



March 5, 2013

Mr. Kevin McCarthy, City Finance Director/Redevelopment Agency Treasurer
City of Indian Wells
44-950 Eldorado Drive
Indian Wells, CA 92210-7497

Dear Mr. McCarthy:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Indian Wells 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 December 19, 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:

- Assets in the amount of \$4,096,021. Our review indicates that the total cash and investments should be \$5,180,948 instead of \$1,084,927. The DDR report did not include the \$4,096,021 of RPTTF in the cash balance; therefore, the cash balance has been adjusted by \$4,096,021.
- Transfers in the amount of \$1,339,192. Our review indicates that \$1,339,192 was transferred to pay for an operating loan between the City of Indian Wells (City) and the Agency for administrative costs. Pursuant to HSC section 34167.5, asset transfers after January 1, 2011, between the city or county, or city and county that created a redevelopment agency for which an enforceable obligation does not exist is not permitted.
- Balances retained for funding of an enforceable obligation in the amount of \$3,276,060. Our analysis indicates that the pass-through payments listed on page 19 of the DDR report were paid in June 2012; therefore, retention of the \$3,276,060 for these payments is not allowed.

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 \$5,954,333 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (2,756,940)
Finance Adjustments:	
Adjustment to the June 30, 2012 balance	\$ 4,096,021
Disallowed transfers	\$ 1,339,192
Requested retained balance not supported	\$ 3,276,060
Total OFA available to be distributed:	\$ 5,954,333

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.

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Please direct inquiries to Beliz Chappuie, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a long, sweeping underline.

Sincerely,

STEVE SZALAY

Local Government Consultant

cc: Mr. Mel Windsor, Personnel Director, City of Indian Wells
Ms. Pam Elias, Chief Accountant Property Tax Division, County of Riverside
Auditor-Controller
California State Controller's Office