June 30, 2015

Ms. Susan M. Cosper
Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

File Reference No. 2015-250
Re: Proposed Accounting Standards Update, Identifying Performance Obligations and Licensing

Dear Ms. Cosper:

Deloitte & Touche LLP appreciates the opportunity to comment on the FASB’s proposed Accounting Standards Update (ASU) Identifying Performance Obligations and Licensing.

We support the Board’s efforts to clarify and improve FASB Accounting Standards Codification Topic 606, Revenue From Contracts With Customers, to help reduce potential diversity in practice and the initial and ongoing costs of applying the new revenue standard. We believe that the proposal’s amendments are necessary to ensure that ASC 606 is understood by preparers and others and is practical to implement. We also encourage the FASB to continue its dialogue with the IASB as ASC 606 is amended in an effort to maintain convergence in the accounting for revenue recognition. Similarly, we encourage the IASB to pursue targeted amendments and clarifications to maintain a converged, stable, and operational standard.

We support the amendments to improve the guidance on identifying performance obligations. We believe that these amendments should permit the recognition of revenue from contracts with customers in a manner that more closely aligns with the economic substance of the arrangement. More specifically, we agree with the proposed practical expedients related to shipping and handling activities and to treating a series of distinct goods or services as a single performance obligation. We also support the Board’s proposed amendments specifying that an entity is not required to identify goods or services that are immaterial in the context of the contract and clarifying the guidance on sales and usage-based royalties.

In addition, we believe that the proposed amendments to clarify the nature of an entity’s promise in granting a license will help reduce inconsistent application of ASC 606 in these circumstances.

We view the proposed amendments as beneficial to the practical application of ASC 606 and helpful in clarifying the Board’s intent. However, as indicated in the appendix below, we have certain concerns and suggested improvements. We will continue to support the FASB’s efforts to develop further amendments, as necessary, to improve, clarify, or encourage practical application of the standard.

Transition resources such as the FASB-IASB joint revenue recognition transition resource group and the AICPA’s industry task forces have been an integral part of the implementation process and will remain so. We
strongly support the FASB’s efforts to monitor entities’ implementation progress, publicly address implementation questions, assist entities and auditors during transition, and continue its dialogue with the IASB.

We will continue to work closely with our clients throughout their implementation process. However, a successful audit of the application of the new standard is directly linked to our clients’ readiness for adoption. Accordingly, we encourage the FASB to continue its outreach with financial statement preparers to understand their implementation status and progress toward successful transition.

Many of the proposed amendments consist of practical expedients to facilitate implementation of the standard’s requirements. They are similar to accounting conventions, except that they are explicitly included in a standard to reduce complexity in the standard’s application and are not considered deviations from the standard’s requirements. There has been a recent increase in demands on the FASB to create practical expedients related to numerous aspects of GAAP. Such demands have resulted in interesting questions about immaterial accounting errors arising from conventions that are not specifically included in the literature as a practical expedient. We encourage the FASB, SEC, PCAOB, and others in the profession to engage in and further the dialogue on these issues.

The appendix below contains our responses to the proposed ASU’s questions for respondents.

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We appreciate the opportunity to comment on the proposed ASU. If you have any questions concerning our comments, please feel free to contact Mark Crowley at (203) 563-2518.

Yours truly,

Deloitte & Touche LLP

cc: IASB
    Robert Uhl
    Eric Knachel
Question 1: Paragraphs 606-10-25-14(b) through 25-15 include guidance on accounting for a series of distinct goods or services as a single performance obligation. Should the Board change this requirement to an optional practical expedient? What would be the potential consequences of the series guidance being optional?

Yes, we support changing the guidance on accounting for a series to an optional practical expedient. Such a change is consistent with the Board’s intent in developing this guidance, which was to simplify the application of the standard (akin to a practical expedient). To avoid potential circumstances in which applying (or not applying) such a practical expedient results in unintended consequences, the Board should consider indicating that if an entity chooses to apply the practical expedient, the manner in which revenue is recognized should be aligned with the overall objective of revenue recognition (i.e., to depict the transfer of control of the underlying goods or services in an amount that reflects the consideration to which the entity expects to be entitled). The Board should also consider extending the scope of the practical expedient to include other similar contracts under which applying the series guidance would be consistent with the overall objective to recognize revenue to depict the transfer of control of the underlying goods or services in an amount that reflects the consideration to which the entity expects to be entitled.

