some circumstances the ED's scope may be unclear. In particular, whether certain transactions are joint ventures and therefore outside the scope of the ED is unclear (this comment is discussed further in Attachment B to this letter). This comment letter includes examples of certain transactions assuming they are not joint ventures and therefore are within the scope of the ED.

In circumstances in which an acquirer cannot be clearly identified, we support fresh-start accounting. We recommend that in developing guidance distinguishing circumstances in which an acquirer cannot clearly be identified (and therefore, fresh-start accounting is appropriate), the Board attempt to establish a relatively high hurdle for fresh start accounting.<sup>3</sup> For example, the Board should consider guidance providing that a rebuttable presumption exists that an acquirer can be identified. The Board could then provide guidance about facts and circumstances that should exist in order to rebut the presumption. At the same time, we caution the Board to avoid guidance that is overly detailed and complex, and could perhaps result in a blueprint for achieving a desired accounting result. AcSEC recommends that the FASB consider the following attributes in distinguishing circumstances in which an acquirer cannot clearly be identified versus circumstances in which acquisition/contribution accounting is appropriate:

Fresh-start accounting (acquirer cannot be clearly identified)

- No cash or other monetary consideration is transferred outside the merged entity
- The governing board of the combined entity is drawn equally from each of the combining entities
- The transaction is effected through the formation of a new entity with new articles of incorporation/bylaws and a new name
- The transaction involves entire entities coming together, rather than operating units or segments of entities
- The transaction is specifically structured to be a merger of equals, so that an acquirer does not exist and cannot be clearly identified.
- The entities are previously affiliated. For example, brother/sister NPOs or one entity had a management contract to manage the other.

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<sup>3</sup> While we recommend that such guidance establish a relatively high hurdle for fresh start accounting, we expect that circumstances in which entities meet this high hurdle and qualify for fresh start accounting would not be uncommon. Rather, our aim is to ensure that transactions resulting in fresh start accounting are in fact transactions in which no acquirer can be identified.

### Acquisition/contribution accounting (acquirer can be clearly identified)

- One entity becomes a subsidiary of another pursuant to SOP 94-3, the health care Guide, or other relevant consolidation guidance
- The acquirer pays cash or other monetary consideration outside the merged entity (this is beyond the assumption of liabilities)
- The acquirer obtains a piece or operating unit of the other entity, rather than the entire other entity
- The acquiree is financially distressed
- One entity's name and bylaws continue in existence and the other's are discontinued

### Goodwill Recognition Objective

The Notice to Readers states that one of the objectives is to recognize either goodwill of the acquired business or nonprofit activity or the contribution inherent in a merger or acquisition. Goodwill is described as the amount by which the value of the consideration transferred (if any) exceeds the net of the amount assigned to identifiable assets acquired and liabilities assumed. AcSEC opposes reporting goodwill merely to balance the accounts in circumstances in which the value of the consideration transferred (if any) exceeds the net amount assigned to identifiable assets acquired and liabilities assumed. Our reasons are discussed in our response to Question 10.

*Question 2—Is the definition of a merger or acquisition by a not-for-profit organization appropriate? If not, why and how would you modify or clarify the definition?*

In general, we support the Board's approach of defining a *merger or acquisition* by referencing a consolidating event involving NPOs, because we believe that guidance will be practical and useful. We believe, however, that paragraph 2 should be clarified to indicate that the scope also includes a) combinations in which two or more NPOs transfer net assets to a newly formed entity (as drafted, that point is not made until paragraph 12) and b) combinations in which one or more NPOs are legally merged into a single surviving NPO. An example of a structure in which two or more NPOs transfer net assets to a newly-formed entity should be added to the examples in paragraph 5. We believe, however, the Board should be careful to distinguish such transactions that are covered by this proposed standard from joint ventures (which are excluded from this proposed

standard), because arrangements resembling joint ventures are common, particularly among business-type NPOs.

We believe it is conceptually possible for there to be an exchange of a NPO for a NPO. Therefore, we believe that the scope should also be clarified to state that the exchange of a NPO for a NPO also is a combination.

*Interaction of the scope with Statement No. 141.* NPOs must be able to clearly distinguish between a merger or acquisition subject to the provisions of this proposed Statement and a merger or acquisition subject to the provisions of Statement No. 141. Par. 12 of Statement No. 141 states: "This Statement does not apply to combinations between NPOs, nor does it apply to the acquisition of a for-profit business entity by a NPO." We suggest that this proposed standard mirror that language by adding a statement that "This Statement applies to combinations between not-for-profit organizations, and to the acquisition of a for-profit business entity by a not-for-profit organization." Due to the importance of this scope statement, we suggest it should be the first paragraph under the "Scope" subheading.

The Final Statement should address whether transactions in which an acquisition is made by a for-profit subsidiary of a NPO parent are within the scope of this Statement or within the scope of FAS No. 141. Currently, such transactions are reported in conformity with the guidance in FAS No. 141 (because the acquirer is a for-profit organization).

We note that some transactions between NPOs include an opt-out clause at one or both entity's choice. The existence of such opt-out clauses raises issues pertaining to both recognition and measurement of transactions. The Board should consider the impact such clauses may have on the definition of a *merger or acquisition* prior to issuing a final Statement. Our comments on opt-out clauses are discussed in more detail in Attachment B to this letter.

*Question 3—Is the retention of and reliance on the existing guidance on consolidation in SOP 94-3 and the health care Guide appropriate? If not, why and what alternative do you suggest?*

As stated in our response to Question 2, we believe that the Board's approach of defining a *merger or acquisition* by referencing a consolidating event involving NPOs as defined in the existing guidance on consolidation is appropriate for transactions in which one NPO becomes a subsidiary of another NPO. We believe, however, that in order for this approach to be implemented in the manner intended by the Board, two revisions to that literature are required.

