



March 11, 2013

Ms. Carolyn Galloway-Cooper, Finance Director  
City of Guadalupe  
918 Obispo Street  
Guadalupe, CA 93434

Dear Ms. Galloway-Cooper:

Subject: Other Funds and Accounts Due Diligence Review

The City of Guadalupe 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 February 7, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, 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:

- Non-cash assets balances in the DDR totaling \$2,413,342 are overstated. Included in this amount is \$56,616 that is due from the City and is not supported by a contract or agreement. This asset cannot be considered a non-cash asset and should be payable upon demand. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by \$56,616.
- Balances requested to be retained totaling \$63,861 should be adjusted by \$45,400. Specifically:
  - The Agency requested to retain \$22,548 for ROPS 1 obligations to be funded with bond proceeds. Because these obligations were approved to be bond funded, the Agency cannot restrict additional OFA balances because the unspent bond amounts are already restricted in the DDR under procedure 6. Therefore, in order to not double count the restriction, the OFA balances available for distribution to the taxing entities will be adjusted by \$22,548.
  - The Agency requested to retain \$41,313 for ROPS 1 RPTTF approved obligations. We identified that payments totaling \$22,852 were made for

obligations above the amounts that were approved in ROPS I. HSC 34177 states that only payments approved on the ROPS may be made. Therefore, the payments above the approved amount are not allowed, and the OFA balance available for distribution to the taxing entities will be adjusted by \$22,852.

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

- Based on our review of your DDR, your request to retain OFA balances for ROPS II obligations totaling \$658,794 is partially denied. Although the Agency wishes to retain \$658,794, the County Auditor Controller only distributed \$536,377 on June 1, 2012. Therefore, the Agency is limited to retaining \$536,377 for ROPS II enforceable obligations. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$122,417.

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

- Finance noted the county auditor controller adjusted the ROPS III January 2, 2013 distribution by \$27,022 pursuant to HSC section 34186 (a). Therefore, Finance is allowing the retention of these funds in order to adequately fund approved ROPS III expenditures.

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 \$116,959 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (80,454)
Finance Adjustments	
Add:	
Non-cash assets not supported:	\$ 56,616
ROPS I Request to retain balance not supported:	45,400
ROPS II Request to retain balance not supported:	122,417
HSC section 34186 (a) adjustment	(27,020)
<b>Total OFA available to be distributed:</b>	<b>\$ 116,959</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.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mrs. Juana Merino-Escobar, Administrative Assistant, City of Guadalupe  
Mr. Ed Price, Division Chief Property Tax Division, County of Santa Barbara  
California State Controller's Office