



REVISED

March 8, 2013

Ms. Eileen Dalton, Deputy Director
Alameda County
224 W. Winton Avenue, #110
Hayward, CA 94544

Dear Ms. Dalton:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's previous LMIHF DDR determination letter December 14, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Alameda County Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 15, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on November 29, 2012. Finance issued a decision on the Meet and Confer session on December 14, 2012.

Based on a review of additional or clarifying information provided to Finance, including additional conversations and information provided after our issuance of our December 14, 2012 letter, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustments:

- Balances retained for fiscal year 2012-13 obligations in the amount of \$5,486,710. According to our review, only \$3,037,620 for Item Nos. 11, 11a, 12, and 12a listed on the Recognized Payment Obligation Schedule (ROPS) for the period January through June 2013 (ROPS III) were approved as enforceable obligations for LMIHF funding. According to the Agency, the funding source listed for items 11, 11a, and 12 on the ROPS for the period January through June 2012 (ROPS II) was "Tax Increment-Fund Balance", which consisted of the LMIHF and the Reserve Fund. Accounting reports were provided to show that the related expenditures were accounted for in the LMIHF account. Therefore, in addition to the \$3,037,620 previously allowed, Finance is allowing an additional \$2,443,860 to be retained for ROPS II, Item Nos. 11, 11a, and 12. However, the \$5,230 related to Item No. 46 that was denied on ROPS III, is not allowed to be retained.
- Balances retained for future obligations in the amount of \$751,924. Previously Finance denied the retention of \$12,011,329 for use for approved enforceable obligations. Based on additional clarifying information provided to Finance we concur that \$11,259,405 should be retained by the Agency to cover approved enforceable obligations. The Agency has proven that there will be insufficient property tax revenues to pay the RCD Loan and Mercy Housing

Loan obligations when they come due. Therefore, the only \$751,924 is not allowed to be retained.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$9,445,541 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 8,688,387
Finance Adjustments	
Add:	
Requested retained balance future obligations is not supported	751,924
Requested retained balance for 2012-13 is not supported	5,230
Total LMIHF available to be distributed:	\$ 9,445,541

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 30, 2012 do not in any way eliminate the Controller's authority.

Ms. Eileen Dalton
March 8, 2013
Page 3

Please direct inquiries to Justyn Howard, Assistant Program Budget Manager at
(916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Marita Hawryluk, Assistant Deputy Director, County of Alameda
Ms. Carol S. Orth, Tax Analysis, Division Chief, County of Alameda
California State Controller's Office