

SALINAS REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

June 2013



JOHN CHIANG
California State Controller

June 17, 2013

Ray Corpuz, City Manager
Salinas Redevelopment/Successor Agency
200 Lincoln Avenue
Salinas, CA 93901

Dear Mr. Corpuz:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Salinas Redevelopment Agency to the City of Salinas or any other public agency after January 1, 2011. This statutory provision explicitly states that, "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 it should be turned over to the Salinas Redevelopment 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 any rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City of Salinas or any other public agencies have been reversed.

Our review found that the Salinas Redevelopment Agency (RDA) transferred \$24,416,502 in assets to the City of Salinas, Salinas Redevelopment Successor Agency, and the Entity Assuming the Housing Functions. These included unallowable transfers of assets totaling \$20,687,153. However, on September 12, 2012, the Salinas Oversight Board retroactively approved the transfer of \$993,110 of government use properties to the City of Salinas. This leaves an amount of \$19,694,043, or 80.66% that must be turned over to the Successor Agency.

If you have any questions, please contact Steven Mar, Bureau Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/kw

cc: Matt Pressey, Finance Director
City Of Salinas
Steve Szalay, Local Government Consultant
California Department of Finance
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Michael Mock, Auditor-in-Charge
Division of Audits, State Controller's Office
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Officials	2
Restricted Use	3
Findings and Orders of the Controller	4
Schedule 1—RDA Assets Transferred to the City of Salinas	7
Schedule 2—Detailed Listing of RDA Assets Transferred to the City of Salinas	8
Schedule 3—RDA Assets Transferred to the Entity Assuming the Housing Functions .	9
Attachment 1—City of Salinas’ Response to Draft Review Report	

Asset Transfer Assessment Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Salinas Redevelopment Agency 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 any rights to payments of any kind from any source.

Our review found that the Salinas Redevelopment Agency (RDA) transferred \$24,416,502 in assets to the City of Salinas, Salinas Redevelopment Successor Agency, and the Entity Assuming the Housing Functions. These transfers included unallowable transfers of assets totaling \$20,687,153. However, on September 12, 2012, the Oversight Board retroactively approved the transfer of \$993,110 of government use properties to the City of Salinas. This leaves an amount of \$19,694,043, or 80.66% that must be turned over to the Successor Agency.

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 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 Code (H&S Code) beginning with section 34161.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of redevelopment agencies (RDAs), "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," and the date at which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

The SCO has identified transfers of assets that occurred after January 1, 2011, between the Salinas Redevelopment Agency, the City of Salinas, and/or other public agencies. 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 order 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 operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the Salinas City Council, and the Salinas Redevelopment Agency.
- 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 Salinas Redevelopment Agency (RDA) transferred \$24,416,502 in assets to the City of Salinas, Salinas Redevelopment Successor Agency, and the Entity Assuming the Housing Functions. These transfers included unallowable transfers of assets totaling \$20,687,153. However, on September 12, 2012, the Oversight Board retroactively approved the transfer of \$993,110 of government use properties to the City of Salinas. This leaves an amount of \$19,694,043, or 80.66% that must be turned over to the Successor Agency.

Details of our findings and Orders of the Controller are in the Findings and Orders of the Controller section of this report.

Views of Responsible Officials

At an exit conference on November 29, 2012, we discussed the review results with Matt Pressey, City of Salinas Finance Director, and Roberto Moreno, Consultant. At the exit conference, we stated that the final report will include the views of responsible officials. We issued a draft report on January 18, 2013. Matt Pressey, Finance Director responded by email disagreeing with some of the review results. The City's response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of the City of Salinas, the Salinas Redevelopment Successor Agency, the Oversight Board of the Redevelopment Successor Agency, the City of Salinas Housing Agency, 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.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

June 17, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Salinas

The City of Salinas Redevelopment Agency (RDA) transferred \$8,005,079 in assets to the City of Salinas (City). Per the property conveyance agreement dated March 8, 2011, approved by the City Council, the purpose of the asset transfers was to protect redevelopment agency resources from potential termination by the State of California action. All of the asset transfers to the City of Salinas occurred during the period of January 1, 2011, through January 31, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of cash and capital assets.