First, we believe the FASB should revise and clarify a key definition used in the existing consolidation guidance. The Glossary of SOP 94-3 defines *Majority voting interest in the board of another entity* as follows:

For purposes of this SOP, a majority voting interest in the board of another entity is illustrated by the following example. Entity B has a five-member board, and a simple voting majority is required to approve board actions. Entity A will have a majority voting interest in the board of entity B if three or more entity A board members, officers, or employees serve on or may be appointed at entity A's discretion to the board of entity B. However, if three of entity A's board members serve on the board of entity B but entity A does not have the ability to require that those members serve on the entity B board, entity A does not have a majority voting interest in the board of entity B.

We believe the FASB should revise SOP 94-3's definition of *majority voting interest in the board of another entity* to include individuals beyond board members, officers, or employees (and make similar revisions to the health care Guide). In other words, the spirit of the guidance is to determine whether Entity A can appoint the Board members of Entity B, regardless of the relationship between Entity A and those appointed Board members. Accordingly, we suggest that the definition of *Majority voting interest in the board of another entity* be revised as follows:

For purposes of this SOP, a majority voting interest in the board of another entity is illustrated by the following example. Entity B has a five-member board, and a simple voting majority is required to approve board actions. Entity A will have a majority voting interest in the board of entity B if entity A has the ability to appoint three or more of entity B's board members (If three of entity A's board members, employees, or officers serve on the board of entity B but entity A does not have the ability to require that those members serve on the entity B board, entity A does not have a majority voting interest in the board of entity B.)

Second, we note a difference between the health care Guide and SOP 94-3 with respect to sole corporate membership relationships. The impact of sole corporate member status on consolidation is explicitly addressed in the health care Guide, but is not addressed in SOP 94-3. We believe that the guidance pertaining to consolidation for non-healthcare NPOs with a sole corporate member should be conformed to guidance for healthcare entities with sole corporate members as included in the Health Care Guide. Specifically, sole corporate membership in a NPO should be considered to be equivalent to ownership of the majority voting interest in a for-profit entity, unless the sole

corporate member's economic interest in the controlled entity is limited by state law or contractual agreement. Thus, no assessment of the existence of an economic interest would be required in circumstances in which sole corporate membership exists, unless the sole corporate member's economic interest in the controlled entity is limited by state law or contractual agreement. Further, we believe it would be useful for that guidance in the health care Guide to be displayed more prominently (currently, it appears in a footnote).

*Question 4—Are the definitions of a business and a nonprofit activity appropriate for distinguishing between a merger or acquisition subject to the provisions of this proposed Statement and a purchase of assets that would be accounted for in accordance with other generally accepted accounting principles (GAAP)? If not, why and how would you modify or clarify the definitions or the related guidance?*

Yes.

*Question 5—Do you believe control [as described in existing literature, including SOP 94-3 and the health care Guide] and [the factors provided in paragraph 11 of the ED] are appropriate for determining the acquirer in a merger or acquisition by a not-for-profit NPO? If not, why and what additional factors or guidance should be considered?*

We believe that the reliance on existing consolidation guidance in circumstances in which one NPO obtains control that requires consolidation is appropriate for those circumstances (after giving effect to the concerns we raise in our response to Question 4). We believe it would be helpful if paragraph 10 were revised to be more explicit about circumstances in which the guidance in SOP 94-3 and the health care Guide does not result in consolidation. For example, paragraph 10 could be revised as follows:

The guidance [FN omitted] in SOP 94-3 and the health care Guide for determining whether an organization consolidates another entity shall be used to identify the acquirer. If an acquirer cannot be determined based solely on the consolidation guidance in SOP 94-3 and the health care Guide (for example, when a combination is effected through formation of a new not-for-profit organization (NEWCO), the guidance in paragraph 11 of this Statement shall be used to determine whether one of the combining organizations has acquired the other.

As stated in our response to Question 1, in some circumstances we believe that an acquirer cannot be clearly identified. In circumstances in which an acquirer cannot be clearly identified, our view is consistent with the minority board position expressed in paragraph B185; that is, such mergers do not represent the

acquisition of one entity by another, but rather, the creation of a new entity, and attempting to identify an acquirer is an arbitrary exercise that would result in an accounting treatment that is not representationally faithful of the underlying transaction. We oppose using the criteria in paragraph 11 to identify an acquirer in circumstances in which an acquirer cannot be clearly identified.

In circumstances in which an acquirer can be clearly identified, we believe the factors in paragraph 11 b (process used to select the governing body) and c (process used to select management) are typically more relevant than the other factors listed in paragraph 11 for determining which entity is the acquirer, and that should be noted in the ED .

The proposed Standard would apply to transactions or events that result in a NPO initially recognizing a business or NPO activity in its financial statements. As examples of mergers or acquisitions, paragraph 5d of the ED includes activities that result in obtaining control of and initially recognizing a subsidiary in the parent's financial statements in accordance with SOP 94-3 or the health care Guide. We note that circumstances exist in which NPOs have subsidiaries structured as for-profit LLCs, partnerships, and LLPs, and that GAAP other than SOP 94-3 or the health care Guide, such as consensus opinions of the Emerging Issues Task Force, may provide consolidation guidance. In order for the guidance in the ED to be applied in the manner intended by the Board, the ED should reference consolidation guidance other than SOP 94-3 and the health care Guide that should be considered by NPOs in evaluating whether these structures should be consolidated (perhaps in an appendix).

*Question 6 - Is the requirement of this proposed Statement to recognize and measure the identifiable assets acquired and liabilities assumed at their acquisition date fair values appropriate and does it provide more complete and relevant financial information? If not, why and what alternative do you suggest?*

The requirement to recognize and measure the identified assets acquired and liabilities assumed at their acquisition date fair value is appropriate and provides more complete and relevant financial information for most transactions entered into by NPOs. As discussed in our response to Question 1, however, we believe that in certain circumstances in which smaller NPOs that are not public entities come together, carryover basis accounting should be permitted for cost benefit reasons.

