



May 16, 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:

- Finance previously increased the total asset balance as of June 30, 2012 by \$793,505. This adjustment was made to account for differences between the stated cash balance in the OFA DDR and the cash balance as listed in the Agency's Comprehensive Annual Financial Statement. Our review of additional information and clarification provided by the Agency indicates the balance reported in the OFA DDR is accurate. Therefore, no adjustment is necessary.
- The request to retain non-cash assets in the amount of \$24,128,455 is partially disallowed. Finance previously increased the OFA balance available for distribution by \$63,026 for short-term interest receivable receivables that have been collected by the Agency. The Agency provided documentation that the actual amount of interest receivables should be \$77,135; however, \$38,515 is interest related to bond proceeds and is restricted per bond covenants. The Agency agreed that the remaining \$24,510 is available for distribution; therefore, the OFA balance available for distribution will be increased by \$24,510.
- The Agency requested to retain a total of \$19,371,440 for Procedures 8 and 9 (\$1,148,716 + \$18,222,724, respectively) is partially approved as follows:

- For the Recognized Obligation Payment Schedule (ROPS) period of July through December 2012 (ROPS II), the Agency will be permitted to retain \$4,857,596. This amount consists of \$3,341,335 in Redevelopment Property Tax Trust Funds for the ROPS II period but included in the June 30, 2012 balance; \$1,251,551 in reserve funds used to satisfy approved obligations; \$118,738 in approved administrative expenses; \$110,000 in approved "Other" funds expenditures; and an additional \$35,972 in "Other" funds expenditures due to underestimation of actual costs. We note, this amount is being allowed because the item was also included and approved on the ROPS for January through June 2013 (ROPS III); however, per the Agency, no payment is due during the ROPS III period. The Agency will not be permitted to retain "Other" funds for this item in the ROPS III period as noted below.
- For the January through June 2013 ROPS III, the Agency will be permitted to retain \$4,422,741. This amount consists of \$3,070,795 in expenditures approved from reserve funds and \$1,351,946 in approved obligations not funded by the ROPS III distribution. We note, although the Agency was approved for \$110,000 in "Other" funds expenditures, the Agency confirmed a payment is not required during the ROPS III period. Therefore, the Agency was permitted to retain the actual amount for the ROPS II expenditure as noted in the previous bullet but will not be permitted to retain the \$110,000 in approved "Other" funds expenditures for ROPS III.
- For the July through December 2013 ROPS period (ROPS 13-14A), the Agency will be permitted to retain \$2,698,228. This amount consists of \$1,185,392 in "Other" funds approved expenditures and \$1,512,836 for expenditures approved for reserve funding. We note that the RPTTF estimated distribution for the ROPS 13-14A period provided by the County Auditor-Controller is enough to satisfy approved obligations and more specifically is enough to satisfy all approved debt service obligations.
- Per HSC section 34179.5 (c) (5) (E), Agencies are permitted to retain balances needed to satisfy obligations that will be placed on the ROPS for the current fiscal year; therefore, the OFA balance available for distribution will be increased by the remaining \$7,392,875 (\$19,371,440 - \$4,857,596 - \$4,422,741 - \$2,698,228).

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.

The Agency's OFA balance available for distribution to the affected taxing entities is \$9,891,682 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 2,474,297
Finance Adjustments	
Add:	
Request to restrict non-cash assets not supported	24,510
Requested retained balance not allowed	7,392,875
Total OFA available to be distributed:	\$ 9,891,682

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.

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Please direct inquiries to Evelyn Sues, Supervisor or Danielle Brandon, 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