Unallowable asset transfers were as follows:

- On March 8, 2011, the RDA transferred capital assets of \$ 6,583,026 in land to the City. To accomplish those transfers, the RDA transferred the property deeds to the City. Based on Health and Safety (H&S) Code section 34167.5, the RDA was not allowed to transfer physical assets or cash to a public agency after January 1, 2011.
- On March 8, 2011, the RDA transferred a total of \$ 1,422,053 in cash to the City. Based on H&S Code section 34167.5, the RDA was not allowed to transfer physical assets or cash to a public agency after January 1, 2011.
- On September 12, 2012, the Salinas Oversight Board retroactively approved properties transferred on March 8, 2011, as governmental use properties valued at \$993,110, under Oversight Board Resolution No. 2012-12. The exceptions were from properties listed on Schedule 2.

Pursuant to H&S Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. Those assets should be returned to the Successor Agency for disposition in accordance with H&S Code section 34177 (d) and (e). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a). H&S Code section 34181(a) states, “The oversight board shall direct the successor agency to do all of the following:

Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a government purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such as asset....”

Order of the Controller

Based on H&S Code section 34167.5, the City of Salinas would have been ordered to reverse the transfer of the above assets in the amount of \$8,005,079. However, because the Oversight Board retroactively approved the transfer of governmental use properties valued at \$993,110, the remaining amount of \$7,011,969 is ordered to be turned over to the Successor Agency. (See Schedules 1 and 2)

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(a).

The Department of Finance (DOF) must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the City (or other local agency) is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5

City of Salinas's Response

The City of Salinas agrees with the SCO's finding. (See attachment 1)

As requested, the City will turn over these assets to the Successor Agency for proper disposition in accordance with H&S Code section 34177(d) and (e) and 34181(a).

SCO's Response

SCO agrees with the City's response to the review finding.

**FINDING 2—
Unallowable assets
transferred to the
Entity Assuming
the Housing
Functions**

The RDA transferred \$12,682,074 in cash and assets to the Entity Assuming the Housing Functions. This transfer was unallowable due to the lack of Oversight Board approval.

H&S Code section 34175(b) states, "All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012."

H&S Code section 34181(c) states, "The oversight board shall direct the successor agency to do the following: (c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176."

H&S Code section 34167.5 states, "the Controller shall...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 Controller shall order the available assets to be returned to...the successor agency..."

H&S Code section 34177(e) states, “Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181.”

Order of the Controller

Based on H&S Code section 34167.5, the Entity Assuming the Housing Functions is ordered to reverse the transfer of the above assets, described in Schedule 3, in the amount of \$12,682,074, and turn them over to the Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e), and 34181(c).

City of Salinas’s Response

The City of Salinas disagrees with the SCO’s finding. (See attachment 1)

As requested, the City will reverse the transfer of the “capital and other assets” assets in the amount of \$13,382,413, and turn them over to the Successor Agency for the disposition in accordance with H&S Code sections 34181(c) and 34177(e). The encumbered cash in the amount of \$700,339 was a legal enforceable obligation approved by the Department of Finance in various EOPS and ROPS 1 and 2, and for a housing project under construction (the Gateway Apartments) and cannot be “turned over to the Successor Agency.

SCO’s Response

The SCO agreed with the City’s Response to the review finding and reduced the findings amount by \$700,339, from \$13,382,413 to \$12,682,074.

Schedule 1— RDA Assets Transferred to the City of Salinas

Unallowable transfers to the City of Salinas:

	Amount
Capital Assets	
Land and improvements ¹	\$ 6,583,026
Current Assets	
Cash transfer to City ¹	1,422,053
Total unallowable transfers – City	8,005,079
Oversight Board’s Approval	
Governmental use properties (September 12, 2012)	(993,110)
Total Transfers subject to H&S Code Section 34167.5	\$ 7,011,969 ¹

