



April 1, 2013

Ms. Darlene Thompson, Finance Director/Treasurer
City of Tulare
411 East Kern Avenue
Tulare, CA 93274

Dear Ms. Thompson:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Tulare 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 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. Pursuant to HSC section 34179.6 (d), 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:

- Assets held by the Agency as of June 30, 2012 has been adjusted as noted below. Our review of the DDR and the City's California Annual Financial Report (CAFR) as of June 30, 2012 noted two variances.
 - An amount of \$4,476,840 was listed on the DDR as cash with fiscal agent for 2010 Series C Bonds which was also included on the Low and Moderate Income Housing Fund (LMIHF) DDR. Since this amount was allowed to be retained as a restricted asset on the LMIHF DDR, the OFA DDR will be adjusted to correct the duplicate amount. Therefore, total assets listed on Attachment C of the DDR and the amount held as restricted assets in Attachment D of the DDR are being reduced by this amount.
 - The cash amount listed in the CAFR exceeds the amount listed on the DDR by \$735,006. A reconciliation worksheet provided by the Agency indicate that the OFA DDR cash balance should be \$959,385 after adjusting for the \$1,081,853 LMIHF cash amount included in the CAFR balance. Therefore the OFA cash balance was adjusted for \$735,006 to account for the difference.
- Balances retained for fiscal year 2012-13 obligations in the amount of \$2,547,925. The enforceable obligations listed in the DDR are included in Recognized Obligation Payment Schedule for the period January 1, 2013 through June 30, 2013 (ROPSIII). The Agency received Redevelopment Property Tax Trust Fund (RPTTF) distribution from the Tulare County Auditor-Controller's office in January 2013 for these obligations,

after the June 30, 2012 OFA balances. Therefore, the retention of the amounts is not allowed.

- Retained balances to pay for enforceable obligations in the amount of \$523,000. The Agency did not receive any RPTTF for the July through December 2012 Recognized Payment Obligation Schedule (ROPS II). Since the Agency did not receive any RPTTF funding, Finance will allow the retention of \$833,726 towards requested and approved funding of \$1,356,726 in order to cover bond payments for the ROPS II period.

Of the remaining amount of \$523,000, the Agency has not adequately proven there will be insufficient property tax revenues to pay for these obligations. HSC section 34179.5 (c) (5) (D) requires an extensive analysis before retention of current unencumbered balances can be contemplated. This includes but is not limited to, providing a detail of the projected property tax revenues and other general purpose revenues to be received by the Agency, together with both the amount and timing of the bond debt service payments, for the period in which the oversight board anticipates the Agency will have insufficient property tax revenue to pay the specified obligations. It is not evident the thorough analysis required by HSC section 34179.5 (c) (5) (D) was conducted. Further, it is not evident that future property tax revenue will be insufficient or that there is an immediate need to retain these balances.

Should a deficit 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, 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.

Since the Agency has not met the requirements detailed in HSC section 34179.5 (c) (5) (D) and possesses alternatives to address short term cash flow shortages, Finance deems it is not necessary for Agency to retain all of the \$1,356,726 OFA unencumbered balances and will allow only \$833,726 to pay the bond payments.

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 \$125,659 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (3,680,272)
Finance Adjustments	
Adjustment to the June 30, 2012 balance	735,006
Unallowed balances retained for fiscal year 2012-13 obligations	2,547,925
Unallowed balances retained for enforceable obligations	523,000
Total OFA available to be distributed:	\$ 125,659

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 Beliz Chappuie, Supervisor or Todd Vermillion, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Ms. Roxanne Yoder, Chief Deputy City Clerk, City of Tulare
Ms. Rita A. Woodard, Auditor-Controller, County of Tulare
California State Controller's Office