



May 17, 2018

Mr. William Garay, Director of Finance
Inland Valley Development Agency
1601 East Third Street, Suite 100
San Bernardino, CA 92408

Dear Mr. Garay:

Subject: 2018-19 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 13, 2018. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the Inland Valley Development Agency Successor Agency (Agency) submitted an annual ROPS for the period of July 1, 2018 through June 30, 2019 (ROPS 18-19) to Finance on January 31, 2018. The Agency requested a Meet and Confer on one or more of the determinations made by Finance. The Meet and Confer was held on May 1, 2018.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer, Finance has completed its review of the specific determinations being disputed.

- Item Nos. 53, 72, 89, and 100 – Reimbursement of the July 2012 True-Up Payment, outstanding obligation amounts totaling \$1,594,500. Finance continues to deny these items. As stated in our previous determination letters, these duplicative items represent the \$797,250 True-up payment paid to the San Bernardino County Auditor-Controller (CAC) per the Notice for Demand Letter dated July 9, 2012. Finance has consistently denied these items because the July 2012 True-Up process was in place to collect residual pass-through payments owed to the affected taxing entities for the January through June 2012 period. During the Meet and Confer, the Agency contended payment had already been made to the school districts and was then required to pay the CAC for the July 2012 True-Up again. However, Finance does not have authority to make a determination in regards to an overpayment to the CAC because this item is not tied to an enforceable obligation as defined in HSC section 34171 (d). Therefore, these items are not enforceable obligations and the total requested amount of \$1,594,500 from Redevelopment Property Tax Trust Fund (RPTTF) is not allowed as specified in the table below:

Item No.	Project Name/ Debt Obligation	RPTTF Requested	RPTTF Adjusted	RPTTF Approved
53	Reimbursement – 7/12/12 True-up Payment	\$ 0	\$ 0	\$ 0
72	Reimbursement – True-up Payment	0	0	0
89	Reimbursement – True-up Payment	797,250	797,250	0
100	Reimbursement – True-up Payment	797,250	797,250	0
Total		\$ 1,594,500	\$ 1,594,500	\$ 0

- Finance initially reclassified \$1,496,243 in RPTTF funding based on our review of the Cash Balance form. On the ROPS 18-19 form, the Agency reported cash balances and activity for the period July 1, 2015 through June 30, 2016 (ROPS 15-16). Our initial review identified the Agency has approximately \$1,248,182 in RPTTF unexpended from the ROPS 15-16 period and approximately \$248,061 in Other Funds, totaling \$1,496,243, available to fund enforceable obligations on the ROPS 18-19. These unexpended RPTTF funds are considered Reserve Balances. After additional documentation was provided to Finance during the Meet and Confer, it was determined that \$38,881 in Reserve Balances is available. Therefore, the funding source for the following item has been reclassified from RPTTF to Reserve Balances in the amount specified below:
 - Item No. 58 – Perris Campus Plaza, LLC, in the amount of \$50,000 is partially reclassified. This item does not require payment from property tax revenues. Therefore, Finance is approving RPTTF in the amount of \$11,119 and the use of Reserve Balances in the amount of \$38,881, totaling \$50,000.

While only \$38,881 in Reserve Balances is actually available, Finance notes that \$1,248,182 should have been available after accounting for the ROPS 14-15A and B prior period adjustments and the ROPS 15-16A and B RPTTF distributions and expenditures. The Agency should account for the \$1,209,301 (\$1,248,182 - \$38,881) in unreconciled Reserve Balances in the upcoming ROPS 19-20 period. Absent an accountability for these funds, Finance will assume these funds are available for use in the ROPS 19-20 period.

Finance notes the Agency requested several items that are the subject to pending litigation be reconsidered during the ROPS 18-19 Meet and Confer review. Pursuant to HSC section 34177 (m) (1), items that have been previously denied by Finance and are the subject of current litigation are ineligible for Meet and Confer.

