



April 1, 2013

Ms. Laura Gutierrez, Finance Director
City of Imperial
420 South Imperial Avenue
Imperial, CA 92251

Dear Ms. Gutierrez:

Subject: Other Funds and Accounts Due Diligence Review

The City of Imperial 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 16, 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:

- The Agency's request to retain \$5,991,662 as legally restricted balances and unspent bond proceeds is not adequately supported. The Agency was not able to provide sufficient information supporting the balances listed in Exhibit 2 of the DDR. Finance made multiple requests for the Agency to provide bank statements and bridging documents to tie amounts to the request balance of \$5,991,662. Therefore, the Agency's request to retain the balance is not allowed.
- The Agency's request to retain \$1,263,467 to fund enforceable obligations (EO) is not permitted. Our review of OFA DDR Exhibit 3 indicates that the Agency is requesting to retain \$1,169,877 for Redevelopment Projects and \$93,590 for Project Management funded from the Redevelopment Property Tax Trust Fund (RPTTF). However, for both of these obligations, Item Nos. 4 and 5 respectively, the Agency requested bond proceeds on their January through June 2013 Recognized Obligation Payment Schedule (ROPS III). Since the Agency has not been able to demonstrate the amount of unspent Bond Proceeds in their possession as noted in the first bullet above, retention of \$1,263,467 is not permitted. Furthermore, the Redevelopment Projects was denied as an EO.

- The Agency's request to retain \$125,000 to fund the Administrative Cost Allowance of for ROPS III period is not permitted. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations in December 2012, 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. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$125,000.

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 \$7,387,378 million (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 7,249
Finance Adjustments	
Legally restricted assets	5,991,662
Balances retained for funding of enforceable obligations	1,263,467
Balances retained for fiscal year 2012-13 obligation	125,000
Total OFA available to be distributed:	\$ 7,387,378

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

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. George Galvan, Planning and Development Director, City of Imperial
Ms. Ann McDonald, Special Accounting Manager, Imperial County
California State Controller's Office