

TOPIC	GAAP REPORTING	SUB-SECTION 27.40.40
SECTION	SUPPLEMENTARY SCHEDULES	ISSUANCE DATE May 16, 2013
SUB-SECTION	CONTINGENT LIABILITIES AND ATTORNEY LETTER	REVISED - 2019

CONTINGENT LIABILITIES AND ATTORNEY LETTER

CONTINGENT LIABILITIES

The Contingent Liabilities schedule is prepared to provide information for the appropriate CAFR disclosure of contingent liabilities related to litigation. A link to this schedule is emailed to the Agency's GAAP coordinator and must be submitted online. The agency should submit a copy of the completed schedule with the Attorney Letter by the GAAP due date. See Exhibit 27.40.40 for a view of the screen. Select "Help" within the application for a full set of instructions.

Contingent liabilities are existing conditions, situations or sets of circumstances which may become liabilities as a result of conditions undetermined at a given date (i.e. an uncertainty that will ultimately be resolved when one or more future events occur or fail to occur). The agency should report any significant contingencies (more than \$1 million) of which they are aware including: (1) the nature of the contingency; (2) the probability that the contingency will result in a loss (probable, reasonably possible or remote); and (3) the estimated amount of loss or the range of loss.

Tort claims lawsuits should not be included on your schedule. OFR will obtain that information directly from the Tort Claims Board. The agency should not record any contingent liabilities on its funds. Upon review of all contingencies, DFA will record or disclose the necessary amounts based on consultation with the Attorney General and the State Auditor.

ATTORNEY LETTER

The auditor's confirmation of contingencies with legal counsel is standard practice in any financial statement audit. Therefore, in addition to the Contingent Liabilities schedule, the agency prepares a letter asking the Attorney General to verify the agency's schedule and supplement with additional information if necessary. The letter (Form 27.40.40) is to be submitted exactly as it reads with the appropriate dates completed on the agency's letterhead. The agency number is required in the top right corner of the document. The Word document can be downloaded within the contingent liability application. This signed letter is submitted to OFR by the GAAP due date even if the agency engages legal counsel outside the Attorney General's Office. The letter should **not** be sent directly to the Attorney General's Office. OFR distributes the letter to the appropriate parties once all letters have been collected.

A copy of the Attorney's Letter can be found at the Office of Financial reporting webpage <http://www.dfa.ms.gov/dfa-offices/financial-reporting/> under Letters and Other Correspondence

EXAMPLE OF ATTORNEY LETTER
STATE AGENCY LETTERHEAD

Date

Lynn Fitch
Attorney General
State of Mississippi
Walter Sillers Building
550 High Street, Suite 1200
Jackson, MS 39201

The Honorable Lynn Fitch:

In connection with an examination of our financial statements at June 30, 20XX and for the year then ended, we have prepared and furnished to the Mississippi Department of Finance and Administration a description and evaluation of certain contingencies. The attached contingencies involve matters with respect to which you have been engaged and to which you have devoted substantive attention on behalf of this agency in the form of legal consultation or representation. We have represented to the Department of Finance and Administration that there are no unasserted claims or assessments that our legal counsel has advised us are probable of assertion and should be disclosed, except as reported on the attached schedules.

Please furnish to the Director of Finance and Administration and the State Auditor such explanation, if any, that you consider necessary to supplement the attached information. Include an explanation of those matters to which your views may differ from those stated and an identification of the omission of any pending or threatened litigation, claims, and assessments or a statement that the list of such matters is complete.

Your response should include matters that existed at June 30, 20XX and during the period from that date to October 31, 20XX in the format prescribed that follows:

- (A) Pending or Threatened Litigation (excluding unasserted claims):
- (1) the nature of the litigation;
 - (2) the progress of the case to date;
 - (3) the agency's response to the litigation (i.e., to contest the case vigorously or to seek an out-of-court settlement); and
 - (4) an evaluation of the likelihood of an unfavorable outcome and an estimate, if one can be made, of the amount or range of potential loss.
- (B) Unasserted claims and assessments considered by management to be probable of assertion, and that, if asserted, would have at least a reasonable possibility of an unfavorable outcome:
- (1) the nature of the matter;
 - (2) how the agency intends to respond if the claim is asserted; and
 - (3) an evaluation of the likelihood of an unfavorable outcome and an estimate, if one can be made, of the amount or range of potential loss.

We understand that whenever, in the course of performing legal services for us with respect to a matter recognized to involve an unasserted possible claim or assessment that may call for financial statement disclosure, you have formed a professional conclusion that we should disclose or consider disclosure concerning such possible claim or assessment, as a matter of professional responsibility to us, you will so advise us, the Department of Finance and Administration and the State Auditor, and will consult with us concerning the question of such disclosure and the applicable requirements of Statement of Financial Accounting Standards No. 5. Please specifically confirm to the Executive Director and the State Auditor that our understanding is correct.

Please specifically identify the nature of and reasons for any limitation on your response.

Sincerely,

Executive Director