

November 9, 2012

Mr. David Loya, Community Development Deputy Director  
City of Arcata  
736 F Street  
Arcata, CA 95521

Dear Mr. Loya:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Arcata Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 11, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of Low and Moderate Income Housing Fund (LMIHF) available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Assets transferred in the amount of \$753,570 were not supported by an enforceable obligation. The former redevelopment agency (RDA) transferred a total of \$1,858,432 in cash to the City of Arcata (City) during the period January 1, 2011 to January 31, 2012. Of the total cash transferred during March 2011, only \$1,104,862 was supported by an enforceable obligation, which consisted of \$600,000 for the Plaza Point Development and \$504,862 for the Sandpiper Mobile Home Park projects. Therefore, the difference of \$753,570 (\$1,858,432 - \$1,104,862) is not an allowable transfer.
- Balances retained for funding of enforceable obligation in the amount of \$250,000. Our review indicates the total amount requested to be retained for a housing replacement project does not qualify as an enforceable obligation. According to the Agency, because the RDA demolished two housing units, the Agency is required to make available two housing units by April 2013 in compliance with HSC section 33413 (a). However, the project was not listed as an enforceable obligation on the January through June 2012 Recognized Obligation Payment Schedule (ROPS), July through December 2012 ROPS, or January through June 2013 ROPS, and no contract has been executed. Further, pursuant to HSC section 34176 (a) (1), the housing successor entity is now responsible for the housing functions and obligations previously required by the former RDA. Therefore, this is an obligation of the housing successor entity and not an obligation of the Agency.

If you disagree with Finance's adjusted amount of LMIHF balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's LMIHF balance available for distribution to the affected taxing entities is \$1,310,497 (see table below). Pursuant to HSC 34179.6 (h) (1) (B), 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.

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 306,927
Finance Adjustments	
Add:	
Disallowed transfers	753,570
Retained balance not supported	250,000
<b>Total LMIHF available to be distributed:</b>	<b>\$ 1,310,497</b>

Absent a Meet and Confer request, 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, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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

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Housing Assets Transfer letter dated August 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappuie, Supervisor or Cindie Lor, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Janet Luzzi, Finance Director, City of Arcata  
Ms. Nancy Diamond, Attorney, Law Offices of Nancy Diamond  
Mr. Joe Mellet, Auditor-Controller, County of Humboldt  
California State Controller's Office