



April 13, 2013

Jason Garben, Economic Development Director  
City of Suisun City  
701 Civic Center Boulevard  
Suisun City, CA 94585

Dear Mr. Garben:

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 11, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Suisun City Successor Agency (Agency) submitted an oversight board approved OFA DDR to 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 11, 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 March 27, 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:

- Adjustment in the amount of \$43,885,870 for disallowed transfers to the City of Suisun City (City). Assets totaling \$48,234,630 were transferred to the City during the period January 1, 2011 through June 30, 2012. However, \$4,348,760 of cash was subsequently returned to the Agency on June 30, 2012 to pay for obligations of the Agency. The remaining \$43,885,870 represents assets that have not been returned to the Agency and still remain in the possession of the City. The \$43,885,870 is comprised of \$41,788,370 in non-liquid assets and \$2,097,500 in cash.
  - The Agency claims \$241,722 is revenues derived from operations and rent of four properties owned or developed by the former redevelopment agency (RDA) and transferred to the City. The Agency believes the revenues should follow the property. HSC section 34171 allows for maintenance of property owned by the RDA prior to disposition as an enforceable obligation outside of the administrative cap; therefore, the funds needed to maintain the properties should be included on a Recognized Obligation Payment Schedule for review and, if approved, funded from the Redevelopment Property Tax Trust Fund (RPTTF). The balance available for distribution will be increased by \$241,722.

- o The agency claims \$1,750,000 is the remaining balance on a reimbursement agreement entered into between the City of Suisun City (City). 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. The reimbursement agreement was entered into after the first two years of the RDA’s creation; therefore, the payments for this agreement are not permitted. The balance available for distribution will be increased by \$1,750,000.
- o The Agency claims the remaining \$105,778 were payments for a development and disposition agreement (DDA) entered into between the former redevelopment agency and a third party. The Agency provided documentation this was approved on the Recognized Obligation Payment Schedule for the January through June 2012 (ROPS I) period. The item was not included on a ROPS again until the July through December 2013 (ROPS 13-14 A) period. The documentation provided indicates this item is an enforceable obligation at the time funds were disbursed. While the transfer is permitted, the Agency has not received a final and conclusive determination on the item; therefore, this item will be subject to review by Finance if listed for payment on a future Recognized Obligation Payment Schedule.
- The non-liquid assets transferred to the City are subject to the California State Controller’s Office review of asset transfers. To the extent these assets that transferred are not for a government purpose or pursuant to an enforceable obligation, these assets should be returned to the Agency and disposed of in a manner consistent with the Agency’s approved Long Range Property Management Plan pursuant to HSC section 34191.5.

The Agency’s OFA balance available for distribution to the affected taxing entities is \$1,935,512 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (56,210)
Finance Adjustments	
Add:	
Disallowed cash transfers to the city:	\$ 1,991,722
<b>Total OFA available to be distributed:</b>	<b>\$ 1,935,512</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 Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY

Local Government Consultant

cc: Suzanne Bragdon, City Manager, City of Suisun  
Jun Adeva, Deputy Auditor Controller, County of Solano  
California State Controller's Office