DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

April 1, 2013

Ms. Tiffany Bohee, Executive Director
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, CA 94103

Dear Ms. Bohee:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City and County of San Francisco 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 14, 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:

- Finance was unable to determine if the assets legally restricted for uses specified by debt covenants in the amount of $200 million is accurate. Finance notes that it is a rebuttable presumption that cash and cash equivalents are available to disburse to taxing entities (HSC 34179.5 (c) (6)). The burden of proof is on the Agency.

  It is our understanding that in some instances, the Agency elected not to utilize a third party bond trustee to account for its bond proceeds, but instead tracks them with its own accounting system. As such, Finance is unable to obtain verification of the balance of bond proceeds by a third party.

  Including the approximate $200 million transfer of cash in February 2012 out of the Low and Moderate Income Housing Fund (LMIHF) to the Mayor of Housing, the Agency should have possessed over $600 million in assets at June 30, 2012. The Agency claims approximately half of the $600 million is legally restricted and none of the $600 million represent unencumbered balances available for distribution to the affected taxing entities. While there are other successor agencies in the state that possess no unencumbered funds as a result of the DDR process, it is not the norm. Given the size of the Agency, the material amount tax increment generated, and Finance's fiduciary duty to the taxing entities, it is imperative that the restricted balances are verified.

The Agency has employed outside auditors to perform an Agreed Upon Procedures (AUP) review of the LMIHF restricted balances. At a minimum, Finance would want to see the results of the LMIHF AUP before making a different determination on the OFA DDR. For the OFA DDR, Finance as well as Macias Gini & O'Connell LLP are relying on the stated accounting records, but not auditing them. Results from the LMIHF AUP, although not definitive, should translate to whether the accounting records can be relied upon for the OFA DDR. Therefore, until the results of the LMIHF AUP are released, and reviewed by Finance, the OFA balances will be adjusted by $200 million.

- Balances requested to be retained totaling $6.3 million in current unencumbered OFA balances to cover future obligations is not allowed. Since Finance has only approved funding through the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) period, the Agency's fund balances are only encumbered to the extent they have been approved on a ROPS through the June 30, 2013 period. 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.

  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.

  Since the Agency has not demonstrated an immediate need to retain unencumbered OFA balances and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for the Agency to retain $6.3 million in OFA unencumbered balances.

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 $204,187,236 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	$ -
Finance Adjustments	
Add:	
Requested legally restricted assets not supported:	$ 197,878,974
Requested retained balance not supported:	6,308,262
Total OFA available to be distributed:	$ 204,187,236

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.

Please direct inquiries to Wendy Griffe, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Ms. Sally Oerth, Deputy Director, City and County of San Francisco
Mr. James Whitaker, Property Manager, San Francisco County
Mr. Benjamin Rosenfield, Controller, San Francisco County
California State Controller's Office