

ARCATA COMMUNITY DEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

April 2014



JOHN CHIANG
California State Controller

April 1, 2014

Randy Mendosa, City Manager
City of Arcata
736 F Street
Arcata, CA 95521

Dear Mr. Mendosa:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office reviewed all asset transfers made by the Arcata Community Development Agency (RDA) to the City of Arcata (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 it 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 agencies have been reversed.

Our review found that the RDA transferred \$30,586,012 in assets after January 1, 2011, including unallowable transfers totaling \$15,905,025 to the City, or 52% of transferred assets. However, on June 14, 2013, the Oversight Board retroactively approved \$7,153,857 in transfers. Therefore, the remaining amount of unallowable transfers, totaling \$8,751,168, must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth Gonzalez, 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: Janet Luzzi, Finance Director

City of Arcata

Larry Oetker, Community Development Director

City of Arcata

David Loya, Community Development Deputy Director

City of Arcata

Joseph Mellet, Auditor-Controller

County of Humboldt

Mark Wheatley, Chair

Oversight Board to the Successor Agency

David Botelho, Program Project Manager

Department of Finance

Richard J. Chivaro, Chief Legal Counsel

State Controller's Office

Elizabeth Gonzalez, Bureau Chief

Division of Audits, State Controller's Office

Scott Freesmeier, Audit Manager

Division of Audits, State Controller's Office

Trisha L. Quiambao, Auditor-in-Charge

Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Arcata Community Development 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 \$30,586,012 in assets after January 1, 2011, including unallowable transfers of assets totaling \$15,905,025 to the City of Arcata (City), or 52% of transferred assets. However, on June 14, 2013, the Oversight Board retroactively approved \$7,153,857 in transfers. Therefore, the remaining amount of unallowable transfers, totaling \$8,751,168, 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 (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 has identified transfers of assets that occurred after January 1, 2011, between the RDA, the City, 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 RDA, the City, 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 Arcata Community Development Agency transferred \$30,586,012 in assets after January 1, 2011, including unallowable transfers of assets totaling \$15,905,025 to the City of Arcata, or 52% of transferred assets. However, on June 14, 2013, the Oversight Board retroactively approved \$7,153,857 in transfers. Therefore, the remaining amount of unallowable transfers, totaling \$8,751,168, must be turned over to the Successor Agency.

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

Views of Responsible Official

We issued a draft review report on November 7, 2013. Randy J. Mendosa, City Manager, responded by letter dated December 17, 2013, agreeing with the review results. The City of Arcata'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, 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

April 1, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Arcata

Our review found that the Arcata Community Development Agency (RDA) transferred \$15,905,025 in assets after January 1, 2011 to the City of Arcata (City). The assets were not contractually committed to a third party prior to June 28, 2011.

- On March 3, 2011, and March 9, 2011, the RDA transferred \$15,313,775 in cash, receivables, and real property assets to the City. However, on June 14, 2013, the Oversight Board passed and adopted Resolution No. 2012/13-10 approving the transfers of housing receivables and real properties totaling \$7,153,857.
- On July 31, 2011, the RDA made a cash payment to the City totaling \$591,250, which consisted of \$550,000 in principal and \$41,250 in interest.

Pursuant to Health and Safety (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 turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of Arcata is ordered to reverse the transfers of the assets, described in Schedule 1, totaling \$15,905,025, and turn them over to the Successor Agency.

However, on June 14, 2013, the Oversight Board retroactively approved unallowable transfers totaling \$7,153,857. Therefore, the remaining \$8,751,168 in unallowable transfers must be turned over to the Successor Agency.

The Department of Finance (DOF) must approve the Oversight Board's decisions and resolutions. If the DOF does not approve the decisions, then the City is ordered to turn over the assets to the Successor Agency pursuant to H&S Code section 34167.5. The Successor Agency is directed to properly dispose those assets in accordance with H&S Code section 34177(d) and (e) and 34181(a).

City's Response

The City agreed with the finding and account balances.

SCO Comment

The finding and Order of the Controller remains as stated.

