



March 11, 2013

Ms. Rosa Rios, Director of Finance
City of Delano
1015 Eleventh Avenue
Delano, CA 93216

Dear Ms. Rios:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Delano 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 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:

- The DDR requests to restrict \$2 million in procedure 6. Upon clarification with Agency staff, this amount includes \$940,917 restricted to satisfy Recognized Obligation Payment Schedule (ROPS) obligations. It is our understanding \$940,917 is not bond reserves restricted with a fiscal agent. Further, it appears \$940,917 was already accounted for in procedure 9 of the DDR for fiscal year 2012-13 obligations. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$940,917.
- Balances requested to be retained in the amount of \$2.5 million for fiscal year 2012-13 obligations are partially denied. Included in this amount is \$1.2 million of January through June 2013 Recognized Obligation Payment Schedule (ROPS III) expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process.

Further, included in this amount is \$1.3 million of July through December 2012 (ROPS II) expenditures that were requested and approved. However, the County Auditor Controller only distributed \$940,909 for ROPS II. Although Finance approved more RPTTF than available, the Agency is limited to retaining the amount that was distributed,

not approved. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by an additional \$338,281 for a total adjustment of \$1.5 million.

To the extent these constitute enforceable obligations, the Agency should request funding for these in a future ROPS.

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.

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 \$2,027,961 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (440,830)
Finance Adjustments	
Add:	
Balance determined to be not restricted:	\$ 940,917
Requested retained balance not supported:	1,527,874
Total OFA available to be distributed:	\$ 2,027,961

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.

Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Maribel G Reyna, City Manager, City of Delano
Ms. Mary B. Bedard, Auditor-Controller, County of Kern
California State Controller's Office