



March 27, 2013

Mr. Thomas E. Lynch, Assistant City Manager  
City of Norwalk  
12700 Norwalk Boulevard  
Norwalk, CA 90650

Dear Mr. Lynch:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Norwalk successor agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) on January 15, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of OFA available for distribution to the taxing entities. Based on our review of your DDR, the following adjustment was made:

- Cash transfers totaling \$4 million are disallowed. The former redevelopment agency (RDA) made cash transfers to the City of Norwalk for water infrastructure projects in the amount of \$1.1 million and \$2.9 million on January 28, 2011 and February 25, 2011. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county or city and county that created the redevelopment agency (RDA) and the former RDA are not enforceable obligations, unless issued within two years of the RDA's creation date. However, it is our understanding the original funding source is bonds. Therefore, an adjustment will be made to increase the restricted amount in procedure 6. As such, the adjustments will not affect the OFA balance.
- Loan receivable in the amount of \$750,000. The Agency is restricting \$750,000 under procedure 7 as a non-liquid asset; however, the promissory note dated December 4, 2007 indicates this loan receivable is payable one year after project completion. It is our understanding this project is currently on hold. Without definite repayment terms stated in the promissory note, this loan is not considered a non-liquid asset. Therefore, an adjustment will be made in procedure 7. Since the funding source is bonds, an offsetting adjustment will be made to increase the restricted bonds amount for procedure 6. As such, the adjustments will not affect the OFA balance.

- The Agency's request to retain \$6 million in current unencumbered OFA balances to cover future obligations in Procedure 8 of the OFA DDR is not allowed. Since Finance has only approved funding through the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) period, the Agency's fund balances are only encumbered to the extent they have been approved on a ROPS through the June 30, 2013 period. The cash flow analysis provided by the Agency does not demonstrate an immediate need to retain these unencumbered OFA balances, nor does it suggest available funding will be insufficient to service the Agency's bond debt.

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 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.

Since the Agency has not demonstrated an immediate need to retain unencumbered OFA balances and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for the Agency to retain \$6 million in OFA unencumbered balances.

- The DDR's request to retain funding for Procedure 9 is included in Procedure 8's request above. Finance noted that \$2.9 million was approved for the ROPS II period. Therefore, Finance will make an offsetting adjustment to allow retention of ROPS II approved expenditures.

However, the Agency's request to retain ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding is not allowed. Since the County Auditor Controller distributed Redevelopment Property Tax Trust Fund (RPTTF) for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process.

If you disagree with Finance's adjusted amount of OFA balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance's website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's OFA balance available for distribution to the affected taxing entities is \$3,148,885 (see table at the next page).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Requested retained balance not supported:	6,039,882
ROPS II approved expenditures	(2,890,997)
<b>Total OFA available to be distributed:</b>	<b>\$ 3,148,885</b>

Absent a Meet and Confer request, 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 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.

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Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at  
(916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending from the end of the signature.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Jana Stuard, Finance Officer, City of Norwalk  
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller  
California State Controller's Office