

November 6, 2012

Ms. Jessica Hurst, Accounting Manager  
City of Colton  
650 North La Cadena Drive  
Colton, CA 92324

Dear Ms. Hurst:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Colton Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 11, 2012. 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 Low and Moderate Income Housing Fund (LMIHF) available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- The Colton Crossing and Fly Mitigation Land projects totaling \$3.2 million. Based on our review, these projects were not low and moderate income housing projects, and the LMIHF should not have been transferred to the City to pay for the projects. Therefore, the transfer of the \$3.2 million to the City is disallowed.
- Statutory pass-through payments in the amount of \$1 million. These payments were identified on Attachment B3 of the DDR for the February 1, 2012 through June 30, 2012 period. It was determined that pass-through payments listed on the Recognized Obligation Payment Schedule (ROPS) for the January 1, 2012 through June 30, 2012 period were paid from the Redevelopment Property Tax Trust Fund (RPTTF), not LMIHF. Therefore, the transfers of \$1 million to other public agencies are disallowed.
- The restriction of LMIHF balances totaling \$1 million. The ROPS for the periods of July 1, 2012 through December 31, 2012 and January 1, 2013 through June 30, 2013 did not identify any enforceable obligations to be funded by the LMIHF. Therefore, the request to retain funding for these items is not supported.

If you disagree with Finance's adjusted amount of LMIHF 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 LMIHF balance available for distribution to the affected taxing entities is \$5,210,233 (see table below). Pursuant to HSC 34179.6 (h) (1) (B), 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.

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ (6,031)
Finance Adjustments	
Add:	
Disallowed transfers	\$ 4,208,199
Requested retained balances not supported	1,008,065
<b>Total LMIHF available to be distributed:</b>	<b>\$ 5,210,233</b>

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.

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, that taxing entity's failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 and Finance's Housing Assets Transfer letter dated September 11, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending from the end of the signature.

STEVE SZALAY  
Local Government Consultant

cc: Ms. Bonnie Johnson, Management Services Director, City of Colton  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County