



April 24, 2013

Ms. Sharon Deuker, Senior Accountant
City of Chowchilla
130 S. Second Street
Chowchilla, CA 93610

Dear Ms. Deuker:

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 letter dated March 19, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Chowchilla Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 13, 2012. 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 19, 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 4, 2013.

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

- Assets held by the Agency as of June 30, 2012 in the amount of \$72,601. Our review of the Agency's trial balance as of June 30, 2012 indicated that cash balance should be \$456,356 and not \$383,735. During the Meet and Confer process, the Agency agreed that the cash balance was understated; however, the cash needed to be retained to cover fiscal year 2012-13 obligations. Therefore, the balance as of June 30, 2012 was increased by \$72,601 and an offsetting decrease of \$72,601 for balances needed for fiscal year 2012-13 obligations is being made.
- Disallowed transfers totaling \$1,351,005. The DDR, Attachment C, lists numerous asset transfers made to the City of Chowchilla (City):
 - Cash transfers – Attachment C, Items 3, 4, and 5 in the amount of \$211,580. Finance is reversing the adjustment of \$211,580.

Item 3 in the amount of \$100,000 was matching funds for a Community Development Block Grant received by the City prior to June 27, 2011. The Agency provided a resolution from the former Redevelopment Agency's (RDA) Board committing \$100,000 in match to the grant prior to June 27, 2011. Therefore, Finance is reversing its adjustment of \$100,000.

Items 4 and 5 in the amounts of \$90,080 and \$21,500, respectively, were the former RDA's share of costs for specific projects. During the Meet and Confer process, the Agency provided a resolution from the former RDA's board committing the former RDA's funds to certain projects prior to June 27, 2011. The Agency also provided invoices from third parties showing expenditures incurred and paid prior to June 27, 2011. Therefore, Finance is reversing its adjustment of \$111,580.

- Property transfers – Attachment C, Items 6 through 14 in the amount of \$1,139,425. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by an enforceable obligation or meet the definition of governmental use. No documents received support the transfers were required by an enforceable obligation. Since property is not considered cash or cash-equivalent asset, Finance has made no adjustment to the available balance to the affecting taxing entities.

These non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent these properties do not meet criteria outlined in HSC section 34181 (a), they should be returned to the Agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5.

- Advance Receivable in the amount of \$1,647,270. Assets of the Agency include a receivable related to an advance made to the City from bond proceeds. The advance to the City was approved on March 8, 2011 for \$2 million and was later reduced to \$1,647,270 on June 27, 2011. During the Meet and Confer process, the Agency provided additional information showing that the City had expended \$30,043 of the proceeds during fiscal year 2010-11 on water meters for a project. Therefore, this amount is permitted.

The remaining expenditures were incurred and/or agreements were entered into after June 27, 2011 and the agreements provided show that the City entered into the agreements. In addition, the project on which the bond proceeds were expended has not been listed on a Recognized Obligation Payment Schedule (ROPS) for Finance's review to determine if an enforceable obligation exists. HSC section 34177 (a) (3) states that commencing on the date the ROPS is valid pursuant to subdivision (l) of HSC section 34177, only those payments listed in the ROPS may be made by the successor agency from the funds specified in the ROPS. Further, per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

Therefore, the Agency should recover the remaining \$1,617,227 (\$1,647,270 - \$30,043) of bond proceeds from the City. Since these are bond funds, Finance made no adjustments to the available balance to the affected taxing entities.

Once the Agency receives a finding of completion pursuant to HSC section 34179.7, the Agency will be permitted to use bond proceeds derived from bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold.

The Agency's OFA balance available for distribution to the affected taxing entities is \$0 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Adjustment to the June 30, 2012 DDR balance	72,601
Balances retained for fiscal year 2012-13 obligations	(72,601)
Total OFA available to be distributed:	\$ -

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.

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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 Mary Halterman, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Mark Lewis, City Administrator, City of Chowchilla
Mr. Jim Boyajian, Assistant Auditor-Controller, County of Madera
California State Controller's Office