TBS

Office of the Provincial Controller Division

Pension Asset Expert Advisory Panel Report back to TB/MBC

October 21, 2016 - DRAFT

______________________________ President of the Treasury Board

______________________________ Deputy Minister, Treasury Board Secretariat

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Request

Treasury Board Secretariat is requesting that:

1. Treasury Board / Management Board of Cabinet (TB/MBC) approve the establishment of the Pension Asset Expert Advisory Panel by Minister's Order, and

2. TB/MBC recommend to the Lieutenant Governor in Council a remuneration Order in Council for panel members.

Purpose of the Request

On October 5, 2016 Treasury Board/Management Board of Cabinet (TB/MBC) approved the draft Terms of Reference for the Pension Asset Expert Advisory Panel to review the application of the Public Sector Accounting Standards (PSAS) to accounting for pension assets, and to provide advice to government. Treasury Board Secretariat is reporting back with the Minister's Order that would establish the panel, and the remuneration Order in Council that would set the rates of remuneration to be paid to panel members.

This report back will complete the requirements under the Agencies and Appointments Directive (the Directive) for the establishment of short-term advisory bodies.

Business Case Rationale / Background

In connection with the preparation and audit of the 2015-16 Public Accounts, the Office of the Auditor General and the government's professional accounting staff disagreed regarding the application of Public Sector Accounting Standards (PSAS) to pension assets related to two pension plans that the Province jointly sponsors – Ontario Teachers' Pension Plan (OTPP) and Ontario Public Service Employees' Union Pension Plan (OPSEUPP).

The government made a time-limited regulation under the Financial Administration Act (FAA) to require the accounting for these pension assets to align with the interpretation of the Auditor General. This time-limited regulation enabled the professional accounting staff to take responsibility for the preparation of the Public Accounts in accordance with legislation and PSAS.

It is intended that the Expert Advisory Panel will commence its review immediately on appointment of its members. Creation of the panel is to be achieved by a Minister's Order, made by the President of the Treasury Board, pursuant to Section 6.1 of the *Ministry of Government Services Act*. The Minister's Order will set the termination date for the Panel's activities as March 31, 2017, enable the Minister to appoint a minimum of 3 and a maximum of 6 panel members and to designate one member as the chair, enable the Minister to approve the Terms of Reference (as previously provided in draft to Treasury Board/Management Board of Cabinet), and require the Minister to seek LGIC approval for rates of remuneration.

The panel will be supported primarily by staff in Treasury Board Secretariat, and all expenses related to the panel will be managed from within TBS' allocation.

With the appointment of the panel members, and the establishment of the Terms of Reference, a report to the President of the Treasury Board, which will be shared with the Auditor General of Ontario and subsequently made public, will be due from the panel by December 31, 2016. Follow up work such as supporting questions on the report, providing supplemental information, assessing feedback and providing recommendations to standard developers may occur between January 1, 2017 and March 31, 2017

Remuneration for panel members must take into consideration the following factors:

1. This assignment is urgent to support the government's 2017-18 planning cycle and 2017 Budget as the issue of pension asset accounting is complex, technical and has significant immediate and long term financial implications to the government. This creates a high degree of pressure on the panel to thoroughly assess and provide advice on this item in a short period of time.

2. The Province and the Ontario Auditor General are in public disagreement on this issue. The release of the results of the Expert Advisory Panel will likely receive significant public and media scrutiny and place the professional reputations of panel members in the media. The level of expertise required and the professional risk to the panel members need to be considered in setting compensation.

3. The topics being assessed in particular with respect to the accounting are based on principle based standards which contain ambiguity. Panel members are being selected based on their professional reputations, as there is no clearly articulated guidance in the accounting standards related to pension assets for jointly sponsored pension plans, so professional judgement is required.

4. Pension accounting, actuarial modelling to value pension plan assets and pension plan governance are very specialized areas within legal, actuarial and accounting professions. Panel members will be expected to provide personal in-depth analysis and advice, in combination with any procured services.

Performance Measurement

Submission of final report by December 31, 2016 and within approved budget.

