



May 1, 2013

Ms. Hannah Chung, Finance Director
City of Tehachapi
115 S. Robinson Street
Tehachapi, CA 93561

Dear Ms. Chung:

Subject: Other Funds and Accounts Due Diligence Review

The City of Tehachapi 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 February 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. 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.

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:

- Cash transferred to the City of Tehachapi (City) during the period of January 1, 2011 through June 30, 2012 totaling \$1.4 million is not allowed. HSC section 34179.5 (c) (2) only allows transfers within this period that are required by an enforceable obligation. Specifically:
 - Centennial Plaza: \$167,025 on March 8, 2011 and \$130,207 on June 30, 2011
 - Downtown Beautification Phase 2: \$200,000 on March 8, 2011
 - Downtown Master Plan Implementation: \$100,000 on May 31, 2011
 - Mill and H Improvement: \$6,206 on June 30, 2011
 - Railroad Depot: \$686,680 on April 30, 2011
 - Tehachapi Blvd Improvement IV: \$50,814 on June 30, 2011 and \$52,000 on December 31, 2011

It is our understanding the contracts for the above projects were entered into by the City and third parties. The former redevelopment agency (RDA) is neither a party to the contracts nor responsible for payment of the contracts. Therefore, these items are not enforceable obligations and the transfers are not allowed. As such, the OFA balances available for distribution to the taxing entities will be adjusted by \$1.4 million.

- Balance needed to satisfy ROPS for fiscal year 2012-13 in the amount of \$722,213 is partially denied. Exhibit D of the DDR indicates the \$722,213 request is for the July through December 2012 ROPS II period. However, the County Auditor Controller (CAC) only distributed \$512,851 for the ROPS II period. Therefore, your request to retain \$722,213 is partially denied. The Agency is limited to retaining the amounts distributed by the CAC. As such, the OFA balances available for distribution to the taxing entities will be adjusted by \$209,362.

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 \$1,367,972 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (234,322)
Finance Adjustments	
Add:	
Disallowed transfers:	1,392,932
Requested retained balance not supported:	209,362
Total OFA available to be distributed:	\$ 1,367,972

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 Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Daisy Wee, Accounting Officer, City of Tehachapi
Ms. Mary B. Bedard, Auditor-Controller, Kern County
California State Controller's Office