



March 29, 2013

Ms. Debbie Potter, Development Manager
City of Alameda
2263 Santa Clara Avenue, Rm. 120
Alameda, CA 94501

Dear Ms. Potter:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Alameda Successor Agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 8, 2013. 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 OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Legally restricted assets in the amount of \$124,081. Our review noted that the following:
 - An amount of \$18,623 restricted for encumbered administrative expenses. Pursuant to HSC section 34179.5 (c) (5) (B), which states legally restricted assets include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use. Administrative expenses are not allowed to be legally restricted. Furthermore, the Agency administrative expenses from Recognized Obligation Payment Schedule (ROPS) for the period July through December 2012 are deducted from the balance in Procedure 9. Therefore, an adjustment of \$18,623 is added back in to the amount to be distributed to the taxing entities.
 - An amount of \$105,458 restricted for the East Bay Regional Park District. This item was listed as a pass-through obligation in the ROPS for the period January through June 2012. Prior period payments reported by the Agency indicate that pass-through payments were made for the period. HSC section 34183 (a) (1) states the County Auditor-Controller will make the required pass-through payments starting with ROPS period of July through December 2012. Therefore, the Agency does not have to restrict funds for future pass-through obligations. An adjustment of \$105,458 is added back in to the amount to be distributed to the taxing entities.

- The Agency's request to retain \$818,912 in current unencumbered OFA balances to cover future obligations is not allowed. Since Finance has only approved funding through the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) period, the Agency's fund balances are only encumbered to the extent they have been approved on a ROPS through the June 30, 2013 period. The cash flow analysis provided by the Agency does not demonstrate an immediate need to retain these unencumbered OFA balances, nor does it suggest available funding will be insufficient to service the Agency's bond debt.

Should a deficit occur in the future, 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), requesting the accumulation of reserves on the ROPS when a future balloon or uneven payment is expected, or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

Since the Agency has not demonstrated an immediate need to retain unencumbered OFA balances and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for Agency to retain \$818,912 in OFA unencumbered balances.

Finance identified a transfer of Land-Theater/Parking Garage valued at \$19,981,611 from the former Redevelopment Agency (RDA) to the City of Alameda (City). Per HSC section 34167.5, asset transfers from the RDA to the City which occurred after January 1, 2011 were deemed not to be in the furtherance of the Community Redevelopment Law and are thereby unauthorized. Since land is not considered cash or a cash-equivalent asset, Finance has made no adjustment to the available balance to the affecting taxing entities. However, the Agency is required to reverse the improper transfer, recover the asset from the City, and describe the planned disposition of the property in its long-range property management plan as required by HSC section 34191.5.

If you disagree with Finance's adjusted amount of OFA 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 OFA balance available for distribution to the affected taxing entities is \$942,993 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Unallowed balances retained	\$ 124,081
Unsupported balances retained	818,912
Total OFA available to be distributed:	\$ 942,993

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. Upon submission of payment, please provide proof of payment to Finance within five business days.

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 do not in any way eliminate the Controller's authority.

Please direct inquiries to Beliz Chappuaie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Fred Marsh, Controller, City of Alameda
Ms. Carol S. Orth, Division Chief, Tax Analysis, County of Alameda
California State Controller's Office