



March 27, 2013

Ms. Stacey Winton, Administrative Analyst II  
City of Davis  
23 Russell Blvd, Suite 1  
Davis, CA 95616

Dear Ms. Winton:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Davis (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (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. 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:

- Assets transferred to the City of Davis (City) during the period of January 1, 2011 through June 30, 2012 in the amount of \$9,818,427 are not allowable. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligations or meet the definition of governmental use. Specifically:
  - Transfer of cash to the City totaling \$5,431,669. The Agency transferred \$7,462,078 to the City; however, the City subsequently transferred back \$2,030,409 to the Agency. The Agency contends that the Public Works Agreement dated March 15, 2011 provides the authority for this transfer. Upon review of documentation provided by Agency, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer.
  - Transfer in the amount of \$487,868 from the Redevelopment Agency (RDA) Operating Fund to the RDA Capital Fund to cover capital project expenses funded by bonds. Upon review of all documentation available, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer.
  - Transfer in the amount of \$144,030 from the RDA Operating Fund to the City Self Insurance Fund to cover Other Post Employment Benefits liability. Upon review of all

documentation available, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer.

- Transfer in the amount of \$177,782 from the RDA Operating Fund to the Other Non-Major Fund. Upon review of all documentation available, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer.
- Transfer of Commercial Rehab loans totaling \$52,080 to the City. The Agency contends that City Council Resolution No. 11-027 is a valid basis for this transfer. Upon review of documentation provided by Agency, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer. Since these assets are non-liquid, they are considered a non-cash asset of the Agency. Therefore, another adjustment is being made to increase the non-cash balance by an equal amount. In effect, these adjustments balance out and do not affect the ending OFA available balance.
- Transfer of properties totaling \$3,524,998 to the City. The Agency contends that City Council Resolution No. 11-027 is a valid basis for this transfer. Upon review of documentation provided by Agency, Finance concludes that this transfer is not supported by an enforceable obligation as defined in HSC section 34171 (d) and thus is not an allowable transfer. Since these properties are non-liquid, they are considered a non-cash asset of the Agency. Therefore, another adjustment is being made to increase the non-cash balance by an equal amount. In effect, these adjustments balance out and do not affect the ending OFA available balance.

Non-liquid assets transferred to the City are subject to the California State Controller's Office review of asset transfers. To the extent the non-cash transferred assets are not for a government purpose or pursuant to an enforceable obligation, these assets 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.

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/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's OFA balance available for distribution to the affected taxing entities is \$6,241,349 (see table at the next page).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Unauthorized transfers	\$ 9,818,427
Transfers considered non-liquid	(3,577,078)
<b>Total OFA available to be distributed:</b>	<b>\$ 6,241,349</b>

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, 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 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.

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Please direct inquiries to Wendy Griffe, Supervisor or Derk Symons, Lead Analyst at  
(916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending to the left.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Katherine Hess, Community Development Administrator, City of Davis  
Mr. Howard Newens, Auditor-Controller, County of Yolo  
California State Controller's Office