In addition, per Finance's letter dated April 13, 2018, we continue to make the following determinations not contested by the Agency during the Meet and Confer:

- Item Nos. 13, 96, 97, and 104 – Airport Operations, requested amounts totaling \$45,865,410 are not allowed. Since Item No. 13 is currently the subject of litigation, the item will continue to be denied until the matter is resolved. Further, since Item Nos. 96, 97, and 104 are duplicates of Item No. 13 (repetitive requests for funding for the same item), these items will also continue to be denied. Therefore, the requested amount of \$45,865,410 (\$16,587,738 + \$5,500,000 + \$7,189,934 + \$16,587,738) in RPTTF is not allowed.
- Item Nos. 91 and 101 – ROPS 15-16B Shortfall, outstanding obligation amounts totaling \$1,516,400, are not allowed. Finance continues to deny these items. This was the subject of litigation for which the trial court ruled against the Agency. Therefore, these duplicative items are not enforceable obligations and the total requested RPTTF funding in the amount of \$1,516,400 (\$758,200 + \$758,200) is not allowed. Finance is retiring these line items from the ROPS template.

- Item Nos. 19, 98, 99, and 105 – Transition Costs Obligations, requested amounts totaling \$12,817,568, have been adjusted. According to the Settlement Agreement between Finance, the Agency, San Bernardino International Airport Authority (SBIAA), and the San Bernardino County Employees Retirement Association (SBCERA), executed on February 26, 2018, Finance will approve Item No. 19 for up to \$3,204,392; Item Nos. 98, 99, and 105 are duplicates of Item No. 19. Therefore, these duplicated line items, requested amounts totaling \$9,613,176 (\$12,817,568 - \$3,204,392), are ineligible for RPPTF funding as specified in the table below:

Item No.	Project Name/ Debt Obligation	RPTTF Requested	RPTTF Adjusted	RPTTF Approved
19	Transition Cost Obligations	\$ 3,204,392	\$ 0	\$3,204,392
98	Transition Cost Obligations	3,204,392	3,204,392	0
99	Transition Cost Obligations - Shortfall	3,204,392	3,204,392	0
105	Transition Cost Obligations	3,204,392	3,204,392	0
Total		\$12,817,568	\$9,613,176	\$3,204,392

Finance is retiring Items Nos. 98, 99, and 105 from the ROPS as these are no longer required.

- Item Nos. 59, 92, 93, 102, 107, and 108 – Base Reuse/Military Base Reuse Contract, outstanding obligation amounts totaling \$119,848,855, are not allowed. Finance continues to deny these items. Finance has consistently denied the Military Base Reuse Contract because the Agency was unable to provide documentation to support the amount requested. Finance took into consideration the following documents provided by the Agency during our previous reviews:
 - o Settlement Agreement between the Inland Valley Development Agency (IVDA), Finance, and the California State Controller's Office, dated February 27, 2014
 - o Amended Joint Powers Authority (JPA) Agreement, dated February 12, 1990
 - o Letter from the Department of the Air Force, dated May 13, 2014
 - o Indenture of Trust between the Agency and US Bank National Association, dated May 1, 2014, and an Official Statement, both related to the Agency's 2014 Tax Allocation Refunding Bonds

These documents do not establish the existence of any enforceable obligation requiring the Agency to make payments to the IVDA JPA.

During the ROPS 17-18 review, the Agency provided an excerpt from the Military Base Reuse and Airport Financing Agreement between the IVDA and SBIAA, a list of Short-, Mid-, and Long-Term Development Projects, and a schedule of Proposed Projects to support the request. However, these documents do not establish the existence of any enforceable obligation requiring the Agency to make payment. Further, the Agency did not provide any new or additional documentation for review during the ROPS 18-19 to support the amounts requested. Therefore, these items are not enforceable obligations and the requested amounts totaling \$13,042,060 have been adjusted to zero, as specified in the table on the next page.

