DB PLANS

DB Plan Takeovers

Beware the 80/20/80 Takeover Rule.

BY LAUREN OKUM

As actuaries, one of the many challenges we face is taking over the actuarial and administrative services of an existing defined benefit plan from another actuary. You may have heard of the "80/20/80 Takeover Rule": 80% of your headaches come from 20% of your clients, and 80% of those 20% are takeovers.

In dealing with a takeover, the new actuary must first collect sufficient information from the plan administrator, the previous actuary and/or the third party administrator. "Sufficient" information may vary from plan to plan, but I generally begin with this thorough list of items I would ideally like to obtain:

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1. **Plan documents.** At the very least, collect the current executed plan document and all corresponding plan amendments. If the plan is combined with a defined contribution plan for testing purposes, collect that plan document as well. Prior plan documents and plan amendments since plan inception may prove to be very useful, especially any documents or amendments that have modified benefits. The current determination letter (or opinion or advisory letter if the plan is a pre-approved plan) will prove to be helpful during a plan audit or plan termination.
2. **Census information.** Accurate census is crucial to our actuarial results. The census should identify all of the participants included in the prior year's actuarial valuation, and it should include any information necessary to calculate benefits and liabilities, including historical plan compensation and hours. Information such as dates of participation, vesting service, credited service and accrued benefits are very helpful.
3. **Asset information.** Collect a Statement of Net Assets as of the most recent valuation date, including a reconciliation of the trust since the prior valuation date. It's important to collect the dates and amounts of any contributions, distributions, fees, etc. paid from the plan.
4. **Actuarial reports and certifications.** While only the most recent actuarial report is necessary for a takeover, I advise collecting the reports for the three most recent plan years. The AFTAP certification for the prior year is important, as well as any additional years in which benefits were restricted. You will also need an executed copy of the plan sponsor's funding elections. If the plan is not a safe harbor plan, you will want the compliance testing as well.

5. **Participant communications.** As a consulting actuary, it is important to know what has been communicated to participants. You should collect the Summary Plan Description, any applicable Summary of Material Modifications, individual benefit statements, the most recent Annual Funding Notice or Summary Annual Report and any notices informing participants of benefit restrictions.
6. **Government filings.** You may download the prior Form 5500 and Form 5500-SF filings, including the Schedule SB, from www.efast.dol.gov. You should collect the full Form 5500-EZ filings for the past three years. You will also want to collect PBGC premium and Form 8955-SSA filings.

Unfortunately, we have all had issues obtaining information from the previous actuary. Actuaries should be reminded of the Actuarial Standards of Practice (ASOPs) and the Code of Conduct applicable for their member organization(s). Annotation 10-5 of ASPPA's Code of Professional Conduct for Actuaries states, "...the Actuary shall cooperate in furnishing relevant information..." and "The Actuary shall not refuse to consult or cooperate with the prospective new or additional actuary based upon unresolved compensation issues with the Principal unless such refusal is in accordance with a pre-existing agreement with the Principal." Note that the Code of Conduct applies to retired actuaries as well.

On occasion, the previous actuary is cooperative but does not have all of the historical information to share. For example, the previous actuary might not have compensation and hours from 15 years ago when a participant terminated and his accrued benefit was calculated. May the new actuary rely upon the accrued benefit provided? According to ASOP 41 Section 3.4.3, "An actuary who makes an actuarial communication assumes responsibility for it, except to the extent the actuary disclaims responsibility by stating reliance on other sources. ... An actuarial communication making use of any such reliance should define the extent of the reliance, for example by stating whether or not checks as to reasonableness have been applied. An actuary may rely upon other sources for information, except where limited or prohibited by applicable standards of practice or law or regulation." ASOP 23 Section 3.5 states, "...the actuary should consider further steps, when practical, to improve the quality of the data."

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In my opinion, the new actuary should make a reasonable effort to obtain the data and match the accrued benefits. If the data cannot be obtained, the actuary may use the accrued benefits provided, disclosing the reliance.

After collecting sufficient information, the new actuary must match the previous actuary's results within a threshold. Otherwise, a change in the plan's enrolled actuary may be deemed a funding method change. The Internal Revenue Code, as modified by the Pension Protection Act of 2006, requires that a change in funding method be approved by the Secretary. IRS Announcement 2015-3 provides automatic approval of a change in funding method resulting from a change in the plan's enrolled actuary under certain circumstances. In general, if there is (1) a change in the enrolled actuary, (2) a change in the business organization providing actuarial services and (3) a change in the valuation software, automatic approval of the funding method change is granted if the new actuary matches each of the funding target, target normal cost and actuarial value of assets within 5%.

In some cases, the new actuary will discover a mistake made by the previous actuary. If the mistake is an incorrect calculation of participant benefits — whether due to incorrectly coded software, misreading of the benefit formula or other document provisions, or data entry errors — then the new actuary should attempt to meet the 5% threshold using the previous actuary's benefit amounts. The previous actuary should then revise his or her results with the corrected amounts. The IRS has indicated that it is not necessary to amend the Schedule SB when the revised results do not create a funding deficiency. If the revised results impact the carryover or prefunding balances, then the changes can be reported on the current year Schedule SB.

Some takeovers are very smooth, while others reveal minor to more complex issues that are outside of the scope of this article. It's important to remember that we have all had to deal with both sides of the equation: We've won a client from another actuary, and we've lost a client to another actuary. It is our duty as actuaries to cooperate with each other. PC

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