Question 2: Paragraph 606-10-25-16A specifies that an entity is not required to identify goods or services promised to a customer that are immaterial in the context of the contract. Would the proposed amendment reduce the cost and complexity of applying Topic 606? If not, please explain why?

Yes. While an entity would still need to use judgment in determining whether an item is immaterial in the context of the contract, the proposed amendments would reduce the cost and complexity of applying ASC 606 since they are more consistent with the notion of “inconsequential and perfunctory” under current U.S. GAAP. Because the concept of determining materiality at the contract level is new, the Board may want to simply indicate that the evaluation should entail both quantitative and qualitative considerations (unless the Board’s intent was for an entity to consider only one or the other and not both).

We believe that the Board’s intent in providing the second sentence in ASC 606-10-25-16A was to clarify that it would not be appropriate to apply this approach to rights that accumulate over a series of purchases (such as those provided in many loyalty-point programs). The Board should consider beginning the second sentence with “Notwithstanding” to make it clear that a right may be quantitatively immaterial to a single contract but would still need to be considered under the material rights guidance in ASC 606 if it accumulates.

Question 3: Paragraph 606-10-25-18A permits an election to account for shipping and handling as an activity to fulfill a promise to transfer a good if the shipping and handling activities are performed after a customer has obtained control of the good. Would the proposed amendment reduce the cost and complexity of applying Topic 606? If not, please explain why?

Yes, the proposed amendment permitting an entity to elect to account for shipping and handling as a fulfillment cost would reduce the cost and complexity of applying ASC 606. We believe that such election would apply equally to goods that meet the criteria for the recognition of revenue over time (i.e., control of the good transfers as the good is created). However, some may interpret ASC 606-10-25-18A as only applying to point-in-time transfers of goods since “services” are not mentioned in the paragraph. The Board should consider clarifying this point as well as specifically labeling it a practical expedient to help ensure that it is applied consistently to similar situations.
Question 4: Would the revisions to paragraph 606-10-25-21 and the related examples improve the operability of Topic 606 by better articulating the separately identifiable principle and better linking the factors to that principle? If not, what alternatives do you suggest and why?

Yes, the amendments to ASC 606-10-25-21 would help improve the operability of that guidance. However, we have concerns about the related examples.

Example 10 (Case C) indicates that an entity should conclude that a good or service is not separately identifiable if it is “critical” to another good or service (in this case a license and subsequent when-and-if-available updates). We do not believe that the notion that a good or service is “critical” to another good or service is consistent with the guidance in ASC 606-10-25-19 through 25-22. In fact, different conclusions are reached in other examples in the standard (e.g., the consumables in Example 11, Case E, would seem to be “critical” to the continued utility of the equipment). If the Board’s intent is to provide a new threshold for separation (especially in software contracts), we suggest that it state that in ASC 606-10-25-19 through 25-22. Otherwise, this example should be revised to indicate that the goods or services are separately identifiable and that the significance of the when-and-if-available updates should be considered in the determination of the stand-alone selling price for allocation purposes.

In Example 11, several cases imply that the ability to obtain a good or service from others is required for an entity to conclude that the criterion in ASC 606-10-25-19(b) has been met. In Case A, the conclusion is based on the fact that the installation services are not “complex” and that the entity can obtain the services from “alternative providers.” In Case C, the conclusion is based on the fact that the installation services are “available from several alternative service providers.” In Case E, the consumables are "readily available for purchase from other entities." We do not believe that ASC 606 requires an entity to have the ability to obtain a good or service from other alternative providers to meet the criterion in ASC 606-10-25-19(b). If the Board believes that such ability is required, we suggest that it specify that in ASC 606-10-25-19 through 25-22. Otherwise, we suggest that the Board revise the examples to clearly indicate that such ability is not determinative.

The conclusion in Example 55 is similar to that in Example 10 (Case C). Accordingly, we believe that it should also be revised to indicate that the license and updates are separately identifiable and that consideration should be allocated on the basis of stand-alone values that appropriately reflect the “critical” nature of the updates.

Question 5: Would the revisions to paragraphs 606-10-55-54 through 55-64, as well as the revisions and additions to the related examples, improve the operability of the implementation guidance about determining the nature of an entity’s promise in granting a license? That is, would the revisions clarify when the nature of an entity’s promise is to provide a right to access the entity’s intellectual property or to provide a right to use the entity’s intellectual property as it exists at the point in time the license is granted? If not, what alternatives do you suggest and why?

