



March 28, 2013

Mr. Robert J. Bravo, Finance Director
City of Port Hueneme
250 North Ventura Road
Port Hueneme, CA 93401

Dear Mr. Bravo:

Subject: Other Funds and Accounts Due Diligence Review

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

- Asset transfers in the amount of \$716,406. The DDR review noted \$3,140,349 unallowable transfers for city loan payments. Our review indicates an additional \$716,406 in loan payments were made that are not allowable. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These loans were issued after the first two years of the former RDA's creation and are not associated with the issuance of debt. Therefore, amounts are not allowed to be transferred.
- Legally restricted assets in the amount of \$3,140,349. Agency contends that disallowed transfers noted above are legally restricted and will be due after the Agency receives a Finding of Completion (FOC). However, the Agency has not received a FOC for the funds to be legally restricted. Upon receiving a FOC from Finance and after the oversight board makes a finding the loans were for legitimate redevelopment purposes, HSC section 34191.4 (b) may cause these items to be enforceable in future Recognized Obligation Payment Schedule periods. Once the loans become enforceable obligations, the Agency can request RPTTF to make payments. Therefore, the balance has been adjusted by \$3,140,349.

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 \$5,297,342 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,440,587
Finance Adjustments	
Disallowed asset transfers	\$ 716,406
Disallowed legally restricted assets	3,140,349
Total OFA available to be distributed:	\$ 5,297,342

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, please 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 Beliz Chappuie, Supervisor or Mindy Patterson, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long, sweeping underline that extends to the left.

STEVE SZALAY
Local Government Consultant

cc: Mr. David Norman, City Manager, City of Port Hueneme
Ms. Sandra Bickford, Chief Deputy, County of Ventura Auditor-Controller
California State Controller's Office