*Question 7—Do you agree that identifiable donor-related intangible assets can be measured with sufficient reliability to be recognized separately from goodwill? If not, which identifiable donor-related intangible assets would not be measurable with sufficient reliability and why?*

We believe identifiable donor related intangible assets can be measured with sufficient reliability to be recognized separately from goodwill. We disagree, however, that an asset exists solely because the entity has information about a donor, has regular contact with donor, and the donor has the ability to make direct contact with the entity. Our comments on this issue are discussed in more detail in Attachment B to this letter.

*Question 8—Are the departures from recognition and measurement requirements in this proposed Statement appropriate accommodations to avoid the added difficulties and costs that would be incurred? If those accommodations are not appropriate, which exceptions would you add or eliminate and why?*

The departures from recognition and measurement requirements in this proposed Statement are appropriate accommodations to avoid the added difficulties and costs that would be incurred.

*Question 9—Are there other types of identifiable intangible assets that are prevalent in not-for-profit organizations that should be included as examples in Appendix A?*

Yes. Appendix A. should include additional examples, such as the following:

*Customer-related*

- Physician relationships - employed, contract
- Physician relationships - admitting privileges
- Patient lists or relationships (there is a distinction from the concept of customer relationships, due to privacy regulations and otherwise)

*Technology-based*

- Medical records and other data bases
- Intellectual property and IPR&D

### Marketing

- Religious sponsorships or designations (for example, designations as Catholic that are subject to the control by an archbishop, the archdiocese/parish or higher authority in the Catholic church)
- Affiliation agreements (for example, with a prestigious medical school or research organization)
- Specialty treatment programs (for example, children's heart, women's health, cancer)
- Research programs, teaching programs

### Contractual

- Exclusive contracts (managed care contracts)
- Contracts with emergency room physician companies
- Tax determination letter re tax exempt status
- A certificate of need, which is required in certain jurisdictions to operate as a healthcare facility.
- Licensure required to operate as a healthcare facility
- Accreditations, designations, or certifications (for example, JCAOH, level 1 trauma center, sole community hospital status, etc.)

These identifiable intangible assets have characteristics and attributes that are unique to health care and other NPOs and may meet either or both of the legal/contractual or the separability criterion. The Statement should include guidance, perhaps through examples, to help NPOs determine whether these identifiable assets meet either or both of the criterion given various facts and circumstances.

*Question 10—Is the requirement of this proposed Statement that the acquirer limit its recognition of goodwill to the amount that is purchased (either through the transfer of consideration or assumption of the acquiree’s liabilities) appropriate? If not, why and what alternative do you suggest?*

For transactions that involve an acquirer, we support the Board's decision not to require measurement of the acquisition date fair value of the acquiree as a whole.

The ED describes goodwill as the amount by which the value of the consideration transferred (if any) exceeds the net of the amount assigned to identifiable assets acquired and liabilities assumed (i.e., a "dangling debit"). Because of the unique aspects of typical NPO mergers and acquisitions [lack of consideration (other than assuming liabilities) and absence of a bargained purchase price], net balance sheet credits may exceed net balance sheet debits in circumstances in which goodwill does not exist. AcSEC opposes reporting goodwill merely to balance the accounts in circumstances in which the value of the consideration transferred (if any) exceeds the net amount assigned to identifiable assets acquired and liabilities assumed. AcSEC believes that goodwill should be recognized only in circumstances in which an organization can objectively demonstrate that goodwill has been acquired, which AcSEC believes will be rare, particularly in an acquisition of an organization that is supported by contributions or investment income. In all other situations, the "dangling debit" should be reported as a reduction of net assets in the Statement of Activities.

Paragraph B147 provides as follows:

Because the fair value of an acquiree is not measured, the acquirer cannot objectively determine whether the excess is goodwill, an overpayment, or a gift to the acquiree in net deficit situations. The Board concluded that the excess should be recognized as goodwill rather than as contribution expense. The primary reason for its conclusion is that the fiduciary responsibilities of an acquiring organization and its directors would preclude them from assuming the liabilities of a financially weaker organization unless they believed there was some unidentifiable intangible asset, such as goodwill. Additionally, if an acquirer assumed an acquiree’s liabilities that exceeded both its identifiable and unidentifiable assets, the acquirer essentially would be making a charitable contribution to another organization’s creditors, which would be highly unlikely.

AcSEC does not understand the Board's reasoning in concluding that “the fiduciary responsibilities of an acquiring organization and its directors would

preclude the organization from assuming the liabilities of a financially weaker organization unless they believed there was some on identifiable intangible asset, such as goodwill.” For example, AcSEC believes that if the economic substance of a net deficit acquisition is for a stronger organization to rescue a financially weaker organization as a means of enhancing the charitable mission of both organizations, then the "dangling debit" should be reported in a manner similar to a contribution made.

If the Board rejects our view that goodwill should be recognized as an asset only in circumstances in which it can objectively be demonstrated that goodwill has been acquired, our alternate view is that goodwill should be written off immediately after accounting for the acquisition (commonly referred to as "on day 2") for NPO reporting units primarily supported by contributions and returns on investments.

*Question 11—Is the requirement of this proposed Statement that the acquirer recognize a contribution inherent in the merger or acquisition, measured as a residual, appropriate? If not, why and what alternative do you suggest?*

The requirement that the acquirer recognize a contribution inherent in an acquisition, measured as a residual, is appropriate in circumstances in which control passes from one entity to another. As discussed in our response to Question 1, however, in certain circumstances in which NPOs come together, an acquirer cannot be clearly identified and no contribution should be recognized.