Item No.	Project Name/ Debt Obligation	RPTTF Requested	RPTTF Adjusted	RPTTF Approved
59	Base Reuse JPA	\$ 0	\$ 0	\$0
92	Military Base Reuse Contract	0	0	0
93	Military Base Reuse Contract	0	0	0
102	Military Base Reuse Contract	3,980,276	3,980,276	0
107	Military Base Reuse Contract	4,650,372	4,650,372	0
108	Military Base Reuse Contract	4,411,412	4,411,412	0
Total		\$13,042,060	\$13,042,060	\$0

- Item No. 103 – Pass-Through Agreements; outstanding obligation amount totaling \$83,804,573, is not allowed. Finance continues to deny this item. As stated in our previous determination letters, it is our understanding this item relates to member entity contributions to the IVDA JPA pursuant to a certain JPA and Cooperation Agreement. The Agency is requesting RPTTF funding on the ROPS for the JPA Contributions or, as an alternative, requests Finance’s confirmation to the CAC that Finance approves of such payments to be made by the CAC as pass-through payments or as enforceable obligations.

Finance notes member entity contributions to a JPA are outside the provisions of dissolution law and such contributions do not require the allocation of RPTTF. Therefore, as this item does not fall within the definition of an enforceable obligation pursuant to HSC section 34171 (d), Finance does not have the authority to make such confirmation to the CAC. Therefore, this item is not an enforceable obligation and the total requested RPTTF funding in the amount of \$4,410,768 is not allowed.

- Item No. 106 – Litigation Costs; total outstanding obligation amount of \$275,000 is not allowed. Per HSC section 34171 (d) (1) (F), a sponsoring entity may provide funds to an agency for payment of legal expenses related to civil actions initiated by an agency, including writ proceedings, contesting the validity of this part or Part 1.8 (commencing with Section 34161) or challenging acts taken pursuant to these parts. If an agency obtains a final judicial determination granting the relief requested in the action, the funds provided by the sponsoring entity for legal expenses related to successful causes of action pled by the agency shall be deemed an enforceable obligation for repayment under the terms set forth in subdivision (h) of Section 34173. If the agency does not receive a final judicial determination granting the relief requested, the funds provided by the sponsoring entity shall be considered a grant by the sponsoring entity and shall not qualify for repayment as an enforceable obligation.

It our understanding the Agency has other civil actions contesting Finance’s determinations relating to other items on the Agency’s ROPS for which no final judgment has been entered. Further, Section 1 (e) of the Settlement Agreement, dated February 26, 2018, states the parties mutually waive their rights, if any, to attorney fees, costs, interest, including prejudgment interest under Civil Code Section 3287. Therefore, as no final judicial determination has been obtained by the Agency and the Settlement Agreement dated February 26, 2018 requires the all parties to waive their right to legal costs, this item is not an enforceable obligation; the requested RPTTF funding of \$275,000 is not allowed.

- The Agency’s claimed administrative costs exceed the allowance by \$2,523,008. HSC section 34171 (b) (3) limits the fiscal year Administrative Cost Allowance (ACA) to three percent of actual RPTTF distributed in the preceding fiscal year or \$250,000, whichever is greater, not to exceed 50 percent of the RPTTF distributed in the preceding fiscal year. As a result, the Agency’s maximum ACA is \$363,395 for fiscal year 2018-19. Although \$2,886,403 is claimed for ACA, only \$363,395 is available pursuant to the cap. Therefore, as noted in the table below, \$2,523,008 in excess ACA is not allowed:

Administrative Cost Allowance Calculation	
Actual RPTTF distributed for fiscal year 2017-18	\$ 12,477,238
Less distributed Administrative RPTTF	(364,078)
RPTTF distributed for 2017-18 after adjustments	<u>12,113,160</u>
ACA Cap for 2018-19 per HSC section 34171 (b)	363,395
ACA requested for 2018-19	<u>2,886,403</u>
Total ACA	2,886,403
ACA in Excess of the Cap	\$ (2,523,008)

- Finance notes the Agency has consistently added duplicate and, in some cases, triplicate line items to the ROPS to request funding for line items denied in prior ROPS. These actions are unnecessary. Pursuant to HSC section 34178 (c), the Agency or an Oversight Board (OB) are not allowed to restore funding for an obligation that was denied or reduced by Finance. Further, pursuant to HSC section 34177 (m) (1), the Agency is required to complete the ROPS in a manner provided by Finance. On future ROPS, please use existing line items regardless of line item status. Failure to complete the ROPS properly and in a manner provided by Finance may cause the ROPS to be rejected in its entirety and returned to the OB for reconsideration.

