



REVISED

April 9, 2014

Mr. Rob Burns, Director of Finance
City of Chino
13220 Central Avenue
Chino, CA 91710

Dear Mr. Burns:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letters dated March 25, 2013 and May 1, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Chino (Agency) submitted an oversight board approved OFA DDR to the Finance on January 15, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on March 25, 2013. Subsequent to a Meet and Confer process on one or more items adjusted by Finance, Finance issued a final determination letter on May 1, 2013.

Based on a review of additional information and documentation provided to Finance during and subsequent to the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

- Request to retain legally restricted assets in the amount of \$17,160,255 has been increased to \$19,241,703. Per our review, the Agency should retain an additional \$2,081,448 in legally restricted assets. Specifically:
 - Documentation provided by the Agency supports that at June 30, 2012 total bond proceeds with the fiscal agent was \$3,497,193 and total bond proceeds with the Agency was \$13,777,827. Total bond proceeds as of June 30, 2012 should be \$17,275,020 (\$3,497,193 + \$13,777,827).
 - Pass-through payments totaling \$1,966,683 is allowed. The Agency provided sufficient documentation that this amount was used to make required pass through payments to the taxing entities due prior to June 30, 2012 but paid after June 30, 2012. This amount was not included on the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 period (ROPS I) due to the uncertainty of whether the payment should be made by the Agency or the County Auditor Controller. Therefore, the Agency will be allowed to restrict these funds and no adjustment to the OFA balance is necessary.

- The Agency requested to retain \$16,650,056 to satisfy enforceable obligations. Based on further review during the Meet and Confer process, the Agency may retain \$11,777,894 (5,746,485 + \$311,772 + \$1,895,366 + \$3,824,271) and the OFA balance available will be increased by \$4,872,162 (\$16,650,056 - \$11,777,894), as further discussed below.
 - For the July through December 2012 ROPS period (ROPS II), Finance approved and the County Auditor Controller (CAC) distributed \$5,746,485 from the Redevelopment Property Tax Trust Fund (RPTTF). This amount was received prior to and included in the June 30, 2012 balance but was intended for use during ROPS II. In addition, Finance verified the CAC made a prior period adjustment on the July through December 2013 (ROPS 13-14A) distribution in accordance with HSC section 34186 (a) for the unused portion of ROPS II RPTTF, which assumes that funds were available. Therefore, the Agency will be permitted to retain the entire amount distributed, \$5,746,485.
 - For the January through June 2013 ROPS (ROPS III) period, Finance approved \$311,772 and the CAC distributed \$0 from the RPTTF. The CAC made an adjustment of \$7,535,830 for the ROPS I period on the January 2, 2013 ROPS III distribution pursuant to HSC section 34186 (a). This adjustment assumes the funds from June 30, 2012 are available for use on ROPS III enforceable obligations; therefore, the Agency will be permitted to retain \$311,772. We note that a prior period adjustment was made to the January through June 2014 (ROPS 13-14B) RPTTF distribution to account for the unused portion.

Additionally, for the ROPS III period, Finance approved \$1,895,366 for enforceable obligations to be paid out of OFA balances. As such, the Agency may retain \$1,895,366 in OFA balances to satisfy enforceable obligations approved for reserve funding during the ROPS III period. We note, based upon the Agency's self-reported expenditures for the ROPS III period, this amount was actually expended during the ROPS III period.

- For the ROPS 13-14A period, Finance approved \$3,824,271 for enforceable obligations to be paid out of OFA balances. As such, the Agency may retain \$3,824,271 in OFA balances to satisfy enforceable obligations approved for reserve funding during the ROPS 13-14A period. The unused portion of this amount has been reconciled through the July through December 2014 period (ROPS 14-15A) fund balance reconciliation.
- The retention of the remaining \$4,872,162 was not supported. We note the Agency claims about \$2.3 million of this is bond proceeds. The Agency claims that in October 2010 the former redevelopment agency transferred \$18.1 million in bond proceeds pursuant to a loan agreement and on October 27, 2011, the unused balance of \$2.6 million was transferred back to the Agency. However, the Agency has not conclusively supported the amounts transferred back are bond proceeds. In addition, the funds transferred back were deposited into a non-restricted fund and combined with other funds; therefore, the bond proceeds and their related interest cannot be distinguished from the non-bond funds. Therefore, the OFA balance available for distribution will be increased by the unsupported and unrestricted amount, \$4,872,162.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Receivable balances totaling \$24,679. Based on information provided, these receivables are short-term in nature and therefore meet the definition of cash and cash equivalents as defined in HSC section 34179.5(b)(1).

The Agency's OFA balance available for distribution to the affected taxing entities is \$3,713,761 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 898,368
Finance Adjustments	
Add:	
Additional restricted assets	\$ (2,081,448)
Requested retained balances not allowed	\$ 4,872,162
Cash equivalents not allowed	\$ 24,679
Total OFA available to be distributed:	\$ 3,713,761

This is Finance's final determination of the OFA 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. Upon submission of payment, it is requested you 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 sections 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 Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Nada Repajic, Management Analyst, City of Chino
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office