



April 20, 2013

Ms. Angela Freitas, Deputy Director  
Stanislaus County Planning Department  
1010 10th Street, Suite 3400  
Modesto, CA 95354

Dear Ms. Freitas:

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 15, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Stanislaus Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 10, 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 15, 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 3, 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:

- Balances requested to be retained due to legal restrictions in the amount of \$6,858,153 is partially denied. The Stanislaus County Department of Public Works Agreement (Agreement) dated June 20, 2011, was denied by Finance in our letter dated May 25, 2012. This item was denied again in the January through June 2013 Recognized Obligation Payment Schedule (ROPS III) review and upheld through the Meet and Confer process. Refer to Finance's December 18, 2012 letter.

The Agreement is between the county that created the RDA and the former RDA as a result of a Settlement Agreement entered into in August 2004 by Stanislaus County (as one of the named parties); however, the former RDA was not a party in the Settlement Agreement and is not responsible for payments under the Settlement Agreement. HSC section 34179.5 states "enforceable obligation" includes any of the items listed in subdivision (d) of section 34171. HSC section 34171 (d) (2) states "enforceable obligation" does not include any agreements, contracts, or arrangements between the city that created the RDA and the former RDA.

Therefore, Finance continues to deny this agreement as an enforceable obligation and the OFA balances available for distribution to the taxing entities will be increased by \$5,375,926.

- The Agency requested to retain \$1,856,865 for fiscal year 2012-13 obligations. The Agency may retain the July through December 2012 Recognized Obligation Payment Schedule (ROPS II) approved obligations totaling \$1,330,833. However, the Agency also requested to retain \$526,032 for ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be increased by \$526,032.

The Agency's OFA balance available for distribution to the affected taxing entities is \$5,901,958 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Denied ROPS item	5,375,926
Requested retained balance not supported:	526,032
<b>Total OFA available to be distributed:</b>	<b>\$ 5,901,958</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.

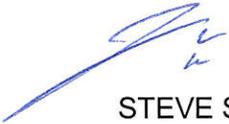
Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain 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.

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

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Lauren Klein, CPA, Auditor-Controller, Stanislaus County  
Ms. Marianne Rucker, Manager, Stanislaus County  
California State Controller's Office