



April 26, 2013

Ms. Kaye Hobson, Finance Director  
County of San Diego  
1600 Pacific Hwy #201  
San Diego, CA 92101

Dear Ms. Hobson:

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 20, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of San Diego Successor Agency (Agency) submitted an oversight board approved OFA DDR 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. Finance issued an OFA DDR determination letter on March 20, 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 4, 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:

- The Agency's request to retain \$1,790,275 in balances for the July through December 2012 Recognized Obligation Payment Schedule (ROPS II) period obligations is partially approved. Our review indicates the Agency was approved for \$1,790,275 by Finance; however the County Auditor Controller only distributed \$914,233 in Redevelopment Property Tax Trust funds (RPTTF). The Agency will be permitted to retain the funds distributed by the County Auditor Controller. In addition, the Agency will be permitted to retain the actual balances expended during the ROPS II period up to the amount approved by Finance. Our review indicates the Agency expended \$446,000 of reserve balances to satisfy the unfunded approved obligations. Therefore, the OFA balance available for distribution will be increased by \$430,042 (\$1,790,275 - \$914,233 - \$446,000).

Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

The Agency's OFA balance available for distribution to the affected taxing entities is \$1,767,933 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,337,891
Finance Adjustments	
Add:	
Requested retained balance not supported:	430,042
<b>Total OFA available to be distributed:</b>	<b>\$ 1,767,933</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 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.

Ms. Kaye Hobson

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Please direct inquiries to Evelyn Suess, Supervisor or Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish at the end.

STEVE SZALAY

Local Government Consultant

cc: Ms. Holly Simonette, Staff Officer, County of San Diego  
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego  
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, County of San Diego  
California State Controller's Office