¹ Detailed listing of assets on Schedule 2

**Schedule 2—
Detailed Listing of RDA Assets
Transferred to the City of Salinas
After January 1, 2011**

APN	Address	Book Value	OB Approved on 9/12/12	Transfers Subject to HSC 34167.5
00217135	26 Station Place	\$ 28,866	\$ (28,866)	\$ —
00224402	215 Lincoln Ave	9,504	—	9,504
00217112	60 W. Market	27,508	—	27,508
00217113	64 W. Market	27,508	—	27,508
00218526	20 E. Market	231,582	—	231,582
00218525	1 Main Street	570,354	—	570,354
00217212	11 Station Place	510,721	(510,721)	—
00217212	12 W. Market	37,601	(37,601)	—
00461104	745 N. Sanborn	86,403	—	86,403
00460115	331 S. Sanborn	597,191	—	597,191
N/A	Improvements – Train Station	43,422	(43,422)	—
N/A	Improvements – Women’s Club	71,820	—	71,820
N/A	Train Building – 26 Station Place	22,000	(22,000)	—
N/A	Warehouse Building	49,500	(49,500)	—
N/A	Women’s Club	305,000	—	305,000
N/A	Breadbox Rec. Center	792,000	—	792,000
N/A	Train Station – 11 Station Place	301,000	(301,000)	—
N/A	331 Sanborn – Church of Nazarene	2,006,081	—	2,006,081
0218509	117 Main Street	24,445	—	24,445
0218508	111 Salinas Street	393,560	—	393,560
0218527	150 Main Street	523,272	—	523,272
004091028	137 Division Street	240,000	—	240,000
004091029	145 Division Street	260,000	—	260,000
004091030	151 Division Street	350,000	—	350,000
Subtotal		7,509,338	(993,110)	6,516,228
Less depreciation		(926,312)	—	(926,312)
Total and land buildings		6,583,026	—	5,589,916
Total cash transferred		1,422,053	—	1,422,053
Total unallowable transfers		<u>\$ 8,005,079</u>	—	<u>\$ 7,011,969</u>
Total Oversight Board approved transfers			<u>\$ (993,110)</u>	

**Schedule 3—
RDA Assets Transferred to the Entity
Assuming the Housing Functions**

Unallowable transfers to the Entity Assuming the Housing Functions:

	<u>Amount</u>
Capital and other assets	<u>\$ 12,682,074</u>
Total unallowable transfers – Entity Assuming the Housing Functions	<u>\$ 12,682,074</u>

**Attachment 1—
City of Salina's Response to
Draft Review Report**



City of Salinas

Finance Department • 200 Lincoln Avenue • Salinas, California 93901-2639 • (831) 758-7420

March 13, 2013

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Mr. Mar,

We received the Salinas Redevelopment Agency Asset Transfer Review draft report on January 18, 2013. The report appears accurate for finding number 1, but not for finding number 2. Following is our response to the findings and an explanation of the error in finding number 2.

Finding 1 – Unallowable asset transfers to the City of Salinas \$8,005,079

As requested, the City will turn over these assets to the Successor Agency for proper disposition in accordance with H&S Code sections 34177(d) and (e) and 34181(a).

Please be advised that the \$1,422,053 cash transfer to the City was turned over to the Housing Successor Agency before the end of fiscal year 2011-12 since these were Low and Moderate Income Housing funds. The disposition of the Train Station Properties and associated improvements with a total value of \$902,760 were approved by the Successor Agency in September 2012 and the Oversight Board in October 2012 and subsequently by the Department of Finance, to be retained by the City for continued government use as an intermodal transportation center (see attached certified resolutions and transmittals from these actions taken in September and October 2012).

The City hereby wishes to make it clear that the transfers that occurred on March 8, 2011 were legal and not subject at the time to review by any state agency. The transfers took place before ABX1 26 was approved. The City did nothing illegal, but rather the State reversed the City's transfers after the fact.

Finding 2 – Unallowable assets transferred to Successor Housing Agency \$12,892,413

The amount considered unallowable should be \$13,382,413 not \$12,892,413. Your stated amount is missing \$490,000 as an Advance to the RDA Debt Service Fund to make the SERAF payment. The \$13,382,413 represents the total assets held by the RDA in the Low and Moderate Income Housing Funds at January 31, 2012.

As requested, the City will reverse the transfer of the "capital and other assets" assets in the amount of \$13,382,413, and turn them over to the Successor Agency for disposition in accordance with H&S Code sections 34181(c) and 34177(e). The Encumbered

Cash in the amount of \$700,339 was a legal enforceable obligation approved by the Department of Finance in various EOPS and ROPS 1, and 2, and for a housing project under construction (the Gateway Apartments) and cannot be “turned over to the Successor Agency.”

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Pressey", written in a cursive style.

Matt Pressey
Finance Director

cc: Ray Corpuz, City Manager

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>