March 31, 2016

Mr. David Bean  
Director of Research and Technical Activities  
Project No. 3-13E  
Governmental Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, Connecticut 06856-5116

Via Email to director@gasb.org

RE: Project No. 3-13E, Proposed Statement of the Governmental Accounting Standards Board, *Fiduciary Activities*

Dear Mr. Bean:

We are pleased to have the opportunity to review and comment on the Governmental Accounting Standards Board’s (GASB or Board) Proposed Statement, *Fiduciary Activities* (Proposal or Proposed Statement).

We are supportive of the GASB’s efforts to improve financial reporting for state and local governments, including this initiative related to reporting for fiduciary activities. We agree that there is currently diversity in practice, most specifically with stand-alone business-type activity governments, which warrants a close evaluation of the existing accounting guidance on what constitutes a fiduciary activity.

Although we are supportive of various aspects of the Proposal, we have concern that certain proposed changes may be counterproductive to the goals we believe the Board is trying to achieve as follows:

**Continued Inconsistency in Identification and Reporting of Fiduciary Activities**

*Assets administered through an “equivalent arrangement”* (paragraph 7a)

We believe the general reference to assets administered through an “equivalent arrangement” is overly vague and warrants further clarification. While paragraph B13 of Appendix B - Basis for Conclusions appears to clarify the Board’s position, we believe a definition of “equivalent arrangement” along with implementation examples should be incorporated into the final standard. Without such clarification, varying interpretations are likely, which will lead to continued inconsistencies in the reporting of fiduciary activities.

“The assets are to be provided to organizations or other governments that are neither part of the financial reporting entity nor recipients of the government’s goods or services” (paragraph 7c)

Paragraph 7c includes reference to whether the recipients of the assets are not also recipients of the government’s goods or services. It should be noted that this criterion (as well as 7a, 7b, and 7d) is only required to be considered when a government controls the assets of the activity and the assets are not
derived solely from the government’s own-source revenue. The actual control of assets could be considered a service in of itself. We assume this is not the Board’s intent. As a result, we suggest further clarification of what constitutes “goods and services”, as well as specific implementation examples to ensure the element of control is not mistakenly interpreted as a service.

One example in which paragraphs 7a and 7c could be misinterpreted relates to when governments collect amounts on behalf of other governments (e.g. county collects property or sales taxes on behalf of a city). Under GASB No. 34, these are generally determined to be agency fund activities. On the surface, this activity appears to remain a fiduciary activity (custodial fund) under the Proposal, but the lack of a formal definition of what is considered an “equivalent arrangement” or clarification on what constitutes a government’s “services” may lead some to conclude this activity is NOT fiduciary and thus reported within the governmental and/or business-type activities of the primary government.

**Notion of Control** (paragraph 10)

We agree the notion of control, as defined in paragraph 10, is necessary and fundamental to the determination of whether an activity is considered a fiduciary activity. Nonetheless, we are concerned with the interpretative nature of item (b) which states “the government has the ability to administer or direct the use, exchange, or employment of the present service capacity of the assets”. This seems to imply that defined contribution benefit plans (e.g. 401k, 403b, 457, etc.) would be fiduciary activities if a government possesses the ability to contract external vendors to either manage investments or administer the plan assets. That said, we are not certain all governments would reach the same conclusion, nor are we sure it is the Board’s intent for these activities to be considered fiduciary activities within a government’s financial statements.

In addition to providing more discussion clarifying this criterion, we recommend the Board include specific practical examples of whether activities either meet or do not meet the definition of a fiduciary activity in the final standard. We believe this would effectively reduce disparity in financial reporting throughout the industry.

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In summary, we want to reiterate our support of the Board’s initiatives to improve government financial reporting and to address current inconsistencies related to the inclusion of fiduciary fund financial statements. While we feel the Proposed Statement is an improvement to existing GASB guidance, as we have communicated, we have concerns that inconsistencies will still be too common in practice unless the concerns we have raised in this letter are addressed.

Please contact Scott Lehman at (630) 574-1605 or scott.lehman@crowehorwath.com or Brian Archambeault at (574) 236-7610 or brian.archambeault@crowehorwath.com should you have any questions.

Cordially,

Crowe Horwath LLP

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