



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW



# AB 1484



# True Up Payments

- Pass Through Payments
  - If the RDA, SA or the County did not make the payment, the County will reduce the next round of payments to the SA
- Residual Payments
  - “overpayment” to Agency’s that need to be returned to the County for distribution to the taxing entities



## True Up Timing

- July 9 – CAC demand letter
- July 12 – SA payment due to CAC
- July 16 – CAC distributes money to taxing entities
- July 18 – sales tax payments suspended for non payment



# True Up Issues

- DOF position
  - Anything on ROPS not paid from RPTTF is deducted from the funds received in Jan 2012
- Litigation
  - Apple Valley TRO hearing
- Penalties
  - SA: 10% of the amt owed + 1.5% of the amount owed to taxing entities for each month not paid
  - City faces same penalty



# Due Diligence Review

- SA employs accountant to determine amount of unencumbered funds available for transfer to taxing entities
  - Review due to DOF, OB, SCO and CAC by 10/1/12
  - OB approves review and submits final to DOF and CAC by 10/15/12
  - DOF completes review by 11/9/12 and SA transfer funds within 5 days of DOF final Determination



# Due Diligence Review

- 80% Fund
  - Review due to DOF, OB, SCO and CAC by 12/15/12
  - OB approves review and submits final to DOF and CAC by 1/15/13
  - DOF completes review by 4/1/13 and SA to transfer funds within 5 days of DOF final Determination



## Meet and Confer

- DOF has discretion to adjust the amounts to be transferred based upon their review of the Due Diligence Review
- City can request meet and confer with DOF if City disagrees with DOF decisions
- DOF has 30 days to confirm or modify its decision



## DOF and CAC remedies

- If the SA doesn't remit full amount:
  - Offset sales and use tax or prop tax allocation to the local agency to which funds were transferred
  - If the funds were transferred to a private party w/o an EO, private party must repay
  - Offset of sales and use tax or prop tax of the City
  - Offset future RPTTF payments to SA





## Post Compliance Benefits

- When full payment has been made:
  - SA prepare long range property management plan to govern dispo property
  - Loan agreements btwn RDA and City are deemed EO provided the OB finds the loan was for legit RDA purposes
  - Bonds can be used for purpose sold



## Oversight Board

- OB has immunity from personal liability that public employees have under GC 810
- All OB actions must be by Reso
- DOF now has 5/40 days to review all OB actions
- DOF has authority to modify or eliminate any ROPs item



# Oversight Board

- Expansion of authority
  - Direct SA to provide additional financial or legal advice
  - Contract with other agencies for admin support
  - OB decision supersedes SA
  - Absent an agreement, FMV of assets retained by SA is to be determined by independent appraiser
  - May order dispo of assets not acquired with TI
  - May approve asset dispo that would distribute income to taxing entities



# Oversight Board

- Restriction of authority
  - Cannot approve reentering of City/RDA agreements until FOC received from DOF
  - All actions regarding dispo of assets can only be approved after
    - 10 day notice to public
    - Adoption of OB reso
  - DOF has 5 days to indicate review/60 days for actual review of OB action



## Jan-June 2013 ROPs

- Must be approved by OB and submitted to DOF by 9/1/12
- CAC estimates amount of RPTTF to be allocated for Jan-June 2013 ROPs by 10/1/12
- Issues
  - Late submittal: SA and City pay \$10k a day, admin allowance reduced by 25%, may withhold RPTTF
  - CAC can object to items on ROPs
  - DOF has 45 days to review