



April 8, 2013

Ms. Donna Mullally, Manager of Fiscal Services
City of Irvine
1 Civic Center Plaza
Irvine, CA 92623

Dear Ms. Mullally:

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 19, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Irvine Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 11, 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 19, 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 4, 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 transfer in the amount of \$626,200 was disallowed. This adjustment has been accounted for in the following bullet. As such, Finance is reversing this adjustment.
- The request to restrict \$694,918 previously disallowed by Finance. This amount is related to several items that were approved on the January through June 2012 Recognized Obligation Payment Schedule (ROPS I); however, payments were not made until July 2012. Since the cash was included in the beginning balance as of June 30, 2012, the funds necessary for the payments made should be retained. Therefore, Finance is reversing this adjustment.

Finance notes that amounts requested and approved in a Recognized Obligation Payment Schedule (ROPS) are effective only for the six-month period covered. In the future, 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.

- The Agency's request to retain \$2,345,079 in current unencumbered OFA balances to cover future enforceable obligations is partially disallowed. For the July through December 2012 Recognized Obligation Payment Schedule period, Finance approved \$1,148,596 from the Redevelopment Property Tax Trust Fund (RPTTF). The County Auditor Controller reported a distribution of \$1,148,596 in June 2012. Therefore, \$1,148,596 needs to be retained.

For the January through June 2013 Recognized Obligation Payment Schedule (ROPS III), Finance approved and the County Auditor Controller distributed \$494,500 from RPTTF. Since the County Auditor Controller distributed sufficient RPTTF for approved ROPS III obligations after the June 30, 2012 OFA balances delineated in the DDR, the Agency does not need to retain current OFA balances for obligations that have already been funded through a separate process.

Therefore, the OFA balance available for distribution is being increased by \$1,196,483 (\$2,345,079 - \$1,148,596).

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,196,483 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Requested retained balance not supported	1,196,483
Total OFA available to be distributed:	\$ 1,196,483

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. Mark Asturias, Manager of Housing, City of Irvine
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office