



May 5, 2013

Ms. Rachel Hurst, Director of Community Development  
City of Coronado  
1825 Strand Way  
Coronado, CA 92118

Dear Ms. Hurst:

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 April 1, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Coronado Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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 April 1, 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 22, 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:

- The Agency requested \$5,513,460 to be retained to fund fiscal year 2012-13 enforceable obligations. Based on further review during the Meet and Confer process, the amount to be retained will be decreased by \$4,627,558 to \$885,902 (\$521,941 + \$363,961), as further discussed below.
  - On the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 (ROPS I) period, the Agency incurred \$521,941 in expenditures that were not paid until after June 30, 2012. Therefore, the Agency may retain \$521,941 for ROPS I obligations.

Finance notes that amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent the Agency does not expend funds approved and received on a ROPS until a subsequent period, the Agency should relist the unexpended amounts that need to be retained for those enforceable obligations on the subsequent ROPS with the funding source as "Reserves" or "Other" and an entry in the Notes section indicating the funds were received in a prior ROPS period.

- For the July through December 2012 ROPS period (ROPS II), Finance approved \$10,926,306 and the County Auditor Controller (CAC) distributed \$7,194,258 from the Redevelopment Property Tax Trust Fund (RPTTF). On the July through December 2013 (ROPS 13-14A) form, the Agency reported and the CAC verified actual expenditures during the ROPS II period of \$7,194,258. The Agency verified that the RPTTF received was not included in the beginning cash balance as of June 30, 2012, so it is unnecessary to retain funds not included in the beginning balance. However, Finance approved and the Agency reported \$363,961 in expenditures from OFA balances. Therefore, the Agency may retain \$363,961 for the ROPS II period.
- For the January through June 2013 ROPS period (ROPS III), Finance approved and the CAC distributed \$6,111,407 from RPTTF. The CAC did not make any adjustments for the ROPS I period on the January 2, 2013 ROPS III distribution pursuant to HSC section 34186 (a). As such, the Agency received sufficient funds from RPTTF to cover all of the approved expenditures in the ROPS III period and it is unnecessary for the Agency to retain current OFA balances for obligations that have already been funded through a separate process.

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 pursuant to HSC section 34177 (d) (1) (A), 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.

- During the Meet and Confer process, the Agency requested Finance approve the transfer of \$5,865,000 in unused loan proceeds provided by the City of Coronado (City) to the former Redevelopment Agency (RDA) in 2008 and 2009 from the City's General Fund. The Agency stated these funds are now the Agency's property and pointed out that the Oversight Board made finding to transfer the funds, as noted in the DDR.

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. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

The repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loans were for legitimate redevelopment purposes, these loans should be placed on future ROPS for repayment. Refer to HSC section 34191.4 (b) for more guidance.

The Agency's OFA balance available for distribution to the affected taxing entities is \$6,482,455 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,854,897
Finance Adjustments	
Add:	
Requested retained balance not supported:	4,627,558
<b>Total OFA available to be distributed:</b>	<b>\$ 6,482,455</b>

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.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Rhonda Huth, Senior Management Analyst, City of Coronado  
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego  
California State Controller's Office