GRS Gabriel Roeder Smith & Company
Consultants & Actuaries
One Towne Square
Suite 800
Southfield, MI 48076-3723
248.799.9000 phone
248.799.9020 fax
www.gabrielroeder.com

September 12, 2014

ASOPS – Public Pension Plan Funding Request for Comments
Actuarial Standards Board
1850 M Street, NW, Suite 300
Washington, DC 20036-4601

Re: Request for Comments – ASOPs and Public Plan Funding and Accounting

To the Actuarial Standards Board (ASB):

Thank you for the opportunity to comment on this important subject. I understand the magnitude of the efforts of the volunteers serving the ASB. I appreciate the amount of thought, care, and attention to detail that went into the recent revisions of the pension Actuarial Standards of Practice (ASOPs). The opinions in this response are my own and do not necessarily represent the opinion of my employer, Gabriel, Roeder, Smith and Company.

The actuarial profession is a self-regulating profession which means exactly that: we regulate ourselves. This is a privilege and a duty. The actuarial Code of Professional Conduct "sets forth what it means for an actuary to act as a professional. It identifies the responsibilities that actuaries have to the public, to their clients and employers, and to the actuarial profession." But that does not give us the authority to regulate our clients or any other party. This is an important distinction.

Many actuaries and other parties express concern that public sector pension plans are not as heavily regulated as private sector pension plans. It is critically important for actuaries - public plan and others - to take the best steps possible "to adhere to the high standards of conduct, practice, and qualifications of the actuarial profession, thereby supporting the actuarial profession in fulfilling its responsibility to the public." As the ASB indicates in the Request for Comments, the actuarial profession has responded to increased attention on public sector pension funding through the efforts of the California Actuarial Advisory Panel (CAAP), American Academy of Actuaries (AAA), Society of Actuaries (SOA), and Conference of Consulting Actuaries (CCA). These efforts reflect strong leadership throughout the profession to contribute educational information to public policy decision makers.

However, it is important to make the distinction between regulating actuarial practice and regulating public plans. The ASB's stated goal is "to set standards for appropriate practice for the U.S." I urge the ASB to strongly consider whether the purpose of proposed changes is to regulate the actuarial profession or rather to regulate public sector plans. If the purpose is to regulate public plans, then it would be outside the purview of the ASB and the Code of Professional Conduct to incorporate those changes into the ASOPs.

The ASB has exclusive authority in the United States to determine whether an ASOP is needed in a particular practice area. The actuarial practice areas described on the ASB's website are Pension, Life, Health, Casualty, and Enterprise Risk Management. They are not subdivided. Creating separate ASOPs for one slice of pension actuarial practice is not a small decision. Splitting standards for one practice area would have serious implications to all practice areas. I urge the ASB to consider whether any proposed changes for public plans would also be applicable for private sector pension plans. For example, of the recommended disclosures for public plans in the SOA's Blue Ribbon Panel report which ones would not be equally applicable to private plans from an actuarial perspective? If there are actuarial practice issues that need to be addressed, the ASB should address them within the established framework.

The ASB has recently gone through a great deal of effort to update ASOP Nos. 27, 4, and 6 and is currently working on ASOP No. 35. As with all revisions to the ASOPs, there were Exposure Drafts (sometimes two) and comment periods. All comments are made public and the ASB includes a brief response to individual comments as an attachment to the final ASOPs. At the time these pension ASOPs were updated, the issues confronting public sector pension plans and the corresponding actuarial practice were well known. The specific changes to these ASOPs include new distinctions that are directly applicable to public plan practice such as assumptions set by another party. They also include guidance on market-consistent present values - a subject at the forefront of public plan actuarial practice. It may reflect poorly on the actuarial profession to revisit standards that were just updated in a process which included comments, responses and adopted changes regarding the very same issues that are now being brought forward.

My responses to the specific questions raised in the Request for Comments follow.

1. **Public plan funding and associated actuarial valuations are less uniformly regulated than those of private sector pension plans. Actuaries may be asked by their principal to advise on funding levels. Is additional guidance needed, beyond that in the recently revised pension ASOPs, regarding appropriate public plan actuarial valuation practice to assist actuaries in performing their work and advising their principal? Why or why not?**

   No. Narrowly focusing an ASOP on one segment of an actuarial practice area would be a departure from the ASB's current practice. Moreover, it could set a precedent to create ASOPs for segments of other practice areas as well.