We believe that for purposes of applying this standard, the definition of "contribution" provided in paragraph 4h is not helpful in understanding the concept of inherent contributions. We suggest that the second to last sentence of the definition in paragraph 4(h) be revised as follows: "An inherent contribution is present in a not-for-profit merger or acquisition if the fair value of the acquiree's assets exceeds the fair value of the liabilities assumed plus consideration transferred (if any)."

*Question 12—Do you agree that a measurement period should be provided? Do you agree that a limit of one year following the acquisition date is appropriate? If not, why and what alternative do you suggest?*

We agree that a measurement period should be provided and that a limit of one year following the acquisition date is appropriate.

*Question 13—Do you agree that the guidance provided for assessing whether any portion of the transaction price or any assets acquired and liabilities assumed are not part of the acquisition accounting is appropriate? If not, why and what alternative do you suggest?*

Yes.

*Question 14—Do you agree with the disclosure objectives? Do you agree with the specified minimum disclosure requirements? If not, why and what alternative do you suggest?*

We agree with the disclosure objectives and the specified minimum disclosure requirements. In addition, we believe NPOs should disclose the following:

- Any portion of the consideration transferred (payments or other arrangement), and any assets acquired or liabilities assumed or incurred, that are not part of the merger or acquisition (as discussed in paragraphs 58 and 59 of the ED).
- Opt-out clauses

*Question 15—Do you agree that those disclosures for public entities would be useful to the users (donors, creditors, and other users) of a not-for-profit organization's financial statements? If not, why and what alternative do you suggest?*

We agree that those disclosures for public entities would be useful to the users of a NPO's financial statements.

*Question 16—How prevalent are noncontrolling ownership interests in a not-for-profit organization's consolidated financial statements? Is the guidance provided necessary and helpful? If not, why and what alternative do you suggest?*

Noncontrolling interests in business-type NPOs are common (particularly in the healthcare sector) but are not particularly prevalent among nonbusiness NPOs. In the NPO sector, noncontrolling interests typically take two forms: a) partial ownership interests in for-profit organizations, and b) less-than-complete voting interests in the boards of related NPOs. The latter type is as prevalent, and perhaps more prevalent, than the former; however, the extent to which the latter type of interest is given formal recognition in financial statements is inconsistent.

The ED as written assumes that the consolidated financial statements of NPOs do not include noncontrolling interests in other NPOs. AcSEC has concerns regarding both the significant diversity in practice that exists in recognition of

such interests, and in the void in guidance that would result if FASB's guidance is limited solely to noncontrolling ownership interests in for-profit organizations. Our comments related to these concerns are discussed in more detail in Attachment B to this response.

*Question 17—Do you agree with the presentation requirements for noncontrolling ownership interests in a not-for-profit organization's consolidated financial statements? Do you agree with the accounting for noncontrolling ownership interests in a not-for-profit organization's consolidated financial statements and for the loss of control of subsidiaries? If not, why and what alternative do you suggest?*

We agree with the presentation requirements for noncontrolling ownership interests in a NPO's consolidated financial statements, as well as the accounting for loss of control of subsidiaries in those circumstances. As stated in our response to Question 16, AcSEC has concerns that unless similar guidance is provided with respect to noncontrolling interests in related NPOs, significant diversity in practice that exists will be exacerbated. Our comments on this issue are discussed in more detail in Attachment B to this letter.

*Question 18—What costs and benefits do you expect to incur if the requirements of the proposed Statement were issued as a final Statement? How could the Board further reduce the related costs of applying the requirements of the proposed Statement without significantly reducing the benefits?*

Many nonbusiness NPOs do not undertake transactions within the scope of the proposed Statement on a regular basis and therefore, will not incur costs relative to application of this standard. Business NPOs (in particularly, healthcare NPOs) commonly undertake transactions within the scope of the proposed Statement. For entities undertaking transactions within the scope of the proposed Statement, costs of applying the proposed Statement would be significant. The primary costs incurred would be (a) identifying assets and liabilities to be recognized (b) determining the fair value of those assets and liabilities and (c) subsequent accounting for reported goodwill, if any. (As discussed in our response to question 1, the Board could further reduce the related costs of applying the proposed Statement, without significantly reducing the benefits, by providing a scope exception for smaller NPOs that are not public entities.)

For entities undertaking transactions within the scope of the proposed Statement, we believe the benefits of applying the guidance in the proposed Statement will be financial reporting that is more representationally faithful.

Attachment B - Comments on issues not specifically addressed in the Questions in the "Notice to Recipients"

Unique aspects of NPO transactions

We believe the unique aspects of not-for-profit transactions (which necessitated the separate project) are not clearly evident in this Exposure Draft. While we understand and appreciate the importance of conforming this standard to FAS No. 141/141R, conformance appears to have diluted the unique nature of the NPO specific issues and conclusions, which were described very well in the Summary of Tentative Decisions previously posted on the FASB website. We recommend providing similar clarity concerning these issues in the final Statement, perhaps by having it be a primary focus of the summary.

Opt-out clauses

Some transactions between NPOs include an opt-out ("divorce") clause at one or both entity's choice. For example, two NPO health care systems decide to merge. The merger agreement contains a termination clause that allows either party to terminate the merger without cause within a certain time period (typically 3 to 5 years, although some go much longer). If the clause is executed within the time period, the entities cease to be merged, and go back to operating as separate entities under separate management and governance. We believe that the presence of opt-out clauses is a unique aspect of NPO mergers that does not exist in mergers of business NPOs. We believe that, under the differences-based approach applied in this project, the effect of such clauses should be evaluated in light of (a) whether such transactions meet the definition of a *merger or acquisition*; and (b) the impact the presence of such a clause would have on other conclusions reached in this project.