While the revised guidance on accounting for revenue related to licenses in ASC 606-10-55-54 through 55-64 (and related examples) will still require entities to use significant judgment and may not resolve all diversity in practice, we support the amendments since we believe that the changes will help improve the operability of the implementation guidance. The Board may want to consider more clearly stating in ASC 606-10-55-54(a) that hosted arrangements that are accounted for as a service are not subject to the license guidance (as drafted, one could interpret the guidance to apply only to hosted software that is not accounted for as a service, which may not represent all software). Further, in paragraph BC47 of the Basis for Conclusions, the Board observes that the criteria in ASC 606-10-55-62 are expected to be “met only infrequently, if at all.” Accordingly, it is not
clear why the criteria are necessary. If the guidance is retained, the Board should consider including an example to help stakeholders understand the limited circumstances in which the criteria would be met.

**Question 6:** The revisions to paragraph 606-10-55-57 that state an entity should consider the nature of its promise in granting a license of intellectual property when accounting for a single performance obligation. Does this revision clarify the scope and applicability of the licensing implementation guidance? If not, why?

The Board’s intent in drafting the revisions in ASC 606-10-55-57 is not clear to us. The proposed amendments refer to guidance both on licenses in ASC 606-10-55-59 through 55-64 and on satisfaction of performance obligations in ASC 606-10-25-23 through 25-37. Is the guidance meant to suggest that an entity should consider the nature of its promise in the context of the guidance on licenses (i.e., would the license be considered functional or symbolic if it were a distinct license) but not necessarily apply such guidance? We suggest that the Board explain its intent more clearly rather than simply referring to other sections of the standard.

**Question 7:** Would the revisions to paragraph 606-10-55-64 adequately communicate the Board’s intent (a) that restrictions of time, geographical region, or use in a license of intellectual property are attributes of the license (and, therefore, do not affect the nature of an entity’s promise in granting a license or its assessment of the goods or services promised in a contract with a customer) and (b) about determining when a contractual provision is a restriction of the customer’s right to use or right to access the entity’s intellectual property? If not, what alternatives do you suggest and why?

We do not believe that the revisions to ASC 606-10-55-64 fully clarify the Board’s intent that restrictions in a license are attributes of that license and should not affect the nature of the promise or the assessment of the promises in the contract granting the license. Specifically, the additions to ASC 606-10-55-64(a) indicating an entity needs to assess whether a contractual provision “defines the scope” of a customer’s rights (rather than being treated as a “restriction”) seems to suggest that certain restrictions would affect the assessment of the promises in the contract granting the license. Further, the examples seem to contradict the guidance in that paragraph and do not adequately articulate the distinction between the restrictions in each of those contracts that result in different conclusions. Specifically, in Case B of Example 61A, it is not clear why Seasons 1-4 can be separated from Season 5. (Is it because Season 5 is not available? Could an entity reach the same conclusion if Season 5 were available but not delivered to the customer?) In Example 61B, it is not clear whether the length of the break in the license or the fact that the entity can license the movie to another customer during the break is the determining factor responsible for the two distinct licenses (Would there be six distinct licenses if the entity could license the movie to other customers throughout the rest of each of the years? Would there be a single distinct license if the break were less lengthy, such as two years instead of four? Should an entity assess how practical it would be to license the movie to other customers during the break?) ASC 606-10-55-64 states that restrictions related to time, geographical region, or use do not affect how many goods or services are promised in a contract; however, that seems to be exactly what these examples are suggesting. If the examples reflect the Board’s intent, the standard should clearly articulate when restrictions related to time (like those in Example 61B), geography, or use (like those in Example 61A) do in fact affect how many goods or services are promised in a contract.

**Question 8:** Would paragraphs 606-10-55-65 through 55-65B and the related example clarify the scope and applicability of the guidance on sales-based and usage-based royalties promised in exchange for a license of intellectual property? If not, what alternatives do you suggest and why?

We believe that the Board’s addition of ASC 606-10-55-65A and 55-65B should help clarify the scope and applicability of the sales-based and usage-based royalty guidance. However, we understand that certain
industries (especially the life sciences industry) are concerned that this guidance only applies to “licenses” and not to “sales” of intellectual property. We suggest that the Board reach out to the constituents in these industries to better understand their concerns (which we believe are similar to the concerns that led the Board to propose this guidance) and consider expanding application of the guidance to the sale of intellectual property.