



May 9, 2013

Ms. Teri Ferro, Director of Financial Services  
City of Oceanside  
300 N. Coast Highway  
Oceanside, CA 92054

Dear Ms. Ferro:

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 April 3, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Oceanside Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 17, 2013. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the January 15, 2013, submittal deadline pursuant to HSC section 34179.6 (c), Finance was not bound to completing its review and making a determination by the April 1, 2013, deadline pursuant to HSC section 34179.6 (d). Finance issued an OFA DDR determination letter on April 3, 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 25, 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:

- Assets transferred to the City of Oceanside (City) in the period from January 2011 to June 2012 totaling \$1,804,047. The amount consists of \$34,269 in cash to make two payments on a loan from the City and \$1,769,778 in accrued interest on a loan from the City. During the Meet and Confer, the Agency provided additional information showing that the \$1,769,778 in accrued interest was an accounting entry only and no cash was transferred.

HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA. These loans were issued after the first two years of the RDA's creation. Therefore, the transfers were not made pursuant to an enforceable obligation and are not permitted. The OFA balances available for distribution to the taxing entities will be increased by \$34,269 and the entries for accrued interest should be reversed.

The repayment of these loans may become enforceable obligations after the Agency receives a Finding of Completion from Finance. If the oversight board makes a finding that the loans were for legitimate redevelopment purposes, these loans should be placed on future Recognized Obligation Payment Schedules (ROPS) for repayment. Refer to HSC section 34191.4 (b) for more guidance.

- Balances legally restricted totaling \$15,403,315 was decreased by \$12,423,158. During the Meet and Confer process, the Agency provided additional documents that these funds are bond proceeds. Therefore, Finance is reversing its adjustment of \$12,423,158.

The Agency did not object to the following adjustment 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:

- Balances requested to be retained in the amount of \$2,360,000 in current unencumbered OFA balances to cover future obligations are 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 \$2,360,000 in OFA unencumbered balances. In addition, the documentation provided pertaining to the Disposition Agreement Beachfront Resort Ground Lease was not complete and still to be determined.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,875,033 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (519,236)
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 34,269
Requested retained balance not supported:	2,360,000
<b>Total OFA available to be distributed:</b>	<b>\$ 1,875,033</b>

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: Ms. Michelle Skaggs-Lawrence, Deputy City Manager, City of Oceanside  
Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County  
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County  
California State Controller's Office