



November 8, 2013

Mr. William Fulton, Director, Planning and Neighborhood Restoration Department  
City of San Diego  
1222 First Avenue, MS 501  
San Diego, CA 92101-4154

Dear Mr. Fulton:

Subject: Oversight Board Action

The City of San Diego Successor Agency (Agency) notified the California Department of Finance (Finance) of its September 24, 2013 Oversight Board (OB) Resolution on September 30, 2013. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, the Agency's OB Resolution OB-2013-12 related to approving the Fifth ROPS 13-14B, the six-month administrative budget of the successor agency, and certain associated actions, is partially approved. In our email to you dated October 18, 2013, Finance indicated that the review of the ROPS 13-14B would have a separate determination letter. Specifically, this determination letter is in connection with the "certain associated actions" that the Agency authorized within this oversight board action.

The partial approval of this action is associated with the following findings:

- All contracts and agreements between the City of San Diego (City) and the former redevelopment agency that are included in ROPS 13-14B were made for legitimate redevelopment purposes and will be of benefit to the taxing entity.
- The Agency is authorized to enter into services contracts, management contracts and similar contracts, and amendments to existing contracts of that nature, for items that are budgeted in the approved ROPS 13-14B, consistent with HSC sections 24171 (d)(1)(F) and 34177.3(b).
- The Agency is authorized to enter into contracts, and amendments thereto, for the expenditure of non-housing bond proceeds that are budgeted in the approved ROPS 13-14B, as permitted by HSC section 34191.4 (c), upon the Successor Agency's receipt of a Finding of Completion pursuant to HSC section 34179.7.

Finance approves the portion of the oversight board action that finds all contracts and agreements between the City and the Former RDA that are included in ROPS 13-14B were made for legitimate redevelopment purposes and will be of benefit to the taxing entity.

HSC section 34177 (l) (2) (A) states that a recognized obligation payment schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency. However, as defined within HSC section 34171 (d) (1), enforceable obligation applies to legally binding and enforceable agreements or contracts, and does not allow for contractual agreements that have not yet been entered into.


Although HSC section 34177 (a) requires the Agency to continue to make payment due for enforceable obligations, and HSC section 34177.3 (b) authorizes the Agency to create new enforceable obligations, the contracts associated with those new obligations must be submitted to Finance for approval. The mere existence of an Agency obligation does not in itself deem it to be enforceable; it is within Finance's authority to determine the enforceability of an obligation. The above items lack the specificity required by Finance for approval.

As there are currently no legally binding and enforceable agreements in place but, rather, the unknown, currently non-existent contracts, Finance denies the portions of this resolution that authorize the Agency to enter into services and/or management contracts, as well as contracts for expenditure of non-housing bond proceeds upon receipt of the Finding of Completion. Finance will continue to require the Agency to abide by HSC section 34179 (e), which states that all actions taken by the oversight board shall be adopted by resolution which must be submitted to Finance for review.

In the event the OB desires to amend the portion of the resolution not approved by Finance, Finance is returning it to the board for reconsideration. However, the Agency can move forward with the portion of the resolution approved by Finance.

Please direct inquiries to Wendy Griffe, Supervisor, or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Sincerely,



JUSTYN HOWARD  
Assistant Program Budget Manager

Cc: Mr. Jeff Graham, President, Civic San Diego  
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego  
California State Controller's Office