May 4, 2013

Mr. Roger Hunt, Assistant RMA Director-Administrator
County of Tulare
5961 S. Mooney Blvd
Visalia, CA 93277

Dear Mr. Hunt:

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 29, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the County of Tulare Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 11, 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 29, 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 18, 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:

- The Agency requested to retain $2,474,616 for fiscal year 2012-13 obligations is partially denied. Based on further review during the Meet and Confer process, the Agency may retain $1,942,793 ($1,188,663 + $754,130) for approved enforceable obligations during fiscal year 2012-13 and the OFA balance available will be increased by $531,823 ($2,474,616 - $1,942,793), as further discussed below.

  For the July through December 2012 Recognized Obligation Payment Schedule (ROPS II) period, Finance approved $1,356,726 and the County Auditor Controller (CAC) distributed $1,188,663 from the Redevelopment Property Tax Trust Fund (RPTTF). On the July through December 2013 (ROPS 13-14A) form, the Agency reported actual expenditures that were less than the RPTTF received. Therefore, sufficient RPTTF was received to cover the expenditures during the ROPS II period and the Agency may retain $1,188,663 for the ROPS II period. To the extent excess RPTTF was provided during the ROPS II period, the CAC may make an adjustment to the ROPS 13-14A distribution pursuant to HSC section 34186 (a).

  For the January through June 2013 (ROPS III) period, Finance approved $1,382,497 and the CAC distributed $628,367 from the RPTTF. The CAC made a $187,205 adjustment for the ROPS I period on the January 2, 2013 ROPS III distribution pursuant to HSC section 34186 (a). This resulted in a $566,925 ($1,382,497 - $628,367 - $187,205) shortfall for the ROPS III period. Therefore, the Agency may retain $754,130 ($187,205 + $566,925) to ensure sufficient funding is available for the ROPS III period.

Should deficits 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 pursuant to HSC section 34177 (d) (1) (A), 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.

The Agency did not object to the following adjustment made by Finance during the Meet and Confer process. HSC section 34179.6 (d) authorizes Finance to make adjustments. We maintain that the following adjustment is appropriate:

- Capital assets in the amount of $2,976,239. Our review noted that capital assets for the amount were not included in the June 30, 2012 OFA balance. Therefore the asset balances has been adjusted to include capital assets held by the Agency. However, since capital assets are not considered cash or a cash-equivalent asset, Finance made no adjustment to the available balance to the affecting taxing entities.

The Agency's OFA balance available for distribution to the affected taxing entities is $3,771,781 (see table below).

| OFA Balances Available For Distribution To Taxing Entities | | |
|---|---|---|
| Available Balance per DDR: | $ | 3,239,958 |
| Finance Adjustments | | |
| Unallowed balances retained for fiscal year 2012-13 obligations | | 531,823 |
| **Total OFA available to be distributed:** | $ | 3,771,781 |

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: Ms. Sophia Almanza, Fiscal Manager, County of Tulare
Ms. Rita A. Woodard, Auditor-Controller, County of Tulare
California State Controller's Office