March 4, 2015

Via e-mail to director@gasb.org

Director of Research and Technical Activities
Project No. 3-13P
PO Box 5116
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Dear Director:

Thank you for the opportunity to comment on the GASB’s preliminary views on Financial Reporting for Fiduciary Responsibilities.

Let me start by saying that I find Chapters 2 and 3 confusing. I hope by the time this becomes an Exposure Draft a lot of the concepts are clarified. Even trying to follow the flow chart on page 9, I think in many cases it is possible for an answer to be both “Yes” and “No”, leaving one befuddled as to which route to take.

I would like to focus on two subjects. The first is something where I hope I have misunderstood what the document is saying about a need to report amounts commonly reported as a liability as a fiduciary activity. The second is a problem that has cropped up after the elimination of Trust Funds by GASB 34.

It appears that Chapter 2 is suggesting that time and effort will need to be expended on an analysis of the terms of pass-through grants to determine if a government is/was a fiduciary of assets it holds/held. I see higher costs, more complexity, and no additional clarity as the result of using a fiduciary fund rather than a special revenue fund to temporarily hold pass-thru grant proceeds prior to the ultimate disbursement to the sub-recipient. This statement is driven in large part because within the public safety function, locally several municipalities are fiduciaries of one or more grant programs where they are also one of the several ultimate recipients of federal source dollars. Placing portions of the same federal grant in two accounting homes based on whether the unit will keep the dollars or pass them on seems like an over-complication of the accounting that is necessary to accurately record and report the receipt and spending of grant proceeds.

Common situations faced by local governments are holding income tax withholding collected from employees until a monthly remittance date and collecting child support payments from one parent to record and then remit to the custodial parent. Characterizing that temporary custody of the assets as part of a fiduciary relationship rather than a simple liability seems to me to be a distinction without a difference. Given the difficulties detailed in the exposure draft encountered by the GASB in obtaining responses to their survey on this topic, it seems reasonable to ask if the ultimate respondents understood the topic or were just providing any answer that caused the questions to stop.

In many instances the Board requires that the preparers of financial statements look to the substance of a transaction over its legal form to guide the reporting. In the case of fiduciary funds, starting with GASB 34, there seems to have been an ignoring of substance in favor of a strict legalistic interpretation of the
underlying facts. Over the years our government has received donations from various individuals and groups to be used for specific purposes, such as:

- Plan a future park,
- Maintain a memorial,
- Fund an annual activity,
- Fund staff education,
- Purchase books on select topics, etc.

The amounts involved were both too small to create a legal trust and too small to generate a useful amount of funding for their intended purpose after paying the administrative costs that our community foundation charges for managing funds. The local interpretation of GASB 34 was that these “public purpose trust” funds were not one of the four permitted varieties of fiduciary funds and since in many cases the original gift could be spent if income was inadequate to fund the activity, or was actually intended to be spent eventually, the assets did not qualify as a permanent fund. It was concluded that the assets must be commingled with the operating funds that they were meant to supplement. This prioritizing of strict legal form over substance has created a variety of problems. The designation of fund balance as restricted or nonexpendable does not carry over to the assets, so we have had situations where restricted assets were spent and had to be replaced by general fund assets because it was alleged the spending was not properly authorized to come from restricted assets, and situations where the department’s intent was allegedly to spend restricted assets, but that intent was only conveyed to the financial statement preparers years after the fact. When it became desirable to remove donor restrictions on some of the above mentioned gifts, to either comingle the assets with funds with similar restrictions or to spend the remaining corpus, legal opinion has been consistent that permission needed to be obtained from either the court system or the Attorney General of our state. That fact makes it sound like there was an actual fiduciary relationship established that the required accounting treatment prevented us from recognizing.

If you are revisiting the subject of Fiduciary Funds, I respectfully request that you reconsider the prohibition on using a Fiduciary Fund to report assets that the government holds outside of a legal trust, to be used to support its own activities, but whose use is significantly restricted as to spending by the terms of a gift. Such a change could reduce the costs of monitoring and controlling these assets and at the same time improve accountability by clarifying to past donors, potential future donors, municipal employees, and the general community when restricted assets rather than taxpayer funds are being used for certain projects. After having spent considerable time and effort at persuading departments to eliminate their shadow accounting systems and use the organization’s financial management system as their “official” books and records for special purpose financial reporting they must provide, the accounting department is concluding that the only practical alternative that will allow the organization to consistently meet the control requirements of these gifts is to create our own shadow accounting system to track them. This seems like a very inefficient use of limited time and staff resources to allow compliance with a standard that created an overly narrow interpretation of fiduciary responsibility.
Thank you for your time,

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