



August 17, 2010

via email to [director@fasb.org](mailto:director@fasb.org)

Russell G. Golden  
Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
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Re: File Reference No. 1840-100  
Proposed Accounting Standards Update – Contingencies (Topic 450)  
Issued July 20, 2010 (the “Proposed ASU”)

Dear Mr. Golden:

I’m writing on behalf of Jacobs Engineering Group Inc. to express our views regarding the Proposed ASU.

FASB Statement No. 5 (existing GAAP in the area of loss contingencies) was issued 35 years ago. And while we understand the need to periodically re-visit accounting standards, we believe the Proposed ASU represents too drastic a change.

The concerns expressed by users of financial statements do not justify the extensive changes required by the Proposed ASU. Instead, we believe it is incumbent of the FASB to identify the specific concerns that have been expressed by investors, and then craft tailored changes to existing guidance that balances the benefits to investors against the cost to preparers, and considers the other risks and unintended consequences that such changes may bring.

In general, we believe the requirement to disclose and discuss loss contingencies separate from related recoveries runs counter to how we (as well as most other companies in our industry, we believe) monitor and review loss contingencies. We evaluate loss contingencies net of any potential recoveries (e.g., from insurance companies, subcontractors, clients, and others). Any other basis for evaluation would simply be incorrect — ignoring vital elements of an entity’s true, economic exposure to a loss contingency.

In addition, the disclosures required by the Proposed ASU will result in preparers being burdened with providing reams of meaningless data to investors without enhancing the investors’ understanding of the nature of an entity’s loss contingencies and the entity’s net exposure to loss contingencies. We believe the Proposed ASU will provide fodder to complainants seeking to negotiate settlements with companies.

In addition, the Proposed ASU introduces a new standard for evaluating information companies will be required to provide investors — a standard that is highly subjective, unauditable, and potentially dangerous in terms of the responsibility imposed on the management of public companies to ensure that their public filings completely and fully comply with the myriad of rules and regulations that currently exist. Currently, companies are required to prepare and distribute financial information that is material to the understanding of their

operations and business. The concept of “material” is well understood and generally accepted. The Proposed ASU, on the other hand, imposes the requirement to provide information about loss contingencies whose likelihood of occurrence is remote (and therefore by definition not material) if such immaterial items make the reporting entity vulnerable to a loss that may have a “severe impact” on the “normal functioning of the entity”.

These concerns as well as others are discussed in more detail in our responses to the FASB Questions:

***Question 1: Are the proposed disclosures operational?***

Businesses today operate in a highly litigious environment. This is particularly true in the United States where loss contingencies resulting from litigation are a normal course of business. For Jacobs, virtually all of our loss contingencies relate to the projects we perform. Our loss contingencies primarily involve disputes relating to which party is responsible for certain costs incurred on the project. “Parties” include Jacobs and our customer, and will often include subcontractors working on the project for us, subcontractors working on the project directly for the client, lower-tiered subcontractors and subconsultants, various insurers, bonding companies, guarantors, and their agents. Loss contingencies can also relate to guarantees relating to the performance of the assets we design and build for our clients; workers compensation matters relating to projects; and employment practices liabilities, also relating primarily to projects we perform.

Because the primary source of our loss contingencies are our projects, it is not uncommon for us (and/or the client) to purchase project-specific insurance policies protecting one or both of us from loss relating to specific events that may occur during the life of the project. Accordingly, and although we maintain systems and procedures designed to identify and collect information regarding asserted claims and assessments, our systems collect information (about both the claim as well as sources of recovery) at the individual project level, incorporating information about both the claim and the relevant sources of recovery (e.g., insurance companies, subcontractors, clients, and others).

