



April 2, 2013

Mr. Mariano Aguirre, Development Manager
City of Indio
100 Civic Center Mall
Indio, CA 92201

Dear Mr. Aguirre:

Subject: Other Funds and Accounts Due Diligence Review

This letter supersedes the California Department of Finance's (Finance) original Other Funds and Accounts (OFA) Due Diligence Review (DDR) determination letter dated March 11, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Indio Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 14, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on March 11, 2013. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer session was held on March 21, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed. Specifically, the following adjustments were made:

- The Agency requested to retain \$4,682,741 in current unencumbered OFA. The Agency claims the amount is needed to satisfy future obligations due to shortage of distributed funds from the Redevelopment Property Tax Trust Fund (RPTTF). The Agency requests to retain the funds to make a lump sum payment to the Housing Authority for Supplemental Education Revenue Augmentation Fund (SERAF) loans that were paid using Low and Moderate Income Housing Funds due on June 30, 2015 and June 30, 2016. The Agency provided documentation supporting the amount requested; however, based on the documents provided, the loans allow the Agency to make payments as opposed to one lump sum payment. Further, the Agency did not demonstrate that it does not receive the full amount of RPTTF approved by Finance on a Recognized Obligation Payment Schedules; therefore, there is no need to retain reserve balances.

Per HSC section 34191.4, the Agency will be allowed to make payments for loans between the former RDA and the city, county, or city and county that created the former RDA beginning in fiscal year 2013-14 upon receiving a finding of completion and Oversight Board approval. HSC section 34191.4 (b) (2) (B) states this includes SERAF loans and requires SERAF to be paid in full before other loans between the former RDA and the creating city, county, or city and county. Therefore, upon receiving a finding of

completion, the Agency may include the required payments on the ROPS for Finance's review and approval using funds from RPTTF.

In addition, Finance continues to make the following adjustment not contested by the Agency during the Meet and Confer process:

- The Agency's request to retain \$1,601,140 for fiscal year 2012-2013 obligations is not allowed. The Agency requested and was approved for \$5,419,490 in RPPTF funding for its obligations listed on the Recognized Obligations Payment Schedule for the Period July 1, 2012 through December 31, 2012 (ROPS II). However, the Agency received \$1,601,140 less RPTTF distribution than the approved amounts. Since the obligations were approved for RPTTF funding, the Agency is not allowed to retain other funding sources for the shortfall. As listed above, HSC provides successor agencies with various methods to address short term cash flow issues. Therefore, the balance is adjusted by \$1,601,140.

The Agency's OFA balance available for distribution to the affected taxing entities is \$6,160,110 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (123,771)
Finance Adjustments	
Add:	
Balances to be retained for future obligations	\$ 4,682,741
Balances needed to satisfy fiscal year 2012-13 obligations	1,601,140
Total OFA available to be distributed:	\$ 6,160,110

This is Finance's final determination of the OFA balances available for distribution to the taxing entities. 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 sections 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 Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Dan Martinez, City Manager, City of Indio
Ms. Pam Elias, Chief Accountant, Property Tax Division, County of Riverside
Auditor-Controller
California State Controller's Office