

# **BUELLTON REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

*January 1, 2011, through January 31, 2012*



**JOHN CHIANG**  
California State Controller

September 2013



**JOