



REVISED

May 6, 2013

Mr. Greg Franklin, Director of Administrative Services  
City of Yucaipa  
34272 Yucaipa Boulevard  
Yucaipa, CA 92399

Dear Mr. Franklin:

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 21, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Yucaipa Successor Agency (Agency) submitted an oversight board approved OFA DDR to Finance on January 15, 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 21, 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 8, 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 request to restrict funds for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments was previously decreased by \$878,768. During the Meet and Confer process, the Agency provided additional information showing the adjustment should be reversed as further discussed below:
  - Pass-through payments to taxing entities totaling \$370,368 in the Recognized Obligation Payment Schedule (ROPS) for the period January through June 2012 were not allowed. During the Meet and Confer process, the Agency provided additional documentation showing that \$370,368 was paid on July 3, 2012 for pass-through payments. Therefore, Finance is reversing the \$370,368 adjustment.
  - As identified in the DDR, there is no documentation to support \$64,641 accounts payable as of June 30, 2012. During the Meet and Confer process, the Agency provided additional documentation to support \$10,981 in expenditures and a \$53,750 abatement to accounts payable. Therefore, Finance is reversing the \$64,641 adjustment.
  - The loan payable to the City of Yucaipa (City) in the amount of \$443,759 was not allowed. During the Meet and Confer process, the Agency provided additional

information showing that the receivable from the City was included in the beginning balance and the restriction was the corresponding payable. However, the funds were never transferred from the City to the former Redevelopment Agency. The entries should have been reversed and not included in the DDR. Therefore, Finance is reversing its adjustment of \$443,759.

- The request to retain balances for fiscal year 2012-13 enforceable obligations is partially approved and the available amount to distribute is increased by \$131,748 (\$969,721 - \$837,973) as discussed below:

For the July through December 2012 ROPS period (ROPS II), Finance approved \$785,026 and the County Auditor Controller (CAC) distributed \$373,727 from the Redevelopment Property Tax Trust Fund (RPTTF); the CAC determined that the RPTTF covered \$329,994 of the enforceable obligations and \$43,734 of the administrative costs. However, the Agency reported actual ROPS II expenditures of \$386,106 for approved enforceable obligations and \$127,839 for administrative costs on the July through December 2013 ROPS (ROPS 13-14A). This resulted in \$56,112 (\$386,106 - \$329,994) in expenditures from the OFA balances to cover the shortfall for enforceable obligations.

For the administrative costs, Finance approved \$189,110 for the January through June 2013 period (ROPS III), which means the Agency was eligible for \$60,890 in administrative costs for the ROPS II period (\$250,000 allowable for fiscal year 2012-13 minus \$189,110 ROPS III approved). Because the CAC reported \$43,734 was paid from the RPTTF, then the remaining amount \$17,156 (\$60,890 - \$43,734) could be paid from OFA balances. In addition, Finance approved \$494,753 to be expended and the Agency reported actual expenditures of \$390,978 from OFA balances for the ROPS II period. The Agency will be allowed to retain \$390,978 in actual expenditure from OFA for the ROPS II period. Therefore, the Agency may retain a total of \$837,973 (\$373,727 + \$56,112 + \$17,156 + \$390,978) for the ROPS II period.

Finance notes that HSC section 34177 (a) (3) states that only those payments listed in the approved ROPS may be made from the funding source specified in the ROPS. However, HSC section 34177 (a) (4) goes on to state that with prior approval from the oversight board, the successor agency can make payments for enforceable obligations from sources other than those listed in the ROPS. In the future, the Agency should obtain prior oversight board approval when making payments for enforceable obligations from a funding source other than those approved by Finance.

For the January through June 2013 ROPS period (ROPS III), Finance approved and the CAC distributed \$477,503 from the RPTTF. The CAC did not make any adjustments for the January through June 2012 (ROPS I) period to the ROPS III January 2, 2013 distribution pursuant to HSC section 34186 (a). As such, the Agency received sufficient funds from the RPTTF to cover all of the approved expenditures in the ROPS III period and it is unnecessary for the Agency to retain current OFA balances for obligations that have already been funded through a separate process.

- Additionally, Finance identified real property transfers to the City totaling \$161,537 made without oversight board or Finance approval. However, Finance has made no adjustment to the amount available for distribution to the affected taxing entities since the properties are not considered cash or cash equivalent assets. Furthermore, we noted that properties were transferred back to the Agency in December 2012.

The Agency's OFA balance available for distribution to the affected taxing entities is \$228,515 (see table below).

<b>OFA Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 96,767
Finance Adjustments	
Add:	
Requested retained balances not supported	\$ 131,748
<b>Total OFA available to be distributed:</b>	<b>\$ 228,515</b>

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.

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Please direct inquiries to Evelyn Sues, Supervisor or Mary Halterman, Analyst at  
(916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Mr. Dustin Gray, Accounting Manager, City of Yucaipa  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office