

November 14, 2014

Actuarial Standards Board  
1850 M Street, NW, Suite 300  
Washington, DC 20036-4601

To the Actuarial Standards Board:

Thank you for the opportunity to comment on ASOPs and Public Pension Plan Funding and Accounting. These comments are my own and do not reflect the views of my employer or any organizations of which I am a member.

Before addressing the specific questions posed, I'd like to comment on the principle underlying my responses. It has long been my observation that the ASOPs codify a "consensus practice" or "current practice" standard, rather than a stronger "best practice" standard. Presumably, the driving force behind this is concern that a stronger standard could be used as a weapon in litigation against actuaries. I believe that ultimately such an approach is short-sighted and will not protect actuaries. If society decides that the practice codified in the ASOPs is not reasonable, then actuaries will become the targets of litigation and the defense that "we followed the ASOPs" won't protect us. In the long run, only rigorous standards will serve as an adequate shield for our profession. This is of particular and immediate concern in the public plan arena, which is experiencing substantial and well-publicized financial stress.

*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?*

My initial thought was that the relevant pension ASOPs should apply because the differences between public plans and private plans are minor relative to the similarities. However, upon closer observation, I see that existing ASOPs do not proscribe many practices that are commonplace in the public plan sector but non-existent in private plan practice. Additional guidance is clearly needed.

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

There are numerous areas where additional guidance is needed. A few examples, not exhaustive, follow:

- Since 2004, 35%-45% of plans have received less than 90% of the ARC<sup>1</sup>, which is generally an inadequate funding standard in the first place. The actuary should have the obligation to elaborate on the financial impact on the plan of failure to receive the full ARC (beyond just an observation of the simple fact that the full ARC was not received).

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<sup>1</sup> Brainard, Keith. 2013. "Public Fund Survey: Summary of Findings for FY 2012." National Association of State Retirement Administrators and National Council on Teacher Retirement. Available at <http://www.publicfundsurvey.org>.

- The use negative amortization and/or rolling amortization periods is widespread. Furthermore, funding targets are often just 80% of full funding. ASOP 4, Section 3.13.2, states that, if in the actuary's professional judgment an actuarial cost method or amortization method is significantly inconsistent with the plan accumulating adequate assets to make benefit payments when due, the actuary should disclose this. However, only in the most egregious cases of underfunding, do public pension actuarial reports contain such disclosures.
- ASOP 27, Section 3.9(a), allows a discount rate equal to the anticipated investment return. This is no longer done with private plans, other than vestigial use of expected rate of return on assets used for calculating pension income under ASC 715-30 that is being phased out as part of the continued push towards mark-to-market accounting and FASB/IASB convergence. It's time for ASOP 27 to catch up, for both private and public plans.
- Some public plans still use extremely outdated mortality tables such as 1951 GAM, 1971 GAM, 1983 GAM and UP 1984. It would seem that the consensus is that the use of such tables doesn't violate ASOP 35 guidance on selecting mortality assumptions. I can think of no clearer indication that ASOP 35 is grossly inadequate.
- Some public plans use retirement age assumptions that are completely inconsistent with their "30 and out" or similar highly subsidized early retirement provisions, which are heavily utilized by participants. Again, it would seem that the consensus is that this is not a violation of ASOP 35, Section 3.5.1. I would strongly suggest that the language in that section be tightened up to require more reasonable retirement age assumptions.

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?*

I have no opinion.

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 agree that ASOPs should remain principles-based and not rules-based. However, if we as a profession don't find some stronger principles for ourselves, outside forces will surely inflict rules-based prescriptions on us. Look no further than what ERISA, the Internal Revenue Code and Regulations, and FASB ASC have done in the private pension space.

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 nonpublic sector plans? Why or why not?*

Some of the suggestions I provided in my answer to question 2 are broadly applicable.

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?*

If actuarial communications are strengthened to provide all the additional information that the principals require and don't currently receive, these communications should provide useful information to individuals who are not intended users. I don't advocate requiring actuaries to perform additional work beyond this.

Sincerely,

A handwritten signature in cursive script that reads "Alberto L. Dominguez".

Alberto Dominguez, FSA PRM