



March 8, 2013

Mr. Brian Cochran, Finance Manager
City of Novato
75 Rowland Way, Suite 200
Novato, CA 94952

Dear Mr. Cochran:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Novato 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 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. 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:

Disallowed cash transfers in the amount of \$21,455,600. Our review indicates that the former Redevelopment Agency (RDA) transferred cash to the City of Novato during the period January 1, 2011 through June 30, 2011 to repay city loans. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the RDA are not enforceable unless the loan agreements were entered within the first two years of the date of the creation of the RDA. These loans were issued after the first two years of the RDA's creation; therefore, the payments for these loans are not permitted.

Furthermore, pursuant to HSC section 34167.5, the Controller shall review the activities of RDAs to determine whether an asset transfer has occurred after January 1, 2011, between the former RDA and the city that created the redevelopment agency or any other public agency. If such an asset transfer did occur during that period and the government agency that received the asset is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the Agency.

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/

The Agency's OFA balance available for distribution to the affected taxing entities is \$20,638,454 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (817,146)
Finance Adjustments:	
Disallowed transfers to City	21,455,600
Total OFA available to be distributed:	\$ 20,638,454

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.

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.

Mr. Brian Cochran
March 8, 2013
Page 3

Please direct inquiries to Beliz Chappuie, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Cathy Capriola, Assistant City Manager, City of Novato
Mr. Roy Given, Director of Finance, Marin County Auditor-Controller
California State Controller's Office