



March 8, 2013

Ms. Marcela Piedra, Director of Economic Development
City of El Centro
1249 Main Street
El Centro, CA 92243

Dear Ms. Piedra:

Subject: Other Funds and Accounts Due Diligence Review

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

- Transfers in the amount of \$2,250,000. Our review of the Agency's accounting records indicated two transfers were made to the City of El Centro (City): a \$950,000 transfer on June 8, 2011 and another transfer of \$1,300,000 on December 3, 2011. According to City Council Resolution numbers 10-67 dated June 16, 2010 and 11-45 dated May 3, 2011, the City provided two loans to the Agency in the amount of \$950,000 and \$1,300,000 respectively. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the former redevelopment agency (RDA) and the RDA are not enforceable unless the loan agreements were entered within the first two years of the date of the creation of the RDA. These loans were issued after the first two years of the RDA's creation; therefore, the payments for these loans are not permitted.
- Balances needed for fiscal year 2012-13 obligations in the amount of \$132,500. The enforceable obligations listed in the DDR are included in Recognized Obligation Payment Schedule for the period January 1, 2013 through June 30, 2013 (ROPSIII). These obligations will be paid with the Redevelopment Property Tax Trust Fund (RPTTF) distribution the Agency received from the Imperial County Auditor-Controller's office in January 2013. Therefore, the retention of the amounts is not allowed.

- The Agency's request to retain \$15,560,859 in current unencumbered OFA balances to cover future obligations is not allowed. Since Finance has only approved funding for the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) period, the Agency's fund balances should only be encumbered to the extent they have been approved on the ROPS III period. The cash flow analysis provided by the Agency does not demonstrate an immediate need to retain these unencumbered OFA balances, nor does it suggest available funding will be insufficient to service the Agency's bond debt.

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 \$7,129,665 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (10,813,694)
Finance Adjustments	
Add:	
Disallowed transfers	\$ 2,250,000
Retained balances for 2012-13 fiscal year obligations	132,500
Requested retained balance not supported	15,560,859
Total OFA available to be distributed:	\$ 7,129,665

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.

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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a small 'v' or similar mark below it.

STEVE SZALAY
Local Government Consultant

cc: Mr. Reuben A. Duran, City Manager, City of El Centro
Ms. Ann McDonald, Special Accounting Manager, County of Imperial
California State Controller's Office