The existence of such opt-out clauses raises issues pertaining to both recognition and measurement of transactions. Examples of such issues include the following:

- In some respects, such opt-out clauses effectively result in temporary control, which the Board has concluded in FASB Statement No. 144 is no longer an exception from consolidation. In some circumstances, however, such opt-out clauses may call into question whether the transaction is in substance a merger or acquisition. For example, if Entity A was acquired by Entity B, but Entity A has the unilateral right to de-merge within 5 years of the closing date, did Entity B effectively control Entity A?
- In circumstances in which the transaction is a contribution, some may view such opt-out clauses as akin to conditions, which the Board has concluded

in FASB Statement No. 116 preclude recognition of contributions until the conditions have been substantially met. Accordingly, such opt-out clauses may call into question whether a contribution has been made.

- The effect of such opt-out clauses on fair value measurements may be unclear. For example, does an opt-out clause have a value which should be carved out and recognized separately, thus decreasing the inherent contribution recognized in the transaction? Is fair value measurement the appropriate basis for accounting in such transactions, or would carryover basis be more appropriate?
- If a transaction with an opt-out clause is considered to be a merger or acquisition, what should the accounting be if the opt-out clause is executed? Would that trigger reporting the entity as a discontinued operation? How should the de-recognition of the residual net assets be presented? If de-recognition is considered analogous to a liquidating dividend, would a health care NPO report that gain or loss above or below the performance indicator?
- Such opt-out clauses may include contingent amounts due or receivable upon exercising or not exercising the opt-out clause. Whether such amounts should result in reporting assets and/or liabilities, and the measurement thereof, may be unclear.
- The effect of such opt-out clauses on amounts reported as a noncontrolling interest may be unclear. For example, Health System X acquired a controlling membership interest in Hospital B. Hospital's B's former sponsoring congregation (Former Sponsor) retained the right to appoint (or cause to be appointed) 4 out of 18 members of the Board of Hospital B (22% voting interest) after System X acquired Hospital B. The agreement contained a "Termination of Membership Interest" clause that allowed Former Sponsor to execute the clause within 3 years of the effective date of the merger without cause. If the termination clause is executed, Former Sponsor will receive a \$10 million payment but give up the right to their remaining membership interest. In this situation, is the \$10 million buyout payment relevant in evaluating the amount of minority interest that would be reported by Health System X?

## Health care NPO performance indicator

In circumstances in which the ED provides guidance that results in an increase or decrease in net assets, the final Statement should specify whether such increases or decreases in net assets should be included in or excluded from the performance indicator reported in the statement of operations of an entity within the scope of the health care Guide. For example:

- Paragraph 40 – The ED provides that “The consideration transferred may include assets or liabilities of the acquirer that has carrying amounts that differ from their fair values at the acquisition date (for example, nonmonetary assets). In that case, the acquirer shall remeasure those transferred assets or liabilities at their fair values as of the acquisition date and recognize any gains or losses in its statement of activities.” AcSEC believes that such changes in fair value should be included in the performance indicator.
- Paragraph 45 a - The ED provides that contingent consideration classified as liabilities should be measured at fair value with changes in the fair value recognized in changes in net assets in each reporting period. AcSEC believes that such changes in fair value should be included in the performance indicator.
- Paragraph A75 - The ED provides that “In a step acquisition, an acquirer holds a noncontrolling ownership investment in an acquiree immediately before obtaining control of that acquiree. In accounting for a step acquisition, the acquirer shall remeasure its noncontrolling ownership investment in the acquiree at fair value as of the acquisition date and recognize any gain or loss in the statement of activities.” AcSEC believes that such changes in fair value should be presented separately from the performance indicator.
- Paragraph D10 - The ED provides that “Changes in ownership that do not result in a loss of control and deconsolidation shall be reported as a separate line item in the consolidated statement of activities, consistent with the presentation of the equity transactions described in FASB Statement No. 136...” Paragraph B24, Exhibit 2, footnote b, indicates that this should be presented separately from the performance indicator. We agree, and suggest that this guidance be stated explicitly in paragraph D10.
- Paragraph D13 - The ED provides that “If a parent loses control of a subsidiary, any gain or loss shall be recognized in the consolidated statement of changes in net assets...” It is unclear whether, by specifying that this be reported in the "statement of changes in net assets," rather

than the "statement of activities," the Board intends for this to be reported as an equity transaction (and therefore excluded from any reported performance indicator). This should be clarified in the final Statement.

### Transactions with Characteristics of Joint Ventures

Joint ventures and joint operating arrangements are common in the NPO healthcare industry. For example, System A and System B sponsor the formation of a not-for-profit NEWCO in a particular geographic market. Each system contributes its subsidiary hospital in that market to NFP-NEWCO. NFP-NEWCO is governed by a board comprised of 50% A and 50% B. Executive leadership positions are rotated between A and B. (This is similar to the circumstance described in TPA 6400.33, except that it involves establishment of a legally separate entity.)

Based on the guidance in paragraph 6b, it appears that because System A and System B jointly control NFP-NEWCO, neither system would be required to apply the ED to the transaction in preparing their respective financial statements. However, it is unclear whether the ED should be applied by NFP-NEWCO in reporting the formation transaction.

Because control over the two hospital subsidiaries has been transferred to NFP-NEWCO, it might appear that this formation transaction could be within the scope of the ED pursuant to paragraph 12, in which case NFP-NEWCO would be forced to designate one of the hospital subsidiaries as acquirer and revalue the other half of the NPO. However, in this circumstance, NFP-NEWCO's governance and management are shared equally by the two sponsors, and as such NFP-NEWCO appears to be a corporate joint venture. Paragraph 6b addresses only NPOs that participate in the formation of a joint venture, but not the joint venture itself; FASB No. 141 paragraph 9's joint venture exception appears to be broader in scope ("For purposes of this Statement, the formation of a joint venture is not a business combination.") AcSEC therefore requests FASB to clarify the standard to address whether such joint venture formation transactions would be within the scope of the ED.

### Recognition of Noncontrolling Interests in NPOs

AcSEC has a number of concerns about the recognition and reporting of noncontrolling interests in related NPOs.

