

TEHACHAPI REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

June 2014



JOHN CHIANG
California State Controller

June 18, 2014

Greg Garrett, City Manager
Tehachapi Redevelopment/Successor Agency
115 S. Robinson Street
Tehachapi, CA 93561

Dear Mr. Garrett:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Tehachapi Redevelopment Agency (RDA) to the City of Tehachapi (City) or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether the asset should be turned over to the Successor Agency.

Our review applied to all assets including but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City or any other public agency have been reversed.

Our review found that the RDA transferred \$7,909,721 in assets after January 1, 2011, including unallowable transfers to the City, totaling \$3,021,916, or 38.21% of transferred assets.

However, on various dates, the City turned over \$3,021,916 in assets to the Successor Agency. Therefore, no further action is necessary.

If you have any questions, please contact Elizabeth González, Bureau Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Ed Grimes, Chairperson

The Oversight Board to the Successor Agency

Mary B. Bedard, CPA, Auditor-Controller-County-Clerk

Kern County Auditor-Controller

David Botelho, Program Budget Manager

California Department of Finance

Richard J. Chivaro, Chief Legal Counsel

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Elizabeth González, Bureau Chief

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Tehachapi Redevelopment Agency (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred \$7,909,721 in assets after January 1, 2011, including unallowable transfers to the City of Tehachapi (City), totaling \$3,021,916, or 38.21% of transferred assets.

However, on various dates, the City turned over \$3,021,916 in assets to the Successor Agency. Therefore, no further action is necessary.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA successor agencies and oversight boards to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part, ". . . the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency."

The SCO identified asset transfers that occurred after January 1, 2011, between the RDA, the City and/or any other public agency. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal action to ensure compliance with this order.

Objective, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA, or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, the Successor Agency, and the Oversight Board.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Tehachapi Redevelopment Agency transferred \$7,909,721 in assets after January 1, 2011, including unallowable transfers to the City of Tehachapi (City), totaling \$3,021,916, or 38.21% of transferred assets.

However, on various dates, the City turned over \$3,021,916 in assets to the Successor Agency. Therefore, no further action is necessary.

Details of our finding are described in the Finding and Order of the Controller section of this report.

Views of Responsible Official

At an exit conference on April 23, 2014, we discussed the review results with Hannah Chung, Finance Director, who agreed with the review results. Ms. Chung further agreed that a draft review report was not necessary and that the report could be issued as final.

Restricted Use

This report is solely for the information and use of the City of Tehachapi, the Successor Agency, the Oversight Board, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

June 18, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
City of Tehachapi**

The Tehachapi Redevelopment Agency (RDA) made unallowable asset transfers of \$3,021,916 to the City of Tehachapi (City). The asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

- On March 7, 2011, the RDA adopted Resolution 07-11 to transfer \$626,688 to the City for the City Sewer Treatment Plant Expansion Project. Subsequently, on March 8, 2011, cash of \$626,688 was transferred from RDA Fund 512 to City Fund 445.

On June 30, 2012, the City turned over \$626,688 in cash to the Successor Agency (Fund 520).

- On March 8, 2011, the RDA forgave a loan to the City in the amount of \$1,370,000.

On April 30, 2011, the City transferred \$685,000 to the RDA due to shortage in the RDA fund balance. Thus, the return of cash reduced the unallowable transferred amount to \$685,000.

On June 30, 2012, the City turned over the remaining \$685,000 in cash to the Successor Agency (Fund 520).

- On March 8, 2011, the RDA transferred \$167,025 from Fund 512 to the City for Centennial Plaza Projects. Subsequently, on June 30, 2011, the RDA transferred an additional \$130,207 from Funds 511 and 512 to fund the projects.

On March 8, 2011, the RDA transferred \$200,000 from Fund 512 to the City for Downtown Beautification Phase 2.

On April 30, 2011, the RDA transferred \$686,680 from Fund 512 to the City for the Railroad Depot Project.

On May 31, 2011, the RDA transferred \$100,000 from Fund 512 to the City for Downtown Master Plan Implementation.

On June 30, 2011 the RDA transferred \$6,206 from Fund 511 to the City for the Mill and H Improvement Project.

The total transferred amount to the City relating to bond funded projects was \$1,290,118

On December 31, 2013, the City turned over \$1,290,118 in cash, via journal entry no. 1204, to the Successor Agency (Fund 520) per the Department of Finance's instruction.

- On March 8, 2011, the RDA transferred the Robinson Street and “F” Street parking lot facility, in the amount of \$303,703, to the City by adopting RDA Resolution No. 02-11, dated March 8, 2011. The parking lot was deeded to the RDA.

On November 30, 2013, the City turned over the Robinson Street and “F” Street parking lot facility to the Successor Agency, totaling \$303,703.

- On June 30, 2011, the RDA transferred \$50,814 to the City for Tehachapi Blvd. Improvement IV. Subsequently, on December 31, 2011, the RDA transferred an additional \$52,000 to fund the project. The total transferred amount was \$102,814.

On December 31, 2013, the City turned over \$77,854 in cash to the Successor Agency (Fund 520) per the Department of Finance’s instruction.

On April 23, 2014, the City turned over the remaining \$24,960 in cash to the Successor Agency.

- On April 30 and June 30, 2011, the RDA reimbursed a total of \$13,593 to the City for the City’s personnel expenses related to the RDA’s projects.

On April 23, 2014, the City turned over \$13,593 in cash to the Successor Agency.

Pursuant to H&S Code section 34167.5, any asset transfers by the RDA to a city, county, city and county, or any other public agency after January 1, 2011 must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the above assets in the amount of \$3,021,916 and turn them over to the Successor Agency as described in Schedule 1. However, on various dates, the City turned over \$3,021,916 to the Successor Agency. Therefore, no further action is needed.

**Schedule 1—
Unallowable Asset Transfers to
the City of Tehachapi
January 1, 2011, through January 31, 2012**

Current Assets

3/8/2011	Cash transferred for City Sewer Treatment Plant Expansion Project	\$ 626,688
3/8/2011	Forgave loan to the City	1,370,000
4/30/2011	Returned cash to the RDA relating to the above loan	(685,000)
3/8/2011-6/30/2011	Cash transferred for various bond funded projects	1,290,118
6/30/2011 and 12/31/2011	Cash transferred for Tehachapi Blvd. Improvement IV Project	102,814
4/30/2011 and 6/30/2011	Cash transferred for reimbursement to the City	<u>13,593</u>
Subtotal		2,718,213

Capital Assets

3/8/2011	Robinson Street and "F" Street parking lot facility	<u>303,703</u>
Total unallowable asset transfers to the City		<u>3,021,916</u>

Assets returned to successor agency:

6/30/2012	Cash	(626,688)
6/30/2012	Cash	(685,000)
11/30/2013	Parking lot facility	(303,703)
12/31/2013	Cash	(1,290,118)
12/31/2013	Cash	(77,854)
4/23/2014	Cash	(24,960)
4/23/2014	Cash	<u>(12,593)</u>

Total transfers subject to H&S Code section 34167.5	<u><u>\$ —</u></u>
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¹ See the Finding and Order of the Controller section.

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