The Agency’s maximum approved RPTTF distribution for the reporting period is \$20,220,638 as summarized in the Approved RPTTF Distribution table on Page 7 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1, 2018 through December 31, 2018 period (ROPS A period) and one distribution for the January 1, 2019 through June 30, 2019 period (ROPS B period) based on Finance’s approved amounts. Since this determination is for the entire ROPS 18-19 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

Pursuant to HSC section 34186 (c), beginning October 1, 2018, the Agency will be required to report the estimated obligations versus actual payments (prior period adjustment) associated with the July 1, 2016 through June 30, 2017 period (ROPS 16-17) to the San Bernardino CAC for review. The Agency will report actual payments for ROPS 16-17 on ROPS 19-20. A prior period adjustment may be applied to the Agency’s ROPS 19-20 RPTTF distribution. Therefore, the Agency should retain any unexpended RPTTF from the ROPS 16-17 period.

This is our final determination regarding the obligations listed on the ROPS 18-19. This determination only applies to items when funding was requested for the 12-month period. If a denial by Finance in a previous ROPS is currently the subject of litigation, the item will continue to be deemed denied until the matter is resolved.

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The ROPS 18-19 form submitted by the Agency and this determination letter will be posted on our website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

This determination is effective for the ROPS 18-19 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if not denied on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items 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 available prior to the enactment of redevelopment dissolution law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in the RPTTF.

Please direct inquiries to Cindie Lor, Supervisor, or Jeremy Bunting, Lead Analyst, at (916) 322-2985.

Sincerely,



ERIKA LI
Program Budget Manager

cc: Ms. Alka Chudasama, Accounting Manager, Inland Valley Development Agency
Ms. Linda Santillano, Property Tax Manager, San Bernardino County

Attachment

Approved RPTTF Distribution			
For the period of July 2018 through June 2019			
	ROPS A Period	ROPS B Period	ROPS 18-19 Total
RPTTF Requested	\$ 62,666,873	\$ 33,546,565	\$ 96,213,438
Administrative RPTTF Requested	1,880,006	1,006,397	2,886,403
Total RPTTF Requested	64,546,879	34,552,962	99,099,841
RPTTF Requested	62,666,873	33,546,565	96,213,438
<u>Adjustments</u>			
Item No. 13	(11,087,738)	(5,500,000)	(16,587,738)
Item No. 58	(38,881)	0	(38,881)
Item No. 89	(797,250)	0	(797,250)
Item No. 91	(758,200)	0	(758,200)
Item No. 96	(2,750,000)	(2,750,000)	(5,500,000)
Item No. 97	(4,439,934)	(2,750,000)	(7,189,934)
Item No. 98	(3,204,392)	0	(3,204,392)
Item No. 99	(3,204,392)	0	(3,204,392)
Item No. 100	(797,250)	0	(797,250)
Item No. 101	(758,200)	0	(758,200)
Item No. 102	(1,990,138)	(1,990,138)	(3,980,276)
Item No. 103	(2,205,384)	(2,205,384)	(4,410,768)
Item No. 104	(11,087,738)	(5,500,000)	(16,587,738)
Item No. 105	(3,204,392)	0	(3,204,392)
Item No. 106	(275,000)	0	(275,000)
Item No. 107	(2,325,186)	(2,325,186)	(4,650,372)
Item No. 108	(2,205,706)	(2,205,706)	(4,411,412)
	(51,129,781)	(25,226,414)	(76,356,195)
RPTTF Authorized	11,537,092	8,320,151	19,857,243
Administrative RPTTF Requested	1,880,006	1,006,397	2,886,403
Excess Administrative Costs	(1,516,611)	(1,006,397)	(2,523,008)
Administrative RPTTF Authorized	363,395	0	363,395
Total RPTTF Approved for Distribution	\$ 11,900,487	\$ 8,320,151	\$ 20,220,638