



March 19, 2013

Ms. Ann Ritzma, Administrative Services Director  
City of Pacifica  
170 Santa Maria Avenue  
Pacifica, CA 94044

Dear Ms. Ritzma:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Pacifica 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 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. 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 adjustments were made:

- Assets transferred in the amount \$60,000 were not supported by an enforceable obligation. The former redevelopment agency (RDA) made a \$60,000 payment on December 31, 2011 for a loan between the former RDA and the City of Pacifica's General Fund. HSC 34171 (d) (2) states that agreements, contracts or arrangements between the city that created the RDA and the former RDA are not enforceable obligations, unless entered into within two years of the date of creation of the redevelopment agency. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$60,000.
- The Agency's request to retain \$1,665 in current unencumbered OFA balances to cover future obligations is not allowed. The cash flow analysis provided does not adequately incorporate all the requirements detailed in HSC section 34179.5 (c) (5) (D). HSC section 34179.5 (c) (5) (D) requires an extensive analysis before retention of current unencumbered balances can be contemplated. This includes but is not limited to, providing a detail of the projected property tax revenues and other general purpose revenues to be received by the Agency, together with both the amount and timing of the bond debt service payments, for the period in which the oversight board anticipates the Agency will have insufficient property tax revenue to pay the specified obligations. As such, it is not evident that future property tax revenue will be insufficient or that there is an immediate need to retain these balances.

Since the Agency has not met the requirements detailed in HSC section 34179.5 (c) (5) (D) and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for Agency to retain \$1,665 in OFA unencumbered balances.

- Balances requested to be retained totaling \$287,807 for fiscal year 2012-13 obligations are not permitted. Specifically:
  - The Agency's request to retain \$106,775 for July through December 2012 Recognized Obligation Payment Schedule (ROPS II) obligations is denied. We identified that the DDR's total asset balance does not include the June 1, 2012 ROPS II Redevelopment Property Tax Trust (RPTTF) distribution. Since the County Auditor Controller (CAC) distributed RPTTF funding outside of the OFA DDR process, it is inappropriate for the Agency to request retention of these funds. Therefore, the OFA balances available for distribution will be adjusted by \$106,775.
  - The Agency's request to retain \$181,032 for January through June 2013 ROPS III obligations is denied. Since the CAC distributed Redevelopment Property Tax Trust Funds 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. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$181,032.

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 \$60,000 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (289,472)
Finance Adjustments	
Add:	
Disallowed transfers:	60,000
Request to restrict balance not supported:	1,665
Request to retain balance not supported:	287,807
<b>Total OFA available to be distributed:</b>	<b>\$ 60,000</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.

Please direct inquiries to Wendy Griffe, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Stephen Rhodes, City Manager, City of Poway  
Ms. Shirley Tourel, Deputy Auditor-Controller, County of San Mateo  
California State Controller's Office