DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. ▪ GOVERNOR
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November 6, 2013

Ms. Donna Mullally, Manager of Fiscal Services
City of Irvine
1 Civic Center Place
Irvine, CA 92623

Dear Ms. Mullally:

Subject: Recognized Obligation Payment Schedule

Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Irvine Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14B) to the California Department of Finance (Finance) on September 25, 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. 10 – Rutan & Tucker, LLP Legal Services in the amount of $125,000. HSC 34171 (d) (1) (F) provides that contracts involving litigation are enforceable obligations. However, no documentation was provided to support the amounts claimed. Therefore, this item is not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

- Item No. 13 – Amended Development Agreement in the amount of $1,430,000,000. Finance continues to deny this item. This item was previously denied following Meet and Confer sessions held on November 27, 2012 and April 22, 2013. HSC section 34177.3 (a) states that successor agencies shall lack the authority to, and shall not, create new enforceable obligations or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011. Currently, there are no contracts in place and therefore, no enforceable obligations existed prior to June 28, 2011. While the Development Agreement was entered into prior to June 28, 2011 by the former redevelopment agency (RDA), it is not specific as to the total amount to be committed to the project. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- Item No. 14 - Affordable Housing Grant Agreement in the amount of $470,000,000. Finance continues to deny this item. This item was previously denied following Meet and Confer sessions held on November 27, 2012 and April 22, 2013. HSC section 34177 (d) requires that all unencumbered balances in the Low and Moderate Income Housing Fund

be remitted to the county auditor-controller for distribution to the taxing entities. The agreement was to use Housing Set Aside Funds, which no longer exist.

Furthermore, the grant agreement is between the former RDA and the City of Irvine (City) as defined by HSC section 34167.10. Specifically, the Irvine Community Land Trust (ICLT) was created by the City, there are overlapping governing boards in that the President of the ICLT is a member of the City Council, and the ICLT performs functions customarily or historically performed by municipalities. Therefore, this item is not an enforceable obligation and is not eligible for RPTTF funding.

- The Agency's claimed administrative costs exceed the allowance by $136,200. HSC section 34171 (b) limits the fiscal year 2013-14 administrative expenses to three percent of property tax allocated to the Agency or $250,000, whichever is greater. The Orange County Auditor-Controller's Office distributed $220,000 in administrative costs for the July through December 2013 period, thus leaving a balance of $30,000 available for the January through June 2014 period. Although $166,200 is claimed for administrative cost, only $30,000 is available pursuant to the cap. Therefore, $136,200 of excess administrative cost is not allowed.

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14B form the estimated obligations and actual payments (prior period adjustments) associated with the January through June 2013 period. 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. The amount of RPTTF approved in the below table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

Except for 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 $1,110,748 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2014		
Total RPTTF requested for non-administrative obligations		8,745,500
Total RPTTF requested for administrative obligations		166,200
Total RPTTF requested for obligations	**$**	**8,911,700**
Total RPTTF requested for non-administrative obligations		**8,745,500**
Denied Items		
Item No. 10		(125,000)
Item No. 13		(5,870,500)
Item No. 14		(1,250,000)
		(7,245,500)
Total RPTTF approved for non-administrative obligations		**1,500,000**
Total RPTTF allowable for administrative obligations (see Admin Cost Cap table below)		**30,000**
Total RPTTF approved for obligations		**1,530,000**
Total ROPS III Prior Period Adjustment		(419,252)
Total RPTTF approved for distribution	**$**	**1,110,748**

Administrative Cost Cap Calculation	
Total RPTTF for 13-14A (July through December 2013)	235,000
Total RPTTF for 13-14B (January through June 2014)	1,500,000
Total RPTTF for fiscal year 2013-14	**1,735,000**
Allowable administrative cost for fiscal year 2013-14 (Greater of 3% or $250,000)	250,000
Administrative allowance for 13-14A (July through December 2013)	220,000
Allowable RPTTF distribution for administrative cost for ROPS 13-14B	**30,000**

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/.

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 Nichelle Thomas, Supervisor or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Ms. Teri Washle, Finance Administrator, City of Irvine
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office