



DEPARTMENT OF  
**FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

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REVISED

July 3, 2013

Ms. Lisa Brandl, Managing Director  
Economic Development Agency  
County of Riverside  
3403 10<sup>th</sup> Street, Suite 300  
Riverside, CA 92501

Dear Ms. Brandl:

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 March 29, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Riverside Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on December 13, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Finance issued an OFA DDR determination letter on March 29, 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 18, 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:

- Request to retain balances for fiscal year 2012-13 in the amount of \$10,746,336 in reserves for future Perris Valley Aquatic Center project costs. Our review indicates that the DDR report includes \$18,847,902 for the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) line items 277 and 278 for Perris Valley Aquatic Center for the period January through June 2013. However, the Agency only requested and was approved \$8,101,566 (\$7,501,566 for item 277 and \$600,000 for item 278) in reserve funding. The Agency believes that because the six-month requested reserves were approved on ROPS III that the Agency should be permitted to retain an additional \$10,746,336 (the remaining balance of the total outstanding obligation) in reserve funds for future ROPS periods.

Per HSC section 34177 (a), only those payments listed in the ROPS may be made by the Agency from the funds specified on the ROPS. The amounts requested and approved on a ROPS are only effective for the six-month period covered by that ROPS period and should not be conclusively relied on for future periods. The Agency should request any outstanding amounts for enforceable obligations on a future ROPS for Finance's review and approval.

However, our review indicates that the Agency requested and was approved \$6,600,000 in reserve funds for the July through December 2013 ROPS (ROPS 13-14A) period. Therefore, the agency is allowed to retain the \$6,600,000 in reserve funds to satisfy these obligations.

The total adjustment to the OFA balance available for distribution will be an increase of \$4,146,336 (\$10,746,336 - \$6,600,000).

- The Agency requested to retain \$8,640,000 of OFA balances representing bond proceeds of \$5,000,000 for the Mission Plaza and \$3,640,000 for the Mecca Comfort Station projects (Projects). These Projects were denied on the January through June 2012 ROPS (ROPS I), July through December 2012 ROPS (ROPS II), and the ROPS III determination letter dated December 18, 2012. During the Meet and Confer, the Agency asserts that these bond proceeds are restricted and cannot be distributed as per bond indenture documents. Our review indicates that these bond funds are held by a third party trustee. However, per the DDR and trustee statements provided by the Agency, the referenced bond funds are already accounted for under the Agency's restricted assets. Therefore, it is improper for the Agency to request to retain the funds that have already been accounted for with the restricted assets. Therefore, the OFA balance available for distribution will be increased by \$8,640,000.

However, we noted an error in the DDR related to this item. The Mission Plaza project totaling \$5,000,000 is erroneously subtracted twice as shown on Attachment E (Procedure 8). Accordingly, the error decreases the requested balances retained for future obligations by \$5,000,000 (from \$167,561,607 to \$162,561,607). Per Finance's previous determinations, the Agency's request to retain OFA balances for the amount to cover future debt service payments is not allowed. The Agency's fund balances are only encumbered to the extent they have been approved on a ROPS. 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. Because the Agency has not demonstrated an immediate need to retain unencumbered OFA balances, Finance deems it is not necessary for the Agency to retain \$162,561,607 in OFA unencumbered balances.

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.

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:

- Asset transfers in the amount of \$1,589,879. Our review indicates two unallowable transfers were made to the County of Riverside Economic Development Agency for loan repayments related to Tech Park Project. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the former redevelopment agency (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.

Per HSC section 34179.5 (c) (2), the dollar value of assets and cash transferred by the former redevelopment agency or successor agency to the city, county, or city and county that formed the former RDA between January 1, 2011 through June 30, 2012 must be evidenced by documentation of the enforceable obligation that required the transfer. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171, contracts detailing specific work that were entered into by the former redevelopment agency prior to June 28, 2011 with a third party other than the city, county, or city and county that created the former RDA. Therefore, the transfer was not made pursuant to an enforceable obligation and is not permitted.

The Agency's OFA balance available for distribution to the affected taxing entities has been revised to \$0 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (177,921,440)
Finance Adjustments	
Disallowed asset transfers	\$ 1,589,879
Unallowed balances retained for future obligations	\$ 162,561,607
Unallowed balances retained for fiscal year 2012-13 obligations	\$ 4,146,336
Disallowed balances retained for appeal items	\$ 8,640,000
<b>Total OFA available to be distributed:</b>	<b>\$ (983,618)</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

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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 Danielle Brandon, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Rohini Dasika, Principal Development Specialist, Economic Development Agency,  
County of Riverside  
Ms. Pam Elias, Chief Accountant Property Tax Division, Riverside County  
Auditor Controller  
Mr. Christopher Hans, Chief Deputy CEO, Riverside County  
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