It is at the project level that our management evaluates the company’s exposure to loss contingencies. Accordingly, to the extent the Proposed ASU requires disclosure that bifurcates the net exposure to Jacobs (separating claims made against us from insurance and other sources of recovery), the Proposed ASU is not operational. Such a requirement will be disruptive to our business as well as, we believe, those of other companies in our industry. We believe the FASB needs to be reminded of the tremendous time pressures that companies are under (especially public companies) to close their books, prepare financial statements and the related disclosures, and to file their financial statements on time. Accounting and disclosures should consider how management of companies reviews their businesses internally and the systems they’ve put in place to manage their activities. Changes to accounting and disclosures should consider (1) the genuine needs of investors (weeding-out requests predicated on the erroneous notion that “more data is better”); (2) how management of companies reviews such financial information internally; and (3) the cost of implementing changes relative to the benefits to be derived.

***Question 2: Are the proposed disclosures auditable?***

The disclosure that gives us the most concern regarding its auditability is the requirement that we identify and disclose loss contingencies the probability of which are remote if such remote loss contingencies make us vulnerable to a “severe impact” to the business.

Consider that construction and maintenance sites are inherently dangerous workplaces. And although they do not have to be unsafe workplaces, the activities at these sites often put our employees and others in close proximity with large pieces of mechanized equipment, moving vehicles, chemical and manufacturing processes, and highly regulated materials. If we fail to implement safe work processes and procedures or if the procedures we implement are ineffective, our employees and others may become injured.

In addition, our projects can involve the handling of hazardous and other highly regulated materials, which, if improperly handled or disposed of, could subject us to civil and criminal liabilities. We are also subject to regulations dealing with occupational health and safety. Although we maintain functional groups within the company whose primary purpose is to ensure we implement effective health, safety, and environmental (“HSE”) work procedures throughout our organization, including construction sites and maintenance sites, the failure to comply with such regulations could subject us to loss contingencies.

This situation (i.e., the nature of our business) exposes Jacobs to claims and the possibility of claims every day. It is a routine aspect of our business. Accordingly, we have developed work processes to minimize the risk these claims present to Jacobs and to manage such claims when they arise. Claims, whether or not asserted, are evaluated to ensure that material exposures are identified and properly accounted for and disclosed.

The threshold of “material” is important because it focuses attention on those loss contingencies that are most likely to have a significant impact on the financial condition, results of operations, and cash flows of our business. The introduction of a new category of items that need to be evaluated for possible disclosure will take resources away from the process of properly evaluating those contingencies that are more likely to manifest themselves in actual losses.

By definition, a remote contingency will probably not result in the impairment of an asset or the incurrence of a liability. Remote contingencies can arise very quickly and disappear (sometimes with very little effort on the part of the company) just as fast. On what basis would we conclude that the “potential magnitude” or “potential timing” of a remote contingency would or would not have a severe impact to our operations? We see the potential for a lot of confusion in this area as management decides which remote contingencies trigger disclosure, and then coming to agreement with our auditors.

***Question 3: The June 2008 FASB Exposure Draft, Disclosure of Certain Loss Contingencies, had proposed certain disclosures based on management’s predictions about a contingency’s resolution. The amendments in this proposed Update would eliminate those disclosure requirements such as estimating when a loss contingency would be resolved and the entity’s maximum exposure to loss. Do you agree that an explicit exemption from disclosing information that is “prejudicial” to the reporting entity is not necessary because the amendments in this proposed Update would: (a) Not require any new disclosures based on management’s predictions about a contingency’s resolution; (b) Generally focus on information that is publicly available; (c) Relate to amounts already accrued in the financial statements; and (d) Permit information to be presented on an aggregated basis with other similar loss contingencies?***

An explicit exemption from disclosing information that is prejudicial to a reporting entity is justifiable and desirable. Accordingly, an explicit exemption is the simplest solution and should be incorporated in any final update adopted by the FASB.

**Question 4: Is the proposed effective date operational?**

If the Proposed ASU is adopted as currently proposed, the proposed effective date is not operational as we will have to expend significant resources in redesigning and implementing process changes to affect the required disclosures.

**Question 5: Do you believe that the proposed disclosures will enhance and improve the information provided to financial statement users about the nature, potential magnitude, and potential timing (if known) of loss contingencies?**

No. The proposed disclosures will inundate readers of the financial statements with reams of data without providing meaningful information. The Proposed ASU does not enhance nor improve upon the information readers are provided currently under existing guidance.

