



March 26, 2013

Mr. Martin Tuttle, City Manager  
City of West Sacramento  
1110 West Capitol Avenue  
West Sacramento, CA 95691

Dear Mr. Tuttle:

Subject: Other Funds and Accounts Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the West Sacramento successor agency (Agency) submitted an oversight board approved Other Funds and Accounts (OFA) Due Diligence Review (DDR) to the California Department of Finance (Finance) January 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. 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 transferred during the period of January 1, 2011 through June 30, 2012 in the amount of \$1,656,097 are not allowable. HSC section 34179.5 (c) (2) only allows asset transfers within this period that are required by enforceable obligation or a real property that meets the definition of governmental use. Specifically:
  - The Agency paid \$1.2 million of the \$2.7 million total purchase price on March 4, 2011 to the Port of West Sacramento (Port), a component of the City of West Sacramento (City), to purchase property. The Oversight Board subsequently recommended that the Agency not continue with the purchase and elected to return the property to the Port via Deed in Lieu of Foreclosure, waiving the remaining payment of \$1.5 million. The Agency received nothing in return for its \$1.2 million, and since the agreement was invalid pursuant to HSC section 34171 (d) (2), the OFA balances available for distribution to the taxing entities will be adjusted by \$1.2 million.
  - Pursuant to the Port Capital Reserve Funding Agreement, \$226,562 and \$229,535 were transferred to the Sacramento-Yolo Port District. The agreement is between the former RDA and a component unit of the City and is not supported by an enforceable obligation. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$456,097.

HSC section 34161 (d) (2) states that agreements, contracts, or arrangements between the city that created the redevelopment agency (RDA) and the former RDA are not enforceable obligations. Upon receiving a Finding of Completion, these City/Agency agreements may become enforceable and eligible for funding through the ROPS process.

- Balances requested to be retained in the amount of \$11.6 million should be adjusted by \$3.1 million. Specifically,
  - The Agency requested to retain \$2.5 million for the pass-through payments for the period of July through December 2012 (ROPS II). These payments were made directly by the County Auditor Controller. The Agency did not receive the associated funding for these payments and it was not included in the Agency's DDR total asset balance. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$2.5 million.
  - The Agency requested to retain \$601,494 for fiscal year 2012-13 obligations. This amount was included in the January through June 2013 ROPS III expenditures that were approved with Redevelopment Property Tax Trust Fund (RPTTF) funding. Since the County Auditor Controller distributed RPTTF for approved ROPS III obligations on January 2, 2013, after the June 30, 2012 OFA balances delineated in the DDR, it is inappropriate for the Agency to retain current OFA balances for obligations that have already been funded through a separate process. Therefore, the OFA balances available for distribution to the taxing entities will be adjusted by \$601,494.

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/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's OFA balance available for distribution to the affected taxing entities is \$4,788,718 (see table below).

OFA Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 1,656,097
Request to retain balance not supported:	3,132,621
Total OFA available to be distributed:	\$ 4,788,718

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 Wendy Griffe, Supervisor or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Paul Blumberg, Public Finance Manager, City of West Sacramento  
Mr. Howard Newens, Auditor-Controller, County of Yolo  
California State Controller's Office