April 10, 2020

Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

RE: Project 3-38, Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32

VIA Email: director@gasb.org

Dear Mr. Bean,

We are pleased to provide comment and feedback on the Governmental Accounting Standards Board (GASB)'s exposure draft Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans an amendment of GASB Statements No. 14 and No. 84, and a supersession of GASB Statement No. 32. We believe this is an important set of circumstances to resolve definitively as governments are in the process of implementing GASB Statement No. 84, Fiduciary Activities.

Certain Component Unit Criteria and Applicability of the Governing Board Criteria (Pars. 4 and 5).
We believe a potential outcome of the provisions of this exposure draft, coupled with the provisions of GASB-84, will result in nearly every non-defined benefit pension or OPEB plan excluded from reporting by general-purpose governments. Is this what the Board has intended? If so, we recommend the Board be as clear as possible that defined contribution pension plans, defined contribution OPEB plans, or other employee benefit plans are not considered fiduciary component units.

GASB Codification Section 2100 Defining the Financial Reporting Entity defines component units as legally separate organizations for which the elected officials of the primary government are financially accountable, as well as other organizations not meeting the financial accountability criteria in which the primary government deems misleading to exclude, and we believe there may be inconsistencies in financial reporting based on a primary governments judgement of whether a defined contribution pension plans, defined contribution OPEB plans, or other employee benefit plans are deemed misleading to exclude, especially for our statewide pension and OPEB systems.

For many of our statewide cost-sharing multiple employer pension and OPEB plans that also are administrators of Internal Revenue Code (IRC) Section (§) 457(b) plans and other employee benefit plans, (inclusive of defined contribution pension and OPEB plans), the Boards of Trustees of such plans may
believe there is operational accountability and as such have determined these plans a component unit based on the misleading to exclude criteria.

Again, we believe the proposed adjustment to the criteria for determining financial accountability in paragraph 4 is reasonable in most cases, but we suggest being as direct as possible. If the Board wants to limit the provisions to fiduciary activities, then paragraph 4 could be restated as follows:

For defined benefit pension, OPEB and other employee benefit plans that are legally separate organizations without a governing board, if the primary government performs the duties that a governing board performs, the primary government is treated as having a voting majority in the assessment of financial accountability in determination of the presence of a component unit.

Then, paragraph 5 would be rephrased as follows:

Governments should apply the financial burden criterion in paragraph 7 of GASB-84 only to defined benefit plans held in trust that are fiduciary component units.

Section 457 Plans that Meet the Definition of a Pension Plan (Pars. 6 and 7)
We appreciate the work on paragraphs 6 and 7 of the Exposure Draft. However, the definition of a pension plan should be included within paragraph 6 as the initial sentence. This is to alleviate referencing multiple standards to find the answer. The rephrased paragraph would be:

As defined in GASB Statement Nos. 67 and 73, pension plans are arrangements through which pensions are determined, assets dedicated for pensions are accumulated and managed, and benefits are paid as they come due. They may be defined benefit or defined contribution plans. A Section 457(b) plan that meets the definition is a pension plan for accounting and financial reporting purposes.

The rest of paragraphs 6 and 7 are fine.

Effective Date and Transition
We strongly suggest that the effective date and transition provisions relating to GASB Statement No. 84 align to any updated implementation dates of GASB-84 based on the outcome of the project potentially postponing the effective dates of certain authoritative guidance. We are not aware of any IRC§457(b) plans that are defined benefit plans. The provisions of paragraph 11 might be best suited as an Implementation Guide question.

Other Issues
The implementation of GASB Statement No. 84 has resulted so far in inconsistent reporting for non-defined benefit plan situations. We believe this is a perfect opportunity to insert the following clarifying language into a Standard:

1. As alluded to in paragraph B13 of the Basis for Conclusions in GASB Statement No. 84, if a defined contribution plan or other employee benefit participant has a choice of more than one investment, the participant has control over the investments. Unless the financial reporting entity believes that the exclusion of such plan information is misleading, the reporting of such plan information is limited to outflows of employee contributions from payroll generating funds and
any related payables. The remaining elements of paragraph 11 of GASB Statement No. 84 do not apply.

2. For public employee retirement systems that are also administrators of IRC§457(b), §401(a) through (k), §403(b) and similar plans, the plans should continue to be reported as prior to the implementation of GASB Statement No. 84, if:
   a. There is financial accountability between the plans, or
   b. Not reporting the plan would be misleading to exclude.

Please also note that in referencing IRC§457(b) plans, they should be specifically referenced. IRC§457(f) plans (“golden handcuff” or “ineligible” plans,) could be misconstrued as subject to these provisions if approved as drafted. Please clarify this throughout the final document.

Finally, should the provisions of the exposure draft be approved as drafted, the GASB should update the nonauthoritative flowchart illustration contained in GASB Cod. Sec. 2100.901 with the change.

We thank the Board for the opportunity to comment on this proposal. We would be happy to respond to your questions. Please feel free to contact any of the copied individuals below.

Sincerely yours,

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