The Proposed ASU takes too clinical a view of the issue of loss contingencies. It seeks to separate the claim amount from recoveries forgetting that both values stem from the same incident (or incidences) and will ultimately be settled based substantially on the same set of facts and findings. Bifurcating the claim from potential recoveries also presents a view of loss contingencies that is fundamentally different from how management assesses the potential net cash outflows of the business.

Although perhaps minor when compared to other elements of the Proposed ASU, the FASB's determination to restrict the use of the term "reserve" to referring to amounts of unidentified or unsegregated assets held or retained for a specific purpose is additional evidence that the Proposed ASU's perspective on loss contingencies is not grounded in reality. If the FASB seeks to improve communication of loss contingencies between issuers and investors, then plain-English should prevail. "Reserves" is a term used by companies internally to discuss and evaluate their exposures. The risk that the FASB seems to be concerned about (i.e., an investor confusing an accrued liability on the books of an entity with an amount of unidentified assets held for a specific purpose) is purely theoretical. We believe the term will be properly interpreted by investors within the context of the disclosure in which the term is used.

With respect to the disclosures required for loss contingencies that are at least reasonably possible, we believe that the disclosures required by 450-20-50-1F(e) may stifle the reader. First, it seems to us that 450-20-50-1F(e) could be interpreted as needing to be applied *individually* to *all* contingencies that are "reasonably possible". We note that the discussion of aggregating matters occurs in 450-20-50-1F(d) – which is before the discussion in (e). If this is not what the FASB intended, we suggest that 450-20-50-1F(d) and/or 450-20-50-1F(e) be clarified.

In addition, disclosing information that is publicly available (such as the amount of damages either claimed by the other side or estimated by expert witnesses) will inundate the reader with meaningless data. Many lawsuits are filed with exorbitant damage claims. These claims are backed by very well-written briefs prepared by attorneys for the sole purpose of advocating their client's position. They are not trying to present a balanced view of the contingency for investors to read. Therefore, because it will be the responsibility of companies' management to distill the "other nonprivileged information that would be relevant to financial statement users to enable them to understand the potential magnitude of the loss" into a meaningful note disclosures, management of companies will be exposed to accusations of having "distilled too much" — of leaving important aspects of the plaintiff's allegations out of the footnotes to the financial statements. Companies will therefore be inclined to disclose more information than what is actually necessary in order to understand the risks presented by the contingency.

Furthermore, the requirement in 450-20-50-1F(e)(2) that entities disclose the amount accrued for loss contingencies, when coupled with the tabular reconciliation required by 450-20-50-1F(g) (discussed in more detail below), exposes public companies to the risk of providing loss accrual information so specific that it could be used by litigation adversaries to obtain an advantage in settlement negotiations.

With respect to the disclosure requirements enumerated in 450-20-50-1F(f), we need to emphasize the fact that remote contingencies will probably not result in the impairment of an asset or the incurrence of a liability for the entity. Remote contingencies are not ripe for estimation and any attempt to do so would be highly subjective. On what basis would we conclude that the “potential magnitude” or “potential timing” of a remote contingency would or would not have a severe impact to our operations? The Proposed ASU says that the amount of damages claimed by a plaintiff may, or may not, be a factor to consider. If that is the case, then what measurement should preparers use? The fact is that “remote loss contingencies” are too.....*remote*.....to assign value to. Disclosing remote contingencies in financial statements based on their possible outcomes would be unnecessarily alarming to the readers of financial statements and hence would not enhance the reader’s understanding of an entity’s exposure to loss contingencies.

We also see significant risk in presenting tabular reconciliations of recognized loss contingencies. Movements in these reserves, to the extent they relate to cash settlements, are captured currently in the statement of cash flows. And identifying the specific line items in the balance sheet in which recognized loss contingencies are included, although certainly providing more data to the investor, is not providing any meaningful information to him or her. Furthermore, if the FASB keeps the requirement currently espoused in 450-20-50-1F(g)(5) that public companies reinforce the contents of the tabular reconciliation by describing “the significant activity in the reconciliations”, it exposes public companies to the risk of providing loss accrual information so specific that it could be used by litigation adversaries to obtain an advantage in settlement negotiations.

It is also disappointing to see that the tabular reconciliation will be required for interim reporting periods, and not just annual statements. Once again, we feel the FASB does not appreciate the time pressures on a public company to produce and file its financial statements. We fail to see how the reconciliation table enhances the reader’s ability to assess “the likelihood, timing, and magnitude of future cash outflows associated with loss contingencies”.

#### Question 5 Summary:

For the reasons discussed above, we do not believe that the Proposed ASU will significantly improve disclosure of loss contingencies. The Proposed ASU is burdensome. It requires the preparation of numerical tables; collection, summarization, and recitation of information that can be found in legal pleadings; and management commentary that will not enhance an investor’s understanding of an entity’s true exposure to material loss contingencies.

We believe that U.S. GAAP should consider modeling its guidance after Title 17 CFR 229.103. The Legal Proceedings section of Regulation S-K presents a logical, well-understood and widely-accepted model for informing investors of material, pending legal proceedings.

Advantages of the approach promulgated by 17 CFR 229.103 include:

- Focusing on loss contingencies that arise outside of the “ordinary course of business” from other loss contingencies —

This delineation is important. As discussed above, the vast majority of Jacobs exposure to loss contingencies occur in the ordinary course of business. Our processes and procedures are designed to minimize such losses. Accordingly, we’re more likely to provide meaningful information about loss contingencies to our investors as well as enhancing their understanding of our business activities by discussing and disclosing those contingencies that stem from activities that are out of the ordinary.

- Focusing on loss contingencies that are material —

The thrust of financial statements and financial disclosures should be on what is material to investors – not what *may be* material or what an investor *may like* to know. By focusing on the material, investors will be provided with a clearer picture of the inherent and extraordinary risks of the entity, and the potential and timing of cash payments from the organization.

We understand that the FASB may want to expand, for its purposes, the scope of disclosures described in 17 CFR 229.103 to include loss contingencies other than those involving litigation, but we believe the basic approach of 17 CFR 229.103 can still be applied.

***Question 6: Do you agree that nonpublic entities should be exempt from the tabular reconciliation disclosures required in the amendments in this proposed Update? If not, please explain why. Are there any other aspects of the amendments that should be applied differently to nonpublic entities? If so, please identify and explain why.***

No, nonpublic entities should not be exempt from any of the disclosure requirements imposed on public entities.

For virtually all of the engineering and construction bids we submit, we must include copies of our financial statements. As discussed above, the initial application of the Proposed ASU may very well generate concerns among our clients when they see a sudden increase in the disclosures regarding contingencies. There is no guarantee that our clients will understand that there will have been no fundamental change in the net accounting for contingencies, so they might conclude that Jacobs has become a riskier contractor to hire as compared to an entity whose disclosures are unchanged from the prior year. Since many of Jacobs’ competitors are private companies, any exemption afforded to nonpublic entities from any of the disclosure requirements of the final ASU can put Jacobs at a significant disadvantage.

***Question 7: The amendments in this proposed Update would defer the effective date for nonpublic entities for one year. Do you agree with the proposed deferral? If not, please explain why.***

Nonpublic entities should not be afforded a one-year deferral from any of the provisions of the Proposed ASU. A deferral will have the effect of giving many of our competitors an advantage with respect to bids and proposals. Please refer to our response to Question 6, above.

If the concern is that nonpublic entities do not have the resources that public entities have with which to identify, analyze, summarize, and prepare the disclosures required by the final ASU, we submit that nonpublic entities probably do not have the volume of contingencies to track as compared to public entities.

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We appreciate the opportunity to comment on such an important issue. We believe that any changes made to accounting and reporting in this area should be driven by care and prudence, focusing on a narrative discussion of the nature of an entity's exposure to loss contingencies as well as ranges of possible loss.

We'd be happy to discuss this issue with you should you have any questions.

Sincerely yours,

JACOBS ENGINEERING GROUP INC.

By: s/n JOHN W. PROSSER, JR.

John W. Prosser, Jr.  
Executive Vice President  
Finance and Administration