



March 11, 2013

Ms. Kristen Petersen, Assistant City Manager
City of Duarte
1600 Huntington Drive
Duarte, CA 91010

Dear Ms. Petersen:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Duarte 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 10, 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:

- Repayment of a city loan in the amount of \$7.5 million in March 2011 is disallowed. The loan was made by the City's Economic Development Fund to the former Redevelopment Agency (RDA) on behalf of the Rancho Duarte Phase III Project Area. It is our understanding the Agency was established in 1974 and these loans were issued between October 1988 and October 1989. HSC section 34171(d) (2) states that agreements and contracts between the city, county, or city that created the RDA are not enforceable obligations, unless issued within two years of the RDA's creation date. In addition, funding for these items were denied in our letters dated May 27, 2012 and October 12, 2012. Finance's determination for these items were further confirmed in our October 31, 2012 Meet and Confer Determination letter. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by \$7.5 million.
- The Agency's request to retain OFA balances for fiscal year 2012-13 in the amount of \$3 million is denied. Although Finance approved \$6.2 million for obligations during the July through December 2012 ROPS II period, the County Auditor Controller distributed only \$3.2 million on June 1, 2012. Therefore, the Agency is limited to retaining \$3 million for ROPS II enforceable obligations. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$3.2 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 Recognized Obligation Payment Schedule (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 \$7,390,118 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (3,133,933)
Finance Adjustments	
Add:	
Denied ROPS items:	\$ 7,500,000
Requested retained balance not supported:	\$ 3,024,051
Total OFA available to be distributed:	\$ 7,390,118

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: Mr. Dan Slater, City Attorney, City of Duarte
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office