Diversity in practice exists among NPOs with respect to recognition of less-than-complete voting interests in related NPOs. Specifically,

- SOP 94-3 and the health care Guide provide inconsistent guidance.

- Health care NPOs differ in their application of the guidance in the health care guide

Paragraph D5a of the ED cites SOP 94-3's guidance on reporting minority interests, stating:

"As required by that Statement, not-for-profit organizations shall not reflect a noncontrolling interest for the portion of the board that the reporting nonprofit does not control because the rights to appoint the remaining 20 percent of the board are not ownership interests in the subsidiary."

This conflicts with paragraph 11.16 of the health care Guide which says:

When consolidated financial statements are required or permitted, a minority interest should be provided if such interest is represented by an economic interest whereby the minority interest would share in the operating results or residual interest upon dissolution.

We believe the guidance followed by all NPOs with respect to recognition of noncontrolling interests in other NPOs should be consistent regardless of whether they are covered by the NPO guide or the health care Guide. We believe a noncontrolling interest in an NPO exists in some circumstances in which a less than complete voting interest in the board of another NPO exists. For example, assume NPO C is formed, with NPO A having the ability to appoint 8 of 10 board members and NPO B having the ability to appoint 2 of 10 board members. In addition, assume NPO B is entitled to 20% of the operating cash flows as well as 20% of net assets upon dissolution. We believe NPO B has a 20% noncontrolling interest in NPO C.

Significant diversity in practice exists among health care NPOs with respect to applying the guidance in paragraph 11.16 of the health care Guide. Some NPOs report minority interests based solely on having a residual interest in net assets upon dissolution of the NPO. Others report minority interest only in circumstances in which a residual right is coupled with an explicit ongoing right to share in operating results. Still others do not report any minority interest at all.

In summary, we believe FASB should true up the guidance in SOP 94-3 and the health care Guide so that all NPOs are applying guidance related to less-than-complete voting interests consistently.

Assuming that NPOs continue to report partial voting interests as minority interests in some form, AcSEC disagrees with FASB's decision to exclude partial voting interests in NPOs from the scope of the implementation guidance in Appendix D. Excluding partial voting interests in NPOs from the scope of the implementation guidance in Appendix D creates a void in guidance for health

care NPOs that currently are reporting minority interests. For example, Appendix D provides guidance for matters such as changes in ownership interests and loss of control. Some of that other guidance in Appendix D may be relevant in circumstances in which an NPO currently is reporting a minority interest in another NPO.

#### Operating leases not at market terms

The ED (paragraph 28) provides guidance for circumstances in which an operating lease is not at market terms as of the acquisition date. The Board should consider the effect of donative intent and program/mission purposes on conclusions about whether such lease terms are at market.

#### Preacquisition goodwill

The final Statement should clarify that pre-acquisition goodwill reported by an acquiree in its historical financial statement prior to a merger or acquisition should not be not carried forward as an asset of the acquirer.

#### Intangibles for Donor Relationships

Paragraph A.28 through A-31 - The ED provides that a donor relationship exists between an entity and its donor if the entity has information about the donor, has regular contact with the donor, and if the donor has the ability to make direct contact with the entity. Further, the ED provides that donor relationships meet the contractual-legal criteria when an entity has a practice of soliciting and receiving contributions from its donors regardless of whether a contract or a legally enforceable right exists at the acquisition date. We believe this is not a contractual-legal relationship. Also, while we appreciate the analogy to a customer relationship with a for-profit entity (or a customer relationship for exchange transactions with NPO's), we believe that differences exist in addition to those cited in paragraph B107. For example, in a customer relationship, a customer frequently would incur a cost to switch to another vendor. In relationships between donors and NPOs, no such cost to switch exists. We believe reporting assets based on Example 1 in paragraphs A30 and A31 is akin to reporting a gain contingency, which is prohibited pursuant to FASB Statement No. 5. In addition, reporting such relationships as assets presents fair value measurement issues which, while conceptually existing also for for-profit entities, would be more difficult for NPO's due to the lack of inputs pursuant to FASB Statement No. 157.

If the Board retains this approach for reporting donor relationships as an asset, the final Statement should include guidance for day 2 accounting. For example,

how, if at all, does the asset get relieved? If the donor subsequently gives contributions, has the NPO effectively double counted that economic resource?

#### Intangibles for customer relationships

Paragraph A32 – The ED provides that if a customer relationship acquired in a merger or acquisition does not arise from a contract, the relationship may be separable. Exchange transactions for the same asset or a similar asset provide evidence of separability of a non-contractual customer relationship and might also provide information about exchange prices that should be considered when estimating fair value of customer relationships. We question whether this is realistic, and suggest that the Board include a realistic example to help NPOs identify and estimate the fair value of separable noncontractual customer relationships, akin to the example in paragraph A21 of FASB Statement No. 141.

#### Acquirer's classification of acquiree's net assets

Example 9 – Paragraphs A76 and A77 – The example concludes that the acquiree's \$550 unrestricted net assets are brought forward as unrestricted net assets in the acquirer's financial statements. In some circumstances, however, the acquiree's unrestricted net assets may be required to be reported as temporarily restricted net assets by the acquirer. For example, Charity A acquires Charity B. In Charity B's financial statements, certain net assets may be reported as unrestricted because the use of the contributed asset is no more specific than broad limits resulting from the nature of the NPO, the environment in which it operates, and the purposes specified in the NPO's articles of corporations or bylaws (or comparable documents for an unincorporated association). In Charity A's financial statements, however, the unrestricted net assets of Charity B arising from contributions (or investment income on donor-restricted endowment funds) should be reported as temporarily restricted net assets if in fact their use is more specific than broad limits resulting from the nature of Charity A, the environment in which it operates, and so on. Of course, the classification of Charity B's unrestricted net assets would be unrestricted net assets of Charity A to the extent that Charity B's net assets arose from exchange transactions, such as fees or ticket sales. The fact pattern should be revised to explicitly indicate why the acquiree's \$550 unrestricted net assets are brought forward as unrestricted net assets in the acquirer's financial statements (either because of the broad limits of the acquirer's mission, the environment in which it operates, and so on; or because the net assets arose from transactions other than contributions).

