



November 22, 2013

Ms. Laura Gutierrez, Finance Director
City of Imperial
420 South Imperial Avenue
Imperial, CA 92251

Dear Ms. Gutierrez:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Imperial Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to the California Department of Finance (Finance) on October 10, 2013 for the period of January through June 2014. Finance has completed its review of your ROPS 13-14B, which may have included obtaining clarification for various items.

HSC section 34171 (d) defines enforceable obligations. Based on a sample of line items reviewed and application of the law, the following do not qualify as enforceable obligations for the reasons specified:

- Item No. 1 - 2005 Tax Allocation Bond (TAB) payment in the amount of \$548,925. The Agency requested \$548,925 of Redevelopment Property Tax Trust Funds (RPTTF) funding to pay June 1, 2014 debt service interest payments for the 2005 and 2007 TABs. The Agency incorrectly listed the payment for both bonds as Item No. 1. Our review of the debt service schedule obtained from the 2007 Official Statement noted that a total of \$523,777 is due for the ROPS 13-14B period which includes \$174,519 for the 2005 TAB and \$349,258 for the 2007 TAB. Although this item is considered an enforceable obligation, the Agency is requesting RPTTF in excess of the amount needed for the ROPS 13-14B period. Therefore, the requested RPTTF funding is adjusted by \$25,148 to \$523,777.
- Item No. 4 – Redevelopment Projects in the amount of \$1,129,463 of bond funds. According to a public facilities construction agreement between the County of Imperial (County) and the redevelopment agency (RDA) amended on May 17, 2011, the County was required to execute contracts for the seven remaining projects by June 30, 2011. A County letter was provided to show the County was submitting the contracts and purchase orders executed for the remaining projects to the RDA. However, the payee listed on ROPS 13-14B is the City of Imperial, not the County; therefore, this item is denied funding from the former RDA's bond proceeds.
- Item Nos. 6 and 8 – Housing Bond Fund projects totaling \$2,909,000 in bond proceeds funding. Based upon the description/project scope on ROPS 13-14B, the Agency is requesting to use bonds issued to fund low to moderate income projects. Pursuant to HSC section 34176 (g) (1) (B), the housing successor agency shall provide notice to the

Agency of any designations of use or commitments of housing bond proceeds at least 20 days before to the deadline for submission of the Recognized Obligation Payment Schedule (ROPS) to the Oversight Board (OB) and these designations and commitments shall not be valid and binding on any party until they are included in an approved and valid Recognized Obligation Payment Schedule. The Agency has not demonstrated their compliance with these requirements.

In addition, ROPS 13-14B indicates the payees are the City and not the third parties listed in the agreements. The Agency did not provide clarification upon Finance's request to identify the payee discrepancies and how the Agency intends to use the former RDA's unspent bond proceeds. Therefore Item Nos. 6 and 8 are not enforceable obligations at this time.

- Item Nos. 5, 7, and 9 – Project Management Costs totaling \$323,077. Because Item Nos. 4, 6, and 8 are not enforceable obligations, the project management costs associated with these projects are also not enforceable. Therefore, the following item numbers and amounts are not eligible for RPTTF funding at this time:
 - Item No. 5 – \$90,357.
 - Item No. 7 – \$104,000.
 - Item No. 9 – 128,720.

- Item No. 10 – Imperial Truss and Hardware in the amount of \$30,000. The Agreement provided by the Agency for this item is between the former RDA and Raul and Maria Parra; however, the payee listed on ROPS 13-14B is the City of Imperial, not the party in the Agreement. Therefore, this is not an enforceable obligation on this ROPS.

Pursuant to HSC Section 34186 (a), successor agencies were required to report the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. The amount of RPTTF approved in the table below includes the prior period adjustment that was self-reported by the Agency. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the county auditor-controller (CAC) and the State Controller. Any proposed CAC adjustments were not received in time for inclusion in this letter. Therefore, the amount of RPTTF approved in the table below includes only the prior period adjustment that was self-reported by the Agency.

Except for the items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14B. If you disagree with the determination with respect to any items on your ROPS 13-14B, 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 maximum approved RPTTF distribution for the reporting period is \$648,777 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014	
Total RPTTF requested for non-administrative obligations	902,002
Total RPTTF requested for administrative obligations	125,000
Total RPTTF requested for obligations	\$ 1,027,002
Total RPTTF requested for non-administrative obligations	902,002
Denied Items	
Item No. 1	(25,148)
Item No. 5	(90,357)
Item No. 7	(104,000)
Item No. 9	(128,720)
Item No. 10	(30,000)
	<u>(378,225)</u>
Total RPTTF approved for non-administrative obligations	523,777
Total RPTTF approved for administrative obligations	125,000
Total RPTTF approved for obligations	648,777
Total ROPS III PPA	-
Total RPTTF approved for distribution	\$ 648,777

Pursuant to HSC section 34177 (l) (1) (E), agencies are required to use all available funding sources prior to RPTTF for payment of enforceable obligations. Beginning with the ROPS 13-14B period, Finance required successor agencies to identify fund balances for various types of funds in its possession. During our ROPS 13-14B review, Finance requested financial records to support the fund balances reported by the Agency; however, Finance was unable to reconcile the financial records to the amounts reported. As a result, Finance will continue to work with the Agency after the ROPS 13-14B review period to properly identify the Agency's fund balances. If it is determined the Agency possesses fund balances that are available to pay approved obligations, the Agency should request the use of these fund balances prior to requesting RPTTF in ROPS 14-15A.

Please refer to the ROPS 13-14B schedule that was used to calculate the approved RPTTF amount:

[http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14B Forms by Successor Agency/.](http://www.dof.ca.gov/redevelopment/ROPS/ROPS%2013-14B%20Forms%20by%20Successor%20Agency/)

Absent a Meet and Confer, this is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2014. This determination applies only to items where funding was requested for the six month period. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the

ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010 exist and are not encumbered by an enforceable obligation pursuant to HSC section 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Howard', with a long horizontal stroke extending to the left.

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. George Galvan, Planning & Development Director, City of Imperial
Ms. Ann McDonald, Property Tax Manager, Imperial County
California State Controller's Office