

INDIO REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

April 2013



JOHN CHIANG
California State Controller

April 9, 2013

Dan Martinez, City Manager
City of Indio/Successor Agency
100 Civic Center Mall
Indio, CA 92201

Dear Mr. Martinez:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Indio Redevelopment Agency to the City of Indio 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 Indio 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 rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City of Indio or any other public agencies have been reversed.

Our review found that the Indio Redevelopment Agency transferred \$75,478,325 in assets after January 1, 2011, including unallowable transfers of assets totaling \$2,956,162, or 3.92%, of the transferred assets. Those assets must be turned over to the Successor Agency for disposition in accordance with ABX1 26.

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, CPA
Chief, Division of Audits

JVB/sk

Attachment

cc: Steven Szalay, Local Government Consultant
Department of Finance
Paul Angulo, CPA, MA-Mgmt
County Auditor-Controller
County of Riverside
Stephen Copenhaver, Oversight Board Chairman
Indio Redevelopment Successor Agency
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Anita Bjelobrk, Auditor-in-Charge
Division of Audits, State Controller's Office
Daniel Tobia, Auditor
Division of Audits, State Controller's Office
Margaux Clark, Auditor
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 Indio 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 rights to payments of any kind from any source.

Our review found that the Indio Redevelopment Agency transferred \$75,478,325 in assets after January 1, 2011, including unallowable transfers of assets totaling \$2,956,162, or 3.92%, of the transferred assets. Those assets must be turned over to the Successor Agency for disposition in accordance with ABX1 26.

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.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of 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 on 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 Indio Redevelopment Agency, the City of Indio, 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.

Objectives, 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 City of Indio, Indio Redevelopment Agency, Indio Redevelopment Successor Agency, and 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 Indio Redevelopment Agency transferred \$75,478,325 in assets after January 1, 2011, including unallowable transfers of assets totaling \$2,956,162, or 3.92%, of the transferred assets. Those assets must be turned over to the Successor Agency for disposition in accordance with ABX1 26.

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

View of Responsible Official

We issued a draft review report on March 7, 2013. Mariano Aguirre, Development Director, responded by email on March 21, 2013, agreeing with the review results.

Restricted Use

This report is solely for the information and use of the State Controller's Office and the Indio Redevelopment Successor Agency; 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 9, 2013

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to public
agencies**

The Indio Redevelopment Agency (RDA) transferred \$2,956,162 in assets to public agencies. All of the asset transfers to public agencies occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of cash and land held for resale.

Unallowable asset transfers were as follows:

- On January 31, 2012, the RDA transferred \$2,856,162 in land held for resale to the Desert Community College District.
- On July 20, 2011, the RDA transferred \$100,000 in cash to the Coachella Valley Enterprise Zone.

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). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a), which states, in part:

The oversight board shall direct the successor agency to . . . 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 Desert Community College District would have been ordered to reverse the transfer of the land held for resale in the amount of \$2,856,162, and turn over the asset to the Successor Agency. The Successor Agency would have been directed to properly dispose of the asset in accordance with H&S Code sections 34177(d) and (e). However, the Successor Agency Oversight Board approved the transfer of the land held for resale under H&S Code 34176.
- Based on H&S Code section 34167.5, the Coachella Valley Enterprise Zone is ordered to reverse the transfer of the cash asset in the amount of \$100,000, plus any interest earned, and return it to the Successor Agency. The Successor Agency is directed to properly dispose of this asset in accordance with H&S Code sections 34177(d) and (e) and 34181(a).

City's Response

The City responded by email on March 21, 2013, agreeing with the SCO's finding.

The Indio Successor Agency Oversight Board passed a resolution on February 28, 2013, approving the transfer of land held for resale to the Desert Community College District.

SCO Comments

We agree with the City's response that the Successor Agency has approved the transfer of land held for resale as of February 28, 2013. The City of Indio provided documentation that the Oversight Board approved the transfer to the Desert Community College District; therefore no further action is required for this transfer.

The SCO finding remains as stated for the transfer of \$100,000 to the Coachella Valley Enterprise Zone.

**Schedule 1—
Unallowable RDA Assets
Transferred to Public Agencies
January 1, 2011, through January 31, 2012**

Unallowable transfers to public agencies:	
Desert Community College District	
Land held for resale	\$ 2,856,162
Coachella Valley Enterprise Zone	
Cash	<u>100,000</u>
Total unallowable transfers – public agencies	<u>\$ 2,956,162</u> ¹

¹ See the Finding and Order of the Controller section.

**Attachment—
Oversight Board Resolution**

RESOLUTION NO. 2013-26

RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF INDIO, CALIFORNIA, APPROVING THE TRANSFER OF PROPERTY BETWEEN THE FORMER REDEVELOPMENT AGENCY TO THE DESERT COMMUNITY COLLEGE DISTRICT IN THE CITY OF INDIO, ASSESSOR PARCEL NUMBERS 611-211-002, 611-211-008, 611-211-009, 611-211-010, and 611-211-015

WHEREAS, as a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies established pursuant to Health and Safety Code Section 34173, including the Indio Redevelopment Agency; and

WHEREAS, on April 11, 2011, pursuant to the adoption of Resolution No. 9463, the City Council of the City of Indio (the "City") made an election to serve as the successor agency for the Indio Redevelopment Agency under Part 1.85 (the "Successor Agency"); and

WHEREAS, Pursuant to Health and Safety Code, Section 34179, the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of Indio ("Oversight Board") was established and on March 22, 2012, per Resolution No. 2012-2, the Oversight Board created and established the time, date, and place for meetings; and

WHEREAS, Pursuant to Health and Safety Code Section 34180, the Oversight Board shall approve a number of Successor Agency actions related to winding down the affairs of the former Redevelopment Agency, including the disposition of assets; and

WHEREAS, On January 25, 2011, the former Redevelopment Agency and the City of Indio approved the Disposition and Development Agreement with the Desert Community College District ("District") that included the transfer of property known as the former Greyhound Site, Riverside County Assessor Parcel Numbers: 611-211-002, 611-211-008, 611-211-009, 611-211-010, and 611-211-015 ("Site").

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF INDIO HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. The Oversight Board hereby approves the conveyance of that certain real property known as the Site for the amount of one dollar (\$1).

Section 2. The Oversight Board further authorizes the Successor Agency's Executive Director to submit this Resolution to the California Department of Finance; and to take such further actions as may be necessary to effectuate the conveyance and transfer of the Site to the District in accordance with this Resolution and the Agreement.

Section 3. This Resolution, and the Agreement referred to in this Resolution, are exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 CCR Section 15061(b)(3).

Section 4. This Resolution shall take effect immediately upon adoption.

Section 5. The Secretary shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 28th day of February, 2013 by the following vote:

AYES: Emery, Godfrey, McDaniel, Copenhaver

NOES: None

ABSENT: Brandl, Livesay, Renew



STEPHEN COPENHAVER, CHAIRMAN

ATTEST:



**CYNTHIA HERNANDEZ, CMC
SECRETARY**

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

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