DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
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April 9, 2013

Ms. Dena Fuentes, Director
San Bernardino County
385 North Arrowhead Avenue
San Bernardino, CA 92415

Dear Ms. Fuentes:

Subject: Other Funds and Accounts Due Diligence Review

The San Bernardino County 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 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 is not bound to completing its review and making a determination by the April 1, 2013 deadline pursuant to HSC section 34179.6 (d). However, 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:

- Our review indicates the total assets balance as of June 30, 2012 should be $85,203,955. The cash and investment balances reported on the Agency's Comprehensive Annual Financial Statement for the period ended June 30, 2012 was $793,505 higher than those reported on the OFA DDR. As such, the balance has been adjusted by $793,505.

- The request to retain non-cash assets in the amount of $24,128,455 has been adjusted by $63,026. According to information provided by the Agency, interest receivables identified in this DDR are short-term receivables and have been collected by the Agency. Therefore, the retention is not allowed.

- The request to retain $1,017,907 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.

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), 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 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 $1,017,907 in OFA unencumbered balances.

- The request to retain $18,222,724 to cover unfunded obligations approved on the July through June 2013 Recognized Obligation Payment Schedule (ROPS) has been adjusted by $14,972,168. HSC section 34183(b) only allows an agency to reduce the unencumbered OFA balances to meet debt service payments, with the State Controller's concurrence for insufficient funding. Because all debt service payments have been met, the request for retention to fund the following items is not allowed:

  - County Loan in the amount of $7,800,000. This obligation was denied by Finance in its letter dated October 6, 2012 as an inclusion to ROPS review for the period January through June 2013.

  - Various ROPS obligations for the period January through June 2013 totaling $5,076,204. Although these obligations were approved by Finance, they should be paid using the Redevelopment Property Tax Trust Fund distribution the Agency received in January 2013.

  - The ROPS II shortage in the mount of $2,095,964 is not allowed for retention. If the Agency did not receive enough RPTTF to pay actual obligations for approved ROPS items, the difference can be listed on a subsequent ROPS.

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 $19,320,903 (see table below).

OFA Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	2,474,297
Finance Adjustments		
Add:		
Adjustment to the June 30, 2012 balance	$	793,505
Reqeust to restrict non-cash assets not supported		63,026
Requested retained balance not allowed		14,972,168
Requested retained balance not supported		1,017,907
Total OFA available to be distributed:	$	19,320,903

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 Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Gary Hallen, Deputy Director of Community Development and Housing, San Bernardino County
Ms. Vanessa Doyle, Auditor-Controller Manager, San Bernardino County
California State Controller's Office