**Schedule 1—
Summary of Assets Transferred
to the City of Arcata
January 1, 2011, through January 31, 2012**

| Date | Description | Total | Allowable | Unallowable | Oversight Approval | Clawback |
|------------------|--|----------------------|----------------------|----------------------|----------------------------------|----------------------------------|
| March 10, 2011 | Housing funds cash transfers to the City | \$ 1,863,000 | \$ — | \$ 1,863,000 | \$ — | \$ 1,863,000 |
| March 10, 2011 | Housing real property transfers to the City | 50,000 | — | 50,000 | 50,000 | — |
| March 28, 2011 | Non-Housing funds cash transfers to the City | 4,682,395 | — | 4,682,395 | — | 4,682,395 |
| March 28, 2011 | Housing notes receivable transfers to the City | 2,745,811 | — | 2,745,811 | 2,745,811 | — |
| March 28, 2011 | Non-Housing notes receivable transfers to the City | 294,226 | — | 294,226 | — | 294,226 |
| March 28, 2011 | Housing real properties transfers to the City | 4,358,046 | — | 4,358,046 | 4,358,046 | — |
| March 28, 2011 | Non-Housing real properties transfers to the City | 1,320,297 | — | 1,320,297 | — | 1,320,297 |
| July 31, 2011 | Non-Housing cash transfer to the City for loan repayment | 591,250 | — | 591,250 | — | 591,250 |
| January 31, 2012 | Assets transferred to Successor Agency | 14,680,987 | 14,680,987 | — | — | — |
| | | <u>\$ 30,586,012</u> | <u>\$ 14,680,987</u> | <u>\$ 15,905,025</u> | <u>\$ 7,153,857</u> ² | <u>\$ 8,751,168</u> ¹ |

¹ See the Finding and Order of the Controller section.

² These transfers were approved per Oversight Board Resolution No. 2012/3-10 on June 14, 2013.

**Attachment—
City of Arcata’s Response to
Draft Review Report**



736 F Street
Arcata, CA 95521

| | | | |
|-----------------------------------|------------------------------------|--------------------------|----------------------------|
| City Manager (707) 822-5953 | Environmental Services 822-8184 | Police 822-2428 | Recreation 822-7091 |
| Community Development 822-5955 | Finance 822-5951 | Public Works 822-5957 | Transportation 822-3775 |

December 17, 2013

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

Re: Arcata Community Development Agency
Draft Asset Transfer Review Report dated November 2013

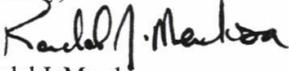
Dear Ms. Gonzalez:

This is in response to the draft Asset Transfer Review Report for the Arcata Community Development Agency, dated November 2013, and sent to the City of Arcata under cover letter dated November 7, 2013. The State Controller's Office (SCO) review of asset transfers made by the Arcata Community Development Agency (RDA) between January 1, 2011 through January 31, 2012 finds that the RDA transferred \$30,586,012 in assets after January 1, 2011, including an unallowable transfer of \$15,905,025 to the City of Arcata. Of this amount, the Oversight Board retroactively approved \$7,153,857 in assets on June 14, 2013, leaving a balance of \$8,751,168 to be transferred to the Successor Agency.

The City of Arcata staff has no comments or changes to propose to the balances identified for the review period ending January 31, 2012. City staff is bringing these balances current and developing a plan to transfer current balances of the specified assets from the City of Arcata to the Successor Agency. Plan implementation will require specific actions by the City Council of the City of Arcata and the Successor Agency. It is anticipated that these official actions will be taken by the end of February 2014.

If you have any questions, or need additional information, please do not hesitate to contact our Finance Director, Janet Luzzi by phone at (707) 825-2120.

Sincerely,


Randal J. Mendosa
City Manager

cc: Janet Luzzi, Finance Director
Larry Oetker, Director of Community Development
David Loya, Deputy Director of Community Development
Nancy Diamond, City Attorney
Richard J. Chivaro, Chief Legal Council, State Controller's Office
Scott Freesmeier, Audit Manager, State Controller's Office
Trisha Quiambao, Auditor-in-Charge, State Controller's Office

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