## Donor NPOs' ability to impose restrictions

Paragraphs A78 and A79 – A key aspect of this example is that limitations placed by the government board of the acquired entity are treated as restrictions, rather than board designations, if the limitations are not considered to be "self imposed." However, the term "self imposed" is not described elsewhere in the ED. In considering whether limitations are self-imposed, the minutes of the January 29, 2003 Board meeting provide, in part, as follows:

Limitations placed on net assets by the governing board of an entity acquired in a nonreciprocal combination should be reported as donor-imposed restrictions only if those limitations are (a) imposed as conditions of the combination transaction, (b) are irrevocable, and (c) are not self-imposed. Generally, limitations imposed by the governing board of an acquired entity as a condition of the combination should be deemed self-imposed if members of the governing board of the acquired entity make up a significant portion of the governing board of the combined organization. Limitations placed by the governing board of an acquired entity as a condition of the combination should be deemed not self-imposed if the acquired entity was only a portion of another entity and that other entity continues to survive as an unaffiliated entity.

In order to provide clarity and avoid potential abuse and diversity in practice, paragraphs A78 and A79 should be revised as follows:

A78. Assume that Charity A merges with a former subsidiary of Parent (Charity B), to form Charity AB. Charity A, the acquiring organization, assumes Charity B's liabilities and transfers no consideration in exchange for Charity B. Parent continues to survive as an unaffiliated entity and none of Parent's or Charity B's board members serve on Charity AB's board. The fair value of Charity B's assets and liabilities at the acquisition date is:...

A79. Charity A recognizes a \$1,000 contribution received in the merger (the excess of the acquisition date values of the identifiable assets acquired over the sum of the acquisition date values of the

liabilities assumed). Consistent with the provisions of Statement 116, Charity AB classifies the recognized contributions received based on the type of donor-imposed restrictions, including those imposed by the donor of the business or nonprofit activity acquired, if any. Based on donor restrictions on Charity B's net assets at the acquisition date, net assets with a fair value of \$250 and \$200 were classified as temporarily restricted and permanently restricted net assets, respectively. As a condition of the merger, Parent's governing board requires that Charity AB use \$175 of unrestricted net assets for future capital improvements to the facility acquired. The requirement is irrevocable and is not self-imposed, because Parent continues to survive as an unaffiliated entity and none of Parent's or Charity B's board members serve on Charity AB's board.. To recognize the fiduciary responsibilities to the donors of Charity B that are assumed when Charity B's assets and liabilities are acquired, Charity AB would classify changes to its net assets as follows:...

Paragraph D6 and D22 – The ED discusses the net asset classification of noncontrolling ownership interests in the equity (net assets) of consolidated subsidiaries, as well as the effects of donor-imposed restrictions, if any, on a partially-owned subsidiary's net assets. Given that NPO subsidiaries are effectively scoped out, it's unclear what restrictions would exist on a subsidiary's net assets. Is this intended to refer, for example, to a circumstance in which a donor contributes a controlling stock ownership interest in a for-profit entity to an NPO and stipulates that the NPO must hold the stock in perpetuity?

Appendices General [Editorial] - Appendix C of the ED highlights only guidance in the Exposure Draft on Statement No. 141(R) which is modified for inclusion in this Exposure Draft. We believe there should be an additional appendix highlighting guidance which is unique to this Exposure Draft and which has no parallels in FAS No. 141(R).

## Attachment C - Editorial Comments

Paragraph 2 - The ED provides that "for purposes of this Statement, a merger or acquisition is any event that results in the initial recognition of another business or nonprofit activity (acquiree) in the financial statements of a NPO. Thus, any event that *requires* NPOs to consolidate a previously unconsolidated entity by initially recognizing its net assets is a merger or acquisition." [*Emphasis added*] Pursuant to SOP 94-3, *Reporting of Related Entities by Not-for-Profit Organizations*, and as noted in paragraph B48 of the ED, control of another NPO results in required consolidation in certain circumstances (paragraphs 10 and 11 of SOP 94-3) and optional consolidation in other circumstances (paragraph 12 of SOP 94-3). Accordingly, the sentences from paragraph 2 of the ED and quoted above are inconsistent. We suggest that paragraph 2 be revised as follows: "for purposes of this Statement, a merger or acquisition is any event that results in the initial recognition of another business or nonprofit activity (acquiree) in the financial statements of a not-for-profit organization. Thus, any event that results in an organization consolidating a previously unconsolidated entity by initially recognizing its net assets is a merger or acquisition."

Paragraph 4 -- We believe the flow of the document would be improved by moving paragraph 4 before the current paragraph 2, and incorporating paragraphs 2,3, 5, and 6 into one cohesive section.

Paragraph 5 d - To avoid any perceived conflict between this proposed Standard and SOP 94-3/the health care Guide, we suggest modifying this phrase to reference economic interest in addition to control, as follows: "an organization obtains control of and initially recognizes in its financial statements a not-for-profit organization subsidiary in which it has an economic interest in accordance with SOP 94-3 or the health care Guide by obtaining the right to:..." Also, a paragraph 5 e should be added to address for-profit subsidiaries (the parent is not explicitly required to have an economic interest in order to consolidate a for-profit subsidiary). Additionally, we suggest that bullet 3 precede bullet 1 in order for the bullets to reflect the order in which the consolidation hierarchy would be evaluated.

