

STATE OF OKLAHOMA
OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
GAAP CONVERSION MANUAL

N. LITIGATION CONVERSION PACKAGE

June 2021

I. PURPOSE AND OBJECTIVES

The ACFR presents a liability for material known litigation losses and for certain "potential litigation loss situations" at June 30. In other "potential litigation loss situations", only disclosures are made in the notes to the financial statements. Disclosures are also made for settled and in-progress litigation where a gain to the state is probable.

This conversion package will gather information from state agencies to identify litigation that may materially affect the financial statements and notes to the financial statements. Litigation is past, current, or future lawsuits or other legal proceedings in which the state is involved. Litigation includes proceedings against the state and proceedings initiated by the state against others. See the key terms in Part III for a complete description of types of litigation to be included in this package.

Major gains, losses, contingent gains, and contingent losses that arise after June 30 but before the state issues its financial statements are subsequent events. The state will make disclosures in the notes to the financial statements regarding major changes in the status of lawsuits that arise during the period subsequent to June 30. The subsequent period is from July 1 through the date of the audited financial statements.

- NOTES:
- (1) Only litigation not being handled by the Attorney General is covered by this conversion package.
 - (2) Do not include cases filed under the provisions of the Governmental Tort Claims Act. These cases are obtained directly from the OMES Risk Management Division.
 - (3) Do not include cases filed for Workers Compensation with the State Insurance Fund or the Multiple Injury Trust Fund.
 - (4) Every litigation case involving \$500,000.00 or more must be reported on a separate summary form (OMES Form N-1 or N-2).
 - (5) Cases under \$500,000.00 must be aggregated and reported in total on OMES Form N-3.

II. AGENCY ACTION REQUIRED

- A. Carefully read the key terms in Part III.
- B. The Settled Litigation Gain/Loss Summary (settled summary) and Contingent Litigation Gain/Loss Summary forms (contingent summary) should reflect amounts as of close of business on June 30.
- C. Round all dollar amounts to the nearest whole dollar.
- D. All working papers are subject to audit by the State Auditor & Inspector (SA&I). The agency is required to keep a copy of the completed summary forms and all associated working papers for three years after the completion of the SA&I audit.
- E. The person who completes and signs the summary forms should keep a copy. OMES will contact this person if there are any questions.
- F. If needed, call your agency's financial reporting analyst for guidance.

- G. Return the completed summary form to your OMES financial reporting analyst by e-mail no **later than the due date shown on the form.** If you can return it earlier, please do so.
- H. If the summary forms do not apply to your agency, check the box in the upper left portion of the summary, complete item (2) and return it to OMES.

III. KEY TERMS

- A. Contingent Litigation Gain/Loss - Contingent litigation gains/losses are situations involving uncertainty as to possible gain/loss that will be resolved when certain events occur or fail to occur. Contingent litigation gains/losses arise from in-progress or threatened lawsuits.

The state will record a liability at June 30 for in-progress lawsuits and threatened lawsuits if, in the attorney's opinion, all of the following apply:

1. A loss to the state is probable, and
2. It is practical to estimate the amount of the contingent loss, and
3. The amount of the estimated loss equals \$500,000.00 or more.

The state will make disclosures in the notes to the financial statements regarding contingent litigation losses that do not meet both 1. and 2. above, provided that a loss is reasonably possible or probable and the amount cannot be determined.

The state will neither disclose nor record liabilities for situations where the chance of loss is remote.