   While it is true that pension plan funding is less uniformly regulated for public plans and church plans than for multi-employer plans and private sector single employer plans, that does not mean that public plan funding is unregulated. Many states have pension funding regulations and up until recently the Governmental Accounting Standards Board’s accounting standards have been the de facto funding standard.

   The underlying actuarial principles of plan funding are the same for all types of pension plans and are sufficiently covered under the current ASOPs. If the objective is to have more uniformly regulated actuarial valuations via changes to the ASOPs, then any additional guidance needed in the ASOPs on plan funding should apply to all types of pension plans.

2. **If yes to question 1, in what areas is additional guidance needed?**

   N/A. The ASB has highlighted the efforts of the CAAP, AAA, SOA, and CCA in the Request for Comments. Those organizations are the appropriate organizations to provide additional guidance and education on public policy issues.

3. **If yes to question 1, should that guidance take the form of a separate public plan actuarial valuation standard or be incorporated within the existing ASOPs? Why or why not?**

   N/A. The ASB has highlighted the efforts of the CAAP, AAA, SOA, and CCA in the Request for Comments. Those organizations are the appropriate organizations to provide additional guidance and education on public policy issues.

4. **In general, the ASOPs are principles based and not rules based. As a result, the ASOPs are generally not highly prescriptive. Should the ASOPs related to public plan actuarial valuations be more prescriptive? If so, in what areas?**

   I reiterate that there should not be separate ASOPs for public plans. The ASB should not change its practice of keeping the ASOPs principles based and should not be more prescriptive. This is applicable to all ASOPs and all practice areas.

5. **The ASOPs have provided guidance that has been applicable to all areas of practice in the pension community (for example, private sector, multiemployer, public sector). If you believe that additional guidance is needed for public plan actuarial valuations, should any of that additional guidance also apply to non-public sector plans? Why or why not?**

   All of the suggested additional guidance for public plan actuarial practice that is being discussed in the actuarial community is just as pertinent for private plan actuarial practice.

6. **The current definition of an "intended user" of an actuarial communication is "any person who the actuary identifies as able to rely on the actuarial findings" (ASOP No. 41, Actuarial Communications, section 2.7). Should the ASOPs require the actuary for public pension plans to perform additional, significant work (which would be incorporated in the guidance provided in the ASOPs) that is not requested by the principal if that work provides useful information to individuals who are not intended users? Why or why not? If so, should this requirement be extended to all pension practice areas? Why or why not?**

   The "intended user" in ASOP No. 41 is often the Principal as defined in the Code of Professional Conduct or another party associated with the Principal requiring Actuarial Services with the permission of the Principal. Requiring the actuary to include significant work that is not requested by the Principal does not make sense for any practice area or any segment of any practice area. It does not make sense for any business to provide costly

> products to non-paying, non-clients especially concerning information about paying clients.
>
> There are critical legal implications to this suggestion. Providing information not at the request of the Principal to individuals who are not the intended users – whether or not it is useful – could lead to a breach of confidentiality which would be a violation of Precept 9 of the Code of Professional Conduct. Public sector plans have a fiduciary duty to the beneficiaries of their trusts - numbered in the millions. Requiring actuaries to release public plan information to outside parties will greatly increase the profession's exposure to litigation.
>
> Moreover, the question is silent as to who the other users may be. This raises serious questions about Precept 8. How can we ensure that actuarial information is not used to mislead other users if those other users are not even identified? There are numerous special interest groups that may mine data for their own uses. Control of the actuarial work product, including a clear description of the intended users, is more critical now than ever before.

As a final comment, I would ask the ASB to clarify exactly which actuarial practice issues - as opposed to public plan policy issues - need fixing. The Society of Actuaries' motto is, "the work of science is to substitute facts for appearances and demonstrations for impressions," a quote from John Ruskin. Since the onset of the Great Recession, there has been the appearance in the press of a public sector pension funding crisis on a national level. The facts are different. Some plans are in trouble. But most public sector plans are in reasonably good shape. Moreover, many of the most prominent troubled plans have a history of not contributing the Annual Required Contribution or otherwise not following the actuary's recommendations. In those cases, the issues are clearly public policy issues not actuarial. It would be a grave mistake for the ASB to make decisions based on appearances rather than facts.

The efforts of the SOA, CCA, AAA, and the CAAP are addressing public plan funding issues through both public policy and actuarial consulting. Let us give those efforts a chance to succeed.

Sincerely,

David T Kausch

David T. Kausch, FSA, EA, FCA, MSPA, PhD
Chief Actuary and Senior Consultant

DTK:ah