



April 2, 2013

Ms. Melissa Westerdoll, Staff Services Analyst
Department of Commerce, Aviation and Economic Development
Merced County
2507 Heritage Drive
Atwater, CA 95301

Dear Ms. Westerdoll:

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 6, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Merced 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 6, 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 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:

- Disallowed transfers in the amount of \$20,283. Although the DDR did not identify any assets transferred to the city, county, or city and county, our review of the Agency's accounting records noted two transfers for \$5,134 on April 11, 2012 and \$15,149 on June 8, 2012. The Agency provided additional documents showing the \$5,134 transfer was a correction made to the distribution of property taxes. Additionally, the Agency provided documents showing the \$15,149 transfer to repay a drawdown from the Merced County General Fund (General Fund) was a correcting entry made by the county auditor-controller; the drawdown from the General Fund occurred on July 12, 2011 after the former redevelopment agency no longer had the authority to incur additional debt. As such, the county auditor-controller reversed the transaction on June 1, 2012 given that the former RDA had not expended the funds. Therefore, Finance is reversing its previous adjustments for both items.
- Balances retained to satisfy fiscal year 2012-13 obligations in the amount of \$10,246. The amount includes \$1,435 for successor agency administration costs and \$8,811 for cost plan charges that were approved as enforceable obligations on the January through June 2013 Recognized Obligation Payment Schedule (ROPS III). Finance approved and the Agency received \$10,246 from the Redevelopment Property Tax Trust Fund

distribution from the Merced County Auditor-Controller in January 2013 and no prior period adjustments were made pursuant to HSC section 34186 (a). Therefore, the retention of \$10,246 is not allowed and therefore, we are increasing the amount to be remitted by this amount.

However, during the Meet and Confer process, the Agency noted that the balances needed for the July through December 2012 ROPS (ROPS II) period were not included in the amount needed to satisfy fiscal year 2012-13 obligations. The cash balance reported as of June 30, 2012, included \$24,273 for the ROPS II period. Additionally, the Property Taxes Receivable of \$23,631 reported as of June 30, 2012, was for the ROPS II period. Therefore, \$47,904 should be retained by the Agency for ROPS II obligations and we are decreasing the balance to be remitted by this amount.

The Agency's OFA balance available for distribution to the affected taxing entities is \$10,860 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 48,518
Finance Adjustments	
Retained balances to satisfy ROPS 2012-13	(37,658)
Total OFA available to be distributed:	\$ 10,860

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.

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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.

Please direct inquiries to Evelyn Suess, Supervisor or Mary Halterman, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Mark Hendrickson, Director, County of Merced
Ms. Sylvia Sanchez, Supervising Accountant, County of Merced
California State Controller's Office