



May 17, 2013

Ms. Dena Fuentes, Director
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, CA 92415-0043

Dear Ms. Fuentes:

Subject: Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS 13-14A) letter dated April 14, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the County of San Bernardino Successor Agency (Agency) submitted a ROPS 13-14A to Finance on February 28, 2013 for the period of July through December 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on May 1, 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 the specific item being disputed.

- Item Nos. 27 and 49 – Housing Set-Aside loans totaling \$5.5 million is not allowed at this time. Finance continues to deny these items.
 - Item 27 – Rosemary and Iris repayment in the amount of \$3.1 million. It is our understanding the Agency inadvertently listed this on ROPS 13-14A and will withdraw this line item as the payment has already been made pursuant to Finance's ROPS III approval. Therefore, this item is not an enforceable obligation and not eligible for Redevelopment Property Tax Trust Funding (RPTTF) funding.
 - Item 49 – 20 percent housing loan repayment totaling \$2.4 million. It is our understanding; this is a loan the Agency wishes to reinstitute with the County upon receipt of a Finding of Completion from Finance. However, HSC section 34176 (e) (6) (B) specifies loan or deferral repayments to the Low and Moderate Income Housing Fund shall not be made prior to the 2013-14 fiscal year. While ROPS 13-14A technically falls within fiscal year 2013-14, the repayment of these loaned amounts is subject to the repayment formula outlined in HSC section 34176 (e) (6) (B).

HSC section 34176 (e) (6) (B) allows this repayment to be equal to one-half of the increase between the ROPS residual pass-through distributed to the taxing entities in that fiscal year and the ROPS residual pass-through distributed to the

taxing entities in the 2012-13 base year. Since the formula does not allow for estimates, the Agency must wait until the ROPS residual pass-through distributions are known for fiscal year 2013-14 before requesting funding for Item 49, Housing Set-Aside loan totaling \$2.4 million. Therefore, the Agency may be able to request funding for the repayment of Housing Set-Aside loans beginning with ROPS 14-15A.

- Item No. 35 – Public Improvement Projects in the amount of \$2.1 million, payable from Bond Proceeds. Finance no longer objects to this item. Finance originally denied this item because the project was not within the redevelopment project area. During the Meet and Confer session, the Agency stated an agreement was entered into with the City of Fontana on May 12, 2010 to construct capital street improvement along San Bernardino Avenue within the County San Sevaine redevelopment project area. Finance review the map of the redevelopment project area and determined the project is within the redevelopment project area. Therefore, this line item is an enforceable obligation and is eligible for funding on the ROPS.
- Item Nos. 42 and 44 through 48 – Various loan agreements between San Bernardino County and the Agency, totaling \$18.6 million. Finance continues to deny these items. During the Meet and Confer session, the Agency states, the special district items totaling \$9 million represent the unspent bond proceeds of loans from the County General Fund. The Agency contends these agreements are enforceable obligations because the rate payers are third party beneficiaries. In regards to the \$9.6 million loan, the Agency wishes to reinstitute the loan upon receiving a Finding of Completion.

HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the county that created the RDA and the former RDA are not enforceable, unless issued within two years of the RDA's creation date or for issuance of indebtedness to third-party investors or bondholders. These loans were issued after the first two years of the former RDA's creation and are not associated with the issuance of debt. Therefore these items are not enforceable obligations and not eligible for funding on the ROPS.

Upon receiving a Finding of Completion from Finance, and after the oversight board makes a finding the loan was for legitimate redevelopment purpose, HSC section 34191.4(b) may cause these items to be enforceable in future ROPS.

- Claimed administrative costs exceed the allowance by \$66,500. HSC section 34171 (b) limits administrative expenses to three percent of property tax allocated to the successor agency or \$250,000, whichever is greater. As a result, the Agency is eligible for \$250,000 in administrative expenses. Although, \$125,000 is claimed for administrative costs, Item Nos. 9, 13, 16, 18, 20 and 23, totaling \$191,500 are considered administrative expenses and should be counted towards the cap. Therefore, \$66,500 of excess administrative cost claimed is not allowed.

