



August 29, 2013

Mr. Gary Ameling, Director of Finance
Santa Clara Successor Agency
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Mr. Ameling:

Subject: Other Funds and Accounts Due Diligence Review

The City of Santa Clara 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 June 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.

Based on our review, Finance made no adjustments to the OFA balance available for allocation to the affected taxing entities. As a result, the Agency's OFA balance available for distribution to the affected taxing entities is \$26,730,410.

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.

Furthermore, in addition to the OFA balances available for remittance, Finance determined that after June 30, 2012 the City has received over a million dollars of revenues per month from assets that were illegally transferred from the former RDA to the City. Pursuant to HSC section 34171 (d) (2), the property conveyance and the assignment and assumption agreements pertaining to the transferred assets are not enforceable obligations. Therefore, the revenues associated with the assets plus any interests that those funds have accumulated are considered Agency funds. Consequently, these funds should be available for the funding of enforceable obligations on future Recognized Obligation Payment Schedule (ROPS). HSC section 34177 (l) (1) states that the Redevelopment Property Tax Trust Fund funding may be requested on a ROPS only to the extent that no other funding sources are available or when payment from property tax revenues is required by an enforceable obligation.

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 Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Tamera Haas, Assistant Director of Finance, City of Santa Clara
Ms. Irene Lui, Controller Treasurer, County of Santa Clara
California State Controller's Office