- B. Liability - A liability is an obligation resulting from past transactions (or occurrences) that will (or is likely to) result in future payments and/or reductions in revenue.
- C. Litigation - Litigation includes past, current, and future disputes or legal contests carried out and resolved through the judicial process. In everyday language, litigation and lawsuits may be used interchangeably. The types of litigation that are included in this package are:
1. Litigation by others against the state that at June 30 will or may result in claims against the state's current or future resources. These litigations may be against the state, one or more of its agencies, or one or more of its officials. This includes litigations that, at June 30, are:
 - * Settled but not yet paid.
 - * In-progress.
 - * Threatened.
 2. Litigation of the state against others that will result in a gain to the State. This includes lawsuits that, at June 30, are:
 - * Settled but not yet collected.
 - * In-progress.
- D. Probable - A future event is probable if the event is likely to occur.
- E. Reasonably Possible - A future event is reasonably possible if the chance of its occurrence is greater than remote but less than probable.
- F. Remote - A future event is remote if the event has only a slight chance of occurring.
- G. Settled Litigation Gain/Loss - Settled litigation gains/losses are situations involving known or agreed upon gains/losses that are certain to be received/paid, yet remain uncollected/unpaid at June 30. The state will record a liability at June 30 for settled lawsuits where it is known that the lawsuits will result in future payments or losses to the state.

H. Subsequent Event - Subsequent events are events or transactions that must be reported when they:

- * Occur after June 30 but before the state issues its audited financial statements, and
- * Have a material effect on the financial statements and/or the auditor's report.

Examples of subsequent events include:

- * Changes in previously reported cases.
- * New cases.
- * Settlement of a lawsuit.

IV. SPECIFIC INSTRUCTIONS

REMEMBER:

- (1) This conversion package includes only litigation not being handled by the Attorney General.
 - (2) Do not include cases filed under the provisions of the Governmental Tort Claims Act. These cases are obtained directly from the OMES Risk Management Division.
 - (3) Every litigation case involving \$500,000.00 or more must be reported on a separate summary form (OMES Form N-1 or N-2).
 - (4) Cases under \$500,000.00 must be aggregated and reported in total on OMES Form N-3.
 - (5) Subsequent events require completion of a contingent summary form. Complete the summary form and submit it to OMES any time during the subsequent period but as soon as possible after the event occurs.
- A. Preparation of the Data - Prior to completing a settled summary or contingent summary form, it will be necessary to gather the appropriate details involved in each litigation situation. Only those settled litigation gains/losses that are uncollected/unpaid at June 30 are to be considered. Next identify and separate the litigation situations into two categories: settled litigation gains/losses and contingent litigation gains/losses using the definitions in the key terms in Part III.

There are three types of summary forms:

1. Settled Litigation Gain/Loss Summary (OMES Form N-1) Use a separate settled summary form for each separate settled (but uncollected/unpaid) litigation gain/loss that equals \$500,000.00 or more. Make as many copies of the form as may be necessary.
2. Contingent Litigation Gain/Loss Summary (OMES Form N-2). Use a separate contingent summary form for each separate contingent litigation gain/loss that equals \$500,000.00 or more. Make as many copies of the forms as may be necessary.
3. Aggregated Litigation (Less than \$500,000.00) Summary (OMES Form N-3). Use this one summary form to aggregate all litigation involving amounts less than \$500,000.00.

After gathering the necessary details and determining to which category each litigation situation belongs, transfer the required information to the appropriate summary form. Complete the summary forms and submit them OMES.

B. Completing the Settled Litigation Gain/Loss Summary Form (Cases involving \$500,000.00 or more.)

1. Enter the agency ACFR code, name, and funds/accounts to be included on the summary.

2. Provide the name, title, phone number and date for each person who completes and approves this summary form. The finance officer or executive director should approve and sign the form before sending it to OMES. Keep a copy of the form. When submitting the form via email it should come from the address of the approving officer. This will act as an implicit electronic signature verifying the form has been reviewed for validity, accuracy, and completeness.
3. Enter the name of the lawsuit, such as "City of Anytown vs. State of Oklahoma."
4. Enter the date the lawsuit was settled.
5. Enter the name, business address, and telephone number of the attorney handling the lawsuit for the state.
6. Provide a brief description of:
 - * The nature of the lawsuit,
 - * When the lawsuit became known, and
 - * Any other related information.

Attach additional pages as needed.

