



REVISED

March 15, 2013

Ms. Darlene Thompson, Finance Director
City of Tulare
411 East Kern Avenue
Tulare, CA 93274

Dear Ms. Thompson:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Tulare 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 15, 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:

- An adjustment totaling \$699 for one loan receivable. Finance's letter dated August 31, 2012 objected to Exhibit D, Items 53 and 54 on the Housing Assets Transfer form (HAT). During the HAT Meet and Confer process, the housing successor agency provided additional documentation for Item 54 and Finance's letter dated February 25, 2013, no longer objected to that item. However, there was no supporting documentation provided for Item 53. Therefore, \$699 is added as an adjustment to the fund balance.
- Amounts requested to be retained for obligations are not allowed as follows:
 - An amount of \$1,356,726 retained for future obligations. The Agency requested to retain the amount to satisfy obligations on the Recognized Obligation Payment Schedule (ROPS) for the period July to December 2012 (ROPS II). However, comparison of the obligations listed on the DDR to the ROPS II found that the funding source requested was Redevelopment Property Tax Trust Fund (RPTTF), not LMIHF. Therefore, the \$1,356,726 is not allowed to be retained.
 - An amount of \$1,942,925 retained for 2012-13 fiscal year obligations. The agency requested to retain the amount to satisfy obligations on the ROPS for the period January to June 2013 (ROPS III). However, comparison of the obligations

listed on the DDR to the ROPS III found that the funding source requested was RPTTF, not LMIHF. Therefore, the \$1,942,925 is not allowed to be retained.

- An adjustment totaling \$775,445 for a loan from the City of Tulare (City). Finance's letter dated October 15, 2012 denied Item No. 11 as an enforceable obligation on ROPS III. The Agency received a loan from the City to pay for the true-up payment due to the county auditor-controller. Therefore, \$775,445 is not allowed to be retained.

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/

The Agency's LMIHF balance available for distribution to the affected taxing entities is \$452,552 (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.

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (3,623,243)
Finance Adjustments	
Add:	
Denied HAT items	699
Requested balance retained for future obligations not supported	1,356,726
Requested balance retained for 2012-13 fiscal year not supported	1,942,925
Denied ROPS III, Item No. 11:	775,445
Total LMIHF available to be distributed:	\$ 452,552

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

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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 HAT letter dated February 25, 2013 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,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a large, sweeping flourish extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Rita A. Woodard, Auditor-Controller, Tulare County
California State Controller's Office