



March 18, 2013

Mr. Tom Bachman, Assistant City Manager
City of West Covina
1444 W. Garvey Ave.
West Covina, CA 91790

Dear Mr. Bachman:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), City of West Covina 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:

- Repayment of city loans totaling \$12.2 million restricted in Procedure 6 is disallowed. It is our understanding these repayments of principal and interest occurred from January 2011 through January 2012. HSC section 34171(d) (2) states that agreements and contracts between the city, county, or city that created the RDA are not enforceable obligations, unless issued within two years of the RDA's creation date. In addition, funding for these items were denied in our letters dated May 31, 2012 and October 14, 2012. Finance's determination for these items were further confirmed in our December 18, 2012 Meet and Confer Determination letter. Therefore, the OFA balance available for distribution to the taxing entities will be adjusted by \$12.2 million.

After the Agency receives a Finding of Completion from Finance, these loans may become enforceable and eligible to be repaid through the Recognized Obligation Payment Schedule (ROPS) process.

- Your request to retain \$680,368 related to ROPS 1 expenditures is partially denied. Included in this balance are pass through payments totaling \$625,492, bond fiscal agent fees totaling \$14,896, and arbitrage liability fees totaling \$39,980. Per discussion with Agency staff; the county auditor controller has since paid \$456,809 of the pass through payments, thus leaving a pass through balance of only \$168,683. Therefore, Finance is allowing the retention of \$223,559 (\$14,896 bond fiscal agent fees, \$39,980 arbitrage

liability, and \$168,683 unpaid pass through). As such, the OFA balance available for distribution to the taxing entities will be adjusted by \$456,809.

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 \$11,578,351. (See table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (1,083,989)
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 12,205,531
Requested retained balance not supported:	456,809
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Total OFA available to be distributed:	\$ 11,578,351

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, 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 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 Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish at the end.

STEVE SZALAY
Local Government Consultant

cc: Ms. Denise Bates, Accounting Manager, City of West Covina
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office