



May 2, 2013

Ms. Diane Perkin, Director of Administrative Services
City of Lakewood
5050 Clark Avenue
Lakewood, CA 90712

Dear Ms. Perkins:

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 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Lakewood 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 15, 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 16, 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:

- Transfers totaling \$11,188,582 are disallowed. The Agency claims the transfers are payments to the City of Lakewood (City) in the amounts of \$7.8 million and \$3.3 million made in June 2011 and January 2012, respectively. Per the Agency, the payments were made in accordance with a loan repayment schedule adopted through Resolution No. LRA 2010-7 on June 2010 wherein the City and the former Redevelopment Agency consolidated multiple loans.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. Therefore, the transfers were not made pursuant to an enforceable obligation and are not permitted.

In addition, the Agency claims the \$3.3 million transfer was reconciled through the prior period adjustment process by the County Auditor Controller pursuant to HSC section

34186 (a) because the payments were denied by Finance on the Recognized Obligation Payment Schedule (ROPS) for the January through June 2012 period (ROPS I). Our review indicates that while the County Auditor Controller adjusted the Agency's distribution, the adjustments made were necessary because the Agency did not expend all Redevelopment Property Tax Trust Funds (RPTTF) disbursed for the ROPS I period. Therefore, the OFA balance available for distribution will be increased by \$11,188,582.

The Agency did not object to the following adjustments made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Your request to retain OFA balances for fiscal year 2012-13 in the amount of \$4.6 million is partially denied. Although Finance approved \$3.5 million for other obligations during the July through December 2012 ROPS II period, the County Auditor Controller distributed only \$1.8 million on June 1, 2012. Therefore, the Agency is limited to retaining \$1.8 million for ROPS II enforceable obligations. As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$2.8 million.

To the extent these constitute enforceable obligations, the Agency should request funding for these in a future ROPS.

Should a deficit occur in the future, HSC provides successor agencies with various methods to address short term cash flow issues. These may include requesting a loan from the city pursuant to HSC section 34173 (h), requesting the accumulation of reserves on the Recognized Obligation Payment Schedule (ROPS) when a future balloon or uneven payment is expected, or subordinating pass-through payments pursuant to HSC section 34183 (b). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation if a deficiency were to occur.

- Finance noted the county auditor controller adjusted the ROPS III January 2, 2013 distribution by \$1,120,989 pursuant to HSC section 34186 (a). Therefore, Finance is allowing the retention of these funds in order to adequately fund approved ROPS III expenditures.

The Agency's OFA balance available for distribution to the affected taxing entities is \$9,332,888 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (3,486,857)
Finance Adjustments	
Add:	
Disallowed transfers:	11,188,582
Requested retained balance not supported:	2,752,152
HSC section 34186 (a) adjustment:	(1,120,989)
Total OFA available to be distributed:	\$ 9,332,888

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: Ms. Edianne Sapinoso, Senior Accountant, City of Lakewood
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor Controller
California State Controller's Office