7. The attorney should review, sign, and date the summary form before sending it to OMES. The attorney's signature acknowledges the existence of a liability or gain and confirms that the general information in (3) through (6) is accurate.
 8. Check one box to indicate whether this lawsuit will result in a gain or loss to the state.
 9. If you checked the "Gain to the State" box in (8), enter the amount your agency received for the settled litigation gain after the fiscal year end June 30. If you checked the "Loss to the State" box in (8), enter the amount your agency paid for the settled litigation loss during the fiscal year end June 30.
 10. If you checked the "Gain to the State" box in (8), enter the amount your agency will receive for the settled litigation gain after the fiscal year end June 30. If you checked the "Loss to the State" box in (8), enter the amount your agency will pay for the settled litigation loss after fiscal year end June 30.
 11. Total the amounts on lines (9) and (10). If you checked the "Gain to the State" box in (8), this sum must equal the state's total gain from this lawsuit as of June 30. If you checked the "Loss to the State" in box (8), this must equal the state's total loss for this lawsuit as of June 30.
 12. Provide comments or explanations only if needed for any unusual items or circumstances.
- C. Completing the Contingent Litigation Gain/Loss Summary Form (Cases involving \$500,000.00 or more.)
1. The agency ACFR code, name, and funds/accounts to be included on the summary are preprinted.
 2. Provide the name, title, phone number and date for each person who completes and approves this summary form. The finance officer or executive director should approve the form before sending it to OMES. Keep a copy of the form.
 3. Check one box to indicate whether this form provides "year-end" or "subsequent event" data. For "subsequent event" data, enter the date that the situation arose.
 4. Enter the name of the lawsuit, such as "City of Anytown vs. State of Oklahoma."
 5. Enter the date that you expect the lawsuit to be settled. This will be an estimate in most cases.

6. Enter the name, business address, and telephone number of the attorney handling the lawsuit for the state.
7. Provide a brief description of:
 - * The nature of the lawsuit,
 - * When the lawsuit became known, and
 - * Any other related information.

Attach additional pages as needed.

8. The attorney should review, sign, and date the summary form before sending it to OMES. The attorney's signature acknowledges the existence of a contingent liability or gain and confirms that the general information in (4) through (7) is accurate.
9. a. Check one box to indicate whether this lawsuit is a case in progress or only a threatened case yet to be initiated.
b. Check one box to indicate whether this lawsuit, if settled, will result in a gain or loss to the state.
10. a. Check one box that best describes the probability that the situation will result in a gain/loss to the state. (See the key terms in Part III for definitions.)
b. Enter additional comments, if any, regarding the probability of gain/loss.
11. a. Estimate the gain/loss amount. Enter the estimated minimum and maximum dollar amounts. Note that these are estimates based on the best information available to your agency's management. Keep in mind that these estimates are subject to audit by SA&I.
b. If there is some reason why you cannot estimate the gain/loss amount, please indicate the reason(s).
12. Provide comments or explanations only if needed for any unusual items or circumstances.

D. Completing the Aggregated Litigation Summary Form (Cases involving less than \$500,000.00.)

1. The agency ACFR code, name, and funds/accounts to be included on the summary are preprinted.
2. Provide the name, title, phone number and date for each person who completes and approves this summary form. The finance officer or executive director should approve the form before sending it to OMES. Keep a copy of the form.
3. Enter the total number of cases that resulted in a gain and the aggregate dollar amount of the gains in those cases that were not individually reported on the Settled Litigation Gain/Loss Summary because they individually involved less than \$500,000.00.
4. Enter the total number of cases that resulted in a loss and the aggregate dollar amount of the losses in those cases that were not individually reported on the Settled Litigation Gain/Loss Summary because they individually involved less than \$500,000.00.
5. Enter the total number of cases that may result in a gain and the aggregate dollar amount of the possible gains in those cases that were not individually reported on the Contingent Litigation Gain/Loss Summary because they individually involved less than \$500,000.00.
6. Enter the total number of cases that may result in a loss and the aggregate dollar amount of the possible losses in those cases that were not individually reported on the Contingent Litigation Gain/Loss Summary because they individually involved less than \$500,000.00.

7. Provide comments or explanations if needed for any unusual items or circumstances.

E. Working Papers

The agency should keep any documents that support data on the settled summary or the contingent summary. For example:

- * Copies of legal papers
- * Correspondence with attorneys.
- * Internal agency memos related to litigation.