May 4, 2013

Mr. A.J. Wilson, Executive Director
Inland Valley Development Successor Agency
1601 East Third Street, Suite 100
San Bernardino, CA 92408

Dear Mr. Wilson,

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 28, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the Inland Valley Development Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 14, 2012. 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 28, 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 April 18, 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:

- Finance had adjusted the total amount of assets held as of June 30, 2012 by $9,765,077. This adjustment reflects the amount of property tax revenue that was not included in the Agency's DDR at the time of its submission. While the Agency agrees with this adjustment, during the Meet and Confer process, the Agency provided additional information showing the beginning asset balance should also be reduced by $1,941,999 to account for assets of the Joint Powers Authority, not the former Redevelopment Agency (RDA), that were erroneously included in the assets reported and to account for interest earned. Therefore, Finance is increasing the OFA balance available by $7,823,078 ($9,765,077 - $1,941,999).

- The request to retain $7,280,035 to fund enforceable obligations. During the Meet and Confer process, the Agency contended that the actual amount restricted should have been $2,619,858, which was related to items from the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 (ROPS I) period that were paid after June 30, 2012. Therefore, Finance is reversing $2,619,858 of the adjustment and continues to increase OFA balances available by $4,660,177 ($7,280,035 - $2,619,858).

  Finance notes that amounts requested and approved in a ROPS are effective only for the six-month period covered. To the extent the Agency does not expend funds approved and received on a ROPS until a subsequent period, the Agency should relist the unexpended amounts that need to be retained for those enforceable obligations on the subsequent ROPS with the funding source as "Reserves" or "Other" and an entry in the Notes section indicating the funds were received in a prior ROPS period.

- During the Meet and Confer process, the Agency identified an error in the DDR related to the balances needed to satisfy obligations in fiscal year 2012-13. The amount in the DDR was $3,279,524. However, the amount restricted should have been $9,765,077, which was the amount received from the County Auditor Controller for the July through December 2012 ROPS (ROPS II) period. Therefore, Finance is decreasing the OFA balances available by $6,485,553 ($9,765,077 - $3,279,524).

We note that the Agency issued bonds dated June 2011 totaling approximately $321 million, as reported on the January through June 2013 ROPS. To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

The Agency's OFA balance available for distribution to the affected taxing entities is $0 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	(12,234,309)
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance	$	7,823,078
Requested retained balance not supported		4,660,177
Balances need for FY 2012-13 obligations		(6,485,553)
Total OFA available to be distributed:	$	(6,236,607)

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 Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Gary Silvius, Director of Finance, Inland Valley Development Agency
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office