Paragraph 5 d 1 – The ED provides that an NPO obtains control of and initially recognizes a subsidiary in its financial statements in accordance with SOP 94-3 or the HC Guide by obtaining the right to "appoint or designate all or a majority of the acquiree's governing board through either an acquisition of a majority of shares or through other means. For example, the acquirer may obtain the power to designate the acquiree's board of directors." In some circumstances all board

members may not have equal voting rights. Accordingly, the ED should be revised as follows:

Appoint or designate a majority voting interest of the acquiree's governing board through either an acquisition of a majority of shares or through other means. For example, the acquirer may obtain the power to designate the acquiree's board of directors.

(This suggested revision would align the ED more closely with the notion in SOP 94-3's definition of a *majority voting interest in the board of another entity*, including our suggested revision noted in response to question 3.) For purposes of clarity, we also suggest adding the phrase "through amendment of the acquiree's articles of incorporation or bylaws" to the end of the second sentence.

Paragraph 5d2 - The ED should be revised to note that in circumstances in which an NPO obtains control of a subsidiary in which the reporting entity has an economic interest (unless control is likely to be temporary) through the terms of a contractual agreement, consolidation is permitted but not required, pursuant to SOP 94-3 and the health care Guide.

Paragraph 11c - Because reverse acquisitions occasionally occur among NPOs, paragraph 11c should be revised as follows:

The acquirer is commonly, though not necessarily, the larger entity in a merger or acquisition.

Paragraph 15 - We believe many of the transactions covered by this Standard will not generate goodwill. Therefore, use of the phrase, "separately from goodwill" and the overall emphasis on goodwill may be confusing. We recommend adding to the end of the applicable paragraphs a sentence to contemplate transactions in which goodwill is generated.

Paragraph 25b – The ED discusses *purchased collection items*. It is unclear what is meant by that term. Based on other sections of the ED, particularly paragraphs A-42 to A-48, our sense is that purchased collection items are collections acquired in a merger or acquisition that involves a transfer of monetary consideration, rather than contributed to the acquirer. If our sense is correct, we suggest that paragraph 25 be revised to read: "Rather, consistent with Statement 116, an acquirer with an organizational policy not to capitalize collection items in accordance with Statement 116 shall:

- a. Not recognize the collection item as an asset.
- b. Recognize the cost of collections acquired in a merger or acquisition that involves the transfer of monetary consideration as a decrease in the appropriate class of net assets in the statement of activities...

Paragraph 40 – The ED provides that:

"However, if those assets or liabilities are transferred to the acquiree and, therefore, remain within the resulting NPO after the merger or acquisition, the acquirer shall eliminate any gains or losses on those transferred assets or liabilities in the consolidated financial statements."

The meaning of that guidance should be clarified; for example, by adding the phrase "because the acquirer has effectively retained its own asset" at the end of the cite above. We believe the Board is referring to a fact pattern analogous to the following: NPO A has a building with a book value of zero and a fair value of \$100. As part of NPO A acquiring NPO B, NPO A transfers the building to NPO B. NPO A recognizes a gain on the transfer of \$100 and NPO B recognizes the building at \$100. In consolidation, the gain should be eliminated and the building reported at \$0.

Paragraph 46 – This paragraph refers broadly to existing GAAP for certain costs incurred for issuing debt or equity instruments used to effect a merger or acquisition. The ED should reference more specifically to the existing GAAP addressing those costs.

Paragraph 50 – The ED provides that the acquirer should measure the contribution received in a merger or acquisition as the excess of the acquisition date values of the identifiable assets acquired (including purchased collection items) over the sum of the acquisition date values of the consideration transferred and liabilities assumed. It is unclear why purchased collection items are mentioned separately, and whether their treatment is somehow different than contributed collection items. If the intent is to communicate that purchased collection items are an identifiable asset and their existence therefore decreases the amount of goodwill, if any, reported, that should be clarified.

Paragraph 62 - We suggest that this paragraph be clarified by inserting the phrase "in reporting reclassifications of net assets in the statement of activities" at the end of the lead in to paragraph sections a and b.

Paragraph 68 - We suggest that the last sentence be revised as follows:

"an acquirer also shall disclose the nature and amount of any material, nonrecurring items related to the merger or acquisition transaction included in the reported pro forma changes in net assets."

Paragraphs A43 and A45 – The fact patterns provide that the acquirer has a policy that requires the proceeds from sales of collection items to be used to

acquire other items for collections. Is this intended to imply that the acquirer has a policy of not capitalizing collections and otherwise meets the conditions in FASB Statement No. 116 to not capitalize collections? If so, that should be explicitly stated.

Paragraph A43 – The fair value of the 50 paintings is listed as \$100. Should the fact pattern be revised to read as follows “...The remaining 50 paintings acquired from Museum A are not suitable for the collection of the merged Museums and will be sold. The fair values of Museum A’s assets and liabilities at the acquisition date (other than the 450 collection items added to Museum B’s collection) are as follows:”

Paragraph B41a - The lead in states that “the assets acquired and liabilities assumed in a merger or acquisition by a not-for-profit NPO should be recognized at their fair values as of the date control is obtained.” We suggest that the phrase "at their fair values" be deleted, because subparagraph (a) appears to address recognition while subparagraph (b) appears to address measurement.

Paragraph B62a - The ED provides that FASB Statement No. 116 requires that certain collection items not be recognized in the financial statements. The ED should be corrected to note that Statement No. 116 provides that collection items are permitted, but not required, to be recognized in the financial statements.

Paragraph B141 – This paragraph provides that the proposed Statement would require the recognition of goodwill as an asset in a merger or acquisition by NPO. The paragraph should be revised to provide that such recognition is required *in certain circumstances*.

Appendix C - The Board's conclusion that not-for-profit acquisitions would never be accounted for as bargain purchases appears to be a significant difference between this Exposure Draft and the Exposure Draft on Statement No. 141(R) which should be addressed more explicitly in columns 1 and 3 in Item 5 of this Appendix.