Financial Implications

The proposed remuneration is $2,000 per day for the Chair and $1,900 per day for the other members. These rates are consistent with the Directive, which specifies up to $2000 per day for appointees with unique and specialized expertise, or urgent issues affecting government priorities and requiring intense time commitments over a short period of time. The total maximum budget is estimated at $978.5K, which is comprised of:

Proposed Budget

	#people	Per diem	# Days	Total Cost
Chair	1	2,000	75	$150,000
Members	3	1,900	50	285,000
				435,000
Travel Budget @10%				43,500
Procurement costs (incl. translation)				500,000
Total Budget for the Panel				$978,500

Other experts sitting on Provincial Advisory Panels have been remunerated at similar rates including the short-term Expert Investment Advisory committee on issues related to Hydro One, established in 2015 compensated all committee members at $2,000 per diem.

The chair of the Commission on the Reform of Ontario’s Public Services was compensated at $1500 per diem for a long term lower risk report than this advisory panel.

Other comparable examples could include individual advisors appointed for remuneration at rates equal or above $2000/diem such as the Negotiations Advisor for the Physician Services Agreement with the Ontario Medical Association (OMA) at a rate of $2175 per diem, a special advisor on Income Security Reform for the Ministry of Community and Social Services, at $2000 per diem, and the Advisor on Auto Insurance and Pensions at a rate of $1975 per diem.

This Expert Advisory Panel consists of members that each will bring a unique skillset and perspective needed to complete the advice to the government, contributing personal effort and professional expertise, such as typical with individual appointments, making the panel similar to individual advisors. The chair received a slightly higher per diem $2000 versus $1900, as this person will likely have interaction with the media and must become fluent is all the aspects that support the overall public report even though it combines multiple professional disciplines.

Within a budget approved by Treasury Board Secretariat, the Expert Advisory Panel may receive advice from such counsel, staff, or expertise considered necessary in the performance of its duties at reasonable remuneration approved by Treasury Board Secretariat. Panel Members shall be reimbursed for reasonable expenses incurred in connection with their duties in accordance with Treasury Board/Management Board of Cabinet Directives and Guidelines.

Any under-expenditure on per diem costs may be reallocated to procurement costs in the approved budget.

The panel's main deliverable is for December 31, 2016 however the panel will continue until March 31, 2017. The budget recognizes that some of the work of the panel may still occur after December 31, 2016 and is included in the maximum budget as well as supports a possible extension in the report deliverable date.

TBS will follow Treasury Board/Management Board of Cabinet Directives and Guidelines and other applicable government policies in obtaining other services and goods for the Expert Advisory Panel considered necessary in the performance of their duties within the approved budget.

Proposed appointees will be identified from areas/ skill sets such as, but not limited to:

Pension law
Public accounting/standard setting
Government

Academia
Pension administration

Appointees will be assessed and members selected such that the panel has the correct mix of skills to complete the assignment, and all due attention will be given to regional, linguistic and gender diversity.

Legislative and Regulatory Requirements

The remuneration for the panel will be set by OIC; no legislation or regulation changes are needed.

Risks and Mitigating Strategies

Proposed remuneration is consistent with that provided for other expert level advisory panels, which mitigates the risk of criticism for providing compensation at higher rates than are paid to OPS employees.

Stakeholder Engagement

Selection of panel members will be achieved through the Public Appointments Secretariat and appointments will be made by Minister's letter.

The Expert Advisory Panel will need to work with several potential stakeholders within and outside of government including different Ministries and divisions, the Office of the Auditor General, pension plans, standard setters, and other experts. TBS staff will support the panel in accessing and obtaining information from any of the necessary stakeholders as determined by the Expert Advisory Panel and within the approved budget.

Communications and Issues Management

A communication plan will be developed for the Expert Advisory Panel by TBS.

TBS will facilitate communication between the Expert Advisory Panel and the Office of the Auditor General, a key stakeholder in developing their report.

Treasury Board Secretariat will make the final report of the Expert Advisory Panel available to the public. In delivering the report to the Ministry, the Expert Advisory Panel shall ensure that the report is in a form appropriate for public release, consistent with the requirements of the Freedom of Information and Protection of Privacy Act and other applicable legislation. The Expert Advisory Panel shall also ensure that the report is delivered in both English and French at the same time, in electronic and printed versions in sufficient quantity for public release.

Recommendation

That Treasury Board/Management Board of Cabinet approve the request to establish the Pension Asset Expert Advisory Panel.

That Treasury Board/Management Board of Cabinet endorse the Ministers order establishing the Review and the terms of reference.

Proposed Minute

Further to the minute of October 6, 2016, the Ministry is requesting that TB/MBC

- Approve a revision to the completion date for the panel to March 31, 2017
- Approve the Minister's Order establishing the Panel
- Approve rates of remuneration of $2,000 per diem to a maximum of $150,000 for the Chair
- Approve the rate of remuneration for up to five members of $1,900 per diem to a maximum of $95,000 per member
- Recommend to the Lieutenant Governor in Council, the Order-in-Council for the remuneration of the Chair and the members in the amount of $2,000 per diem for the Chair and $1,900 per diem for the members
- Note that the Ministry will manage costs from within its existing allocation

Proposed Terms of Reference

Background

In connection with the preparation and audit of the 2015-16 Public Accounts, the Auditor General and the government's professional accounting staff disagreed regarding the application of Public Sector Accounting Standards (PSAS) to pension assets related to two pension plans that the Province jointly sponsors – Ontario Teachers' Pension Plan and Ontario Public Service Employees' Union Pension Plan. The government passed a time-limited regulation to align the accounting for these pension assets with the interpretation of the Auditor General. This time-limited regulation enabled the professional accounting staff to take responsibility for the preparation of the Public Accounts in accordance with legislation and PSAS.

The government released an annual report and unaudited financial statements on October 3, 2016, and concurrently announced that an advisory panel would be formed to review the application of PSAS to these pension assets.

On October 5, 2016, the Auditor General issued a qualified report on the 2015-16 Public Accounts. While the 2015-16 results were accepted by the Auditor General, the audit opinion was qualified because the comparative financial balances were not restated for the prior year to write off the pension assets.

Governance

An advisory panel is established as a short-term advisory body appointed by the President of the Treasury Board to review the application of the PSAS to accounting for pension assets and provide advice to government. The final report will be submitted to the President of the Treasury Board and provided to the Auditor General of Ontario, and made public thereafter. The future accounting for the pension assets in the preparation of the Province's financial statements will be guided by the report of the panel.[1]

Mandate

The Expert Advisory Panel's mandate is to deliver advice and recommendations to the government on the application of PSAS to the recognition and measurement of pension assets. The Expert Advisory Panel's advice and recommendations to the government will consider:

[1] The Public Sector Accounting Board established a task force to review the standards on pension plans. Should their review results in changes to the standards, these new standards would be applied by the Province.

- The requirement regarding control with respect to recognizing a pension asset for a joint defined benefit plan.
- The requirement regarding control with respect to recognizing a pension asset for other pension plans.
- Appropriate valuation techniques to measure a pension asset that take into consideration future decision making authority by plan sponsors.
- Recommendations to the Employee Future Benefits Task Force of the Public Sector Accounting Board regarding issues that should be considered in their review of the retirement and post-employment benefits standards.

Timelines

A report to the President of the Treasury Board and the Auditor General of Ontario is due by the end of 2016.

Membership

The membership of the Panel will comprise accounting, legal, and pension experts in the areas of jointly sponsored pension plans, actuarial modelling for pension plans and Public Sector Accounting Standards. All members will be appointed by the President of the Treasury Board.

The identified members should attend/participate in the meetings; no substitutes or alternates should attend in place of a member.

Support

The Province will identify individuals to support the Panel and work collaboratively to provide information related to the pension plans sponsored by the Province of Ontario.

Funding

The Province will be responsible for the costs of the appointed members to attend the meetings. The costs of any individuals supporting the work of the Panel will also be borne by the Province.