



February 4, 2013

Ms. Lorry Hempe , Public Works Special Projects Manager  
City of Lynwood  
11330 Bullis Road  
Lynwood, CA 90262

Dear Ms.Hempe:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Lynwood 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 January 10, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, 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:

- Balances retained for future obligations in the amount of \$751,536. Our review of your DDR indicates the Agency has not adequately proven there will be insufficient property tax revenues to pay enforceable obligations. HSC section 34179.5 (c) (5) (D) states that a successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. The Agency provided a cash flow analysis which included items that were denied by Finance on the January to June 2013 Recognized Obligation Payment Schedule (ROPS). Additionally, the cash flow analysis included a judgment that has not been finalized between Rogel vs. LRA estimated at \$19 million. It is our understanding no final determination has been made per the judgment stipulation and a meeting is scheduled for February 21, 2013 with the judge and plaintiff. After excluding the denied items and the estimated cost of the judgment, the cash flow analysis indicates there are sufficient funds to pay approved obligations.

Should this settlement materialize and be considered an enforceable obligation pursuant to 34171 (d) (1) (D) and should a deficit occur, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting

a loan from the city pursuant to HSC section 34173 (h). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation.

Since the Agency has alternatives to address short term cash flow shortages, Finance deems it is not necessary for Agency to retain approximately \$750,000 of unencumbered LMIHF for an estimated \$19 million settlement agreement that has yet to materialize. In addition, retaining funds to pay for projects that were denied by Finance is not necessary. Therefore, the request to retain current LMIHF balances for future obligations is denied and the LMIHF available for distribution to the affected taxing entities will be adjusted by \$751,536.

- LMIHF obligations totaling \$18,000 were approved by Finance for the ROPS period July through December 2012. LMIHF funding for the ROPS period January through June 2013 was not requested. As such, Finance is adjusting the balance to reflect the \$18,000 in approved ROPS II expenditures.

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 \$733,536 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Requested retained balance not supported:	751,536
Approved LMIHF expenditures for ROPS II:	(18,000)
<b>Total LMIHF available to be distributed:</b>	<b>\$ 733,536</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, 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 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Sarah Withers, Director of Community Development, City of Lynwood  
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office  
California State Controller's Office