



REVISED

August 14, 2013

Ms. Leslie Fritzsche, Senior Project Manager  
City of Sacramento  
915 I Street  
Sacramento, CA 95814

Dear Ms. Fritzsche:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated March 20, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Sacramento Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on February 20, 2013. Finance issued a revised LMIHF DDR determination letter on March 20, 2013. 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 April 5, 2013.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustments:

- The request to retain assets that are not cash or cash equivalents totaling \$263,194 was originally denied by Finance because they were short-term receivables. During the Meet and Confer session, the Agency provided documentation showing the receivables are related to bond interest. According to the reserve requirement identified in the bond indenture, in the event the amount on deposit in the Reserve Account exceeds the Reserve Requirement, all amounts in excess of the Reserve Requirement should be used by the Agency to make loan payments.
- Finance identified invalid property transfers totaling \$688,053. These property transfers were denied by Finance in our later dated August 31, 2012 and March 18, 2013, as inclusions to the Housing Asset Transfer (HAT) form. However, Finance issued an April 1, 2013 letter that revised its determination on one item; specifically, Finance approved Item 158 on Exhibit A of the HAT. The value of the asset was listed as \$217,359, which reduces the invalid property transfer amount from \$688,053 to \$470,694. Because properties are not considered cash or cash-equivalents, Finance has made no adjustment to the amount available for distribution to the affected taxing entities. The Agency should reverse the improper transfers and recover the assets from the Sacramento Housing and Redevelopment Agency (SHRA).

- The request to retain funds to satisfy enforceable obligations totaling \$10,213,783 is partially disallowed. Finance previously determined the Agency requested Redevelopment Property Tax Trust Fund or Other Funds, not LMIHF funds, to satisfy enforceable obligations listed on Recognized Obligation Payment Schedules (ROPS). Therefore, the request to retain LMIHF for the obligations was not allowed. The Agency claims the LMIHF was used; however, for the reconciliation of the July through December 2012 (ROPS II) period, the Agency included all expenditures from the former redevelopment agency funds in Other Funds. The Agency provided documentation supporting \$10,194,010 was paid from the LMIHF during the ROPS II period, but was identified as Other Funds on the ROPS II reconciliation. Therefore, the OFA balance available for distribution will be increased by \$19,773 (\$10,213,783 - \$10,194,010), the difference between the amount requested and the amount approved.

Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

- Finance originally identified an invalid transfer of unspent bond proceeds to the SHRA. Upon further review, Finance is no longer objecting to the transfer, as the SHRA is a complex Joint Powers Authority consisting of six separate legal entities and the transfers were for projects that are considered enforceable obligations

Finance continues to believe some of the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- Transfers of obligations to the SHRA for property holding and disposition costs totaling \$105,505 are not allowed. These transfers were denied by Finance in its letter dated August 31, 2012 as an inclusion to the HAT form review. Subsequently, the Agency requested a Meet and Confer session, which was held on February 6, 2013. Finance continued to deny the transfers, as outlined in the letter dated April 1, 2013.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$125,278 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers	\$ 105,505
Requested retained balance not supported	19,773
<b>Total LMIHF available to be distributed:</b>	<b>\$ 125,278</b>

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 April 1, 2013 do not in any way eliminate the Controller's authority.

Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Dennis Kauffman, Accounting Manager, City of Sacramento  
Mr. Carlos Valencia, Senior Accounting Manager, Sacramento County  
California State Controller's Office