



March 29, 2013

Mr. Eric Frost, Administrative Services Director
City of Visalia
707 W. Acequia Ave.
Visalia, CA 93291

Dear Mr. Frost:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Visalia 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 December 12, 2012. 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 in the amount of \$1,208,912. Finance disallowed a transfer of \$1,208,912 from the Low and Moderate Income Housing Fund (LMIHF) to other Agency funds during the review of the LMIHF DDR as stated in Finance letter dated January 11, 2013. This transfer has also been reported as a transfer-in on its non-housing DDR as available unencumbered cash. However, the Agency agreed to include the amount as part of the balance to be remitted the affected taxing entities pursuant to LMIHF DDR review. Therefore, Finance is making an adjustment to reduce the Agency's available OFA balance by \$1,208,912 to account for the LMIHF DDR adjustment.
- A cash transfer in the amount of \$670,000. Our review noted a transfer was made to the City of Visalia (City) on March 7, 2011. The Agency was not able to provide sufficient documentation to demonstrate that the Agency was contractually committed to third party. The Meeting Agenda and City Council Resolutions provided do not establish an EO; therefore, the transfer is not allowed. HSC section 34167.5 states that asset transfers occurring after January 1, 2011 between the RDA and City that created the RDA must be contractually committed to a third party. Finance adjusted the balance by \$670,000.
- Balances needed for fiscal year 2012-13 obligations in the amount of \$4,276,488. The list of obligations for funds retained included a \$3,420,929 City Loan and three pass-

through payments to Visalia Unified School District totaling \$855,559 that were denied by Finance during previous Recognized Obligation Payment Schedule (ROPS) reviews. Therefore, retention of these balances is not allowed. Finance is reducing the \$6,693,441 balance requested for retention by \$4,276,488.

Transfer of Land Held for Resale to the City in the amount of \$3,534,327. The RDA transferred the land to the City that was purchased with advances received from City's general fund. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the former redevelopment agency (RDA) and the RDA are not enforceable unless the loan agreements were entered within the first two years of the date of the creation of the RDA. The advances were made after the first two years of the RDA's creation; therefore, transfer of land to pay the principal and interest cost of the advance is not permitted. Since property is not considered cash or cash-equivalent asset, Finance has made no adjustment to the available balance to the affecting taxing entities for this amount. However, the Agency is required to reverse the improper transfers of property, recover the assets from the City, and describe the planned disposition of the property in its long-range property management plan as required by HSC section 34191.5.

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 \$5,547,965 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,810,389
Finance Adjustments	
Adjustment to June 30, 2012 Balance	\$ (1,208,912)
Disallowed transfers	\$ 670,000
Unallowed balances retained for fiscal year 2012-13	4,276,488
Total OFA available to be distributed:	\$ 5,547,965

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. Ruth Pena, Financial Analyst, City of Visalia
Ms. Rita Woodard, Auditor-Controller, County of Tulare Auditor-Controller
California State Controller's Office