The Agency contends that these items are enforceable obligations because of the following reasons:

- Item Nos. 9, 18, and 20 – Financial Consulting and Legal Services totaling \$282,094. Finance continues to reclassify these items as administrative expenses. The Agency contends that these items are expenses for financial consulting, county legal, and outside legal consultants who will be assisting the

Agency on asset disposition and bond related issues. Upon review of the contracts, they do not specifically describe the services to be performed that would allow these items to be counted outside the cap. As such, these items are considered general and administrative expenses.

- Item No. 16 – Salaries and Benefits costs in the amount of \$836,400. Finance considers this item as administrative expense. Finance originally denied \$100,500 in RPTTF funding because these administrative expenses appears to be housing related. During the Meet and Confer session, the Agency stated the expense is attributed to staff working directly on dissolution act required projects, such as maintenance and disposition of property and other approved enforceable obligations. Upon clarification with Agency staff, staff time will be spent on working on AB 26 and 1484 mandated projects such as ROPS preparation, bond and disclosure audit reporting, oversight board actions, property management oversight, future work on the long range property management plan, and financial wind down analysis and reporting. However, with no description of the task or work to be performed, it is unclear how these salaries and benefits expenses should be considered outside the cap. As such, \$100,500 is considered a general and administrative expense and has been reclassified.
- Item No. 23 – Financial Advisory and Audit Services in the amount of \$98,492. Finance continues to reclassify this item as an administrative expense. The Agency contends that this item is consultant fees required by bond covenants. The contract provided lists general and administrative expenses as scope of work to be performed. As such, these items are considered general and administrative expenses.

HSC section 34171(b) defines items that shall be specifically excluded from the administrative cap as:

- Any litigation expenses related to assets or obligations
- Settlements and judgments
- The costs of maintaining assets prior to disposition
- Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs

Although enforceable, the following item was not contested by the Agency and continues to be reclassified as an administrative expense:

- Item 13 – County cost allocation in the amount of \$52,000.
- Item Nos. 11, 19, 21, and 25. Finance no longer reclassifies the following items to general and administrative expenses:
 - Item 11 – Litigation in the amount of \$250,000. The Agency requested \$100,000 to be funded with RPTTF on the ROPS. The Agency provided an invoice for the litigation costs claimed; however, only \$43,678 was supported. Therefore, \$43,678 is an enforceable obligation and eligible for RPTTF funding. The remaining \$56,322, was unsupported, as such, this amount is not an enforceable obligation and not eligible for RPTTF funding.

- Item Nos. 19 and 21 – Financial Advisory and Audit Services totaling \$598,763. Upon review of additional support provided, it appears these items are related to bond services, therefore Finance considers these items enforceable obligations and eligible for RPTTF funding.
- Item 25 – Property maintenance services in the amount of \$386,714. Upon clarification from the Agency the property maintenance is for disposition of assets. Therefore, Finance no longer considers this item a general and administrative expense. As such, this item is an enforceable obligation and eligible for RPTTF funding.

Except for items denied in whole or in part as enforceable obligations, Finance is not objecting to the remaining items listed on your ROPS 13-14A. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for July through December 2013. Finance's determination is effective for this time period only and should not be conclusively relied on 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 Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is \$4,062,681 as summarized below:

Approved RPTTF Distribution Amount	
For the period of July through December 2013	
Total RPTTF funding requested for obligations	\$ 4,431,337
Minus: Six-month total for items denied or reclassified as administrative cost	
Item 9*	5,000
Item 11	56,322
Item 13*	26,000
Item 16*	100,500
Item 18*	25,000
Item 20*	15,000
Item 23*	20,000
Item 45	284,529
Item 46	8,516
Item 47	2,151
Item 48	1,472
Item 49	74,166
Total approved RPTTF for enforceable obligations	\$ 3,812,681
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost	250,000
Minus: ROPS II prior period adjustment	-
Total RPTTF approved for distribution:	\$ 4,062,681

*Reclassified as administrative cost

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 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 above table includes the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment.

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

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

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. 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 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 Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Gary Hallen, Deputy Director of Community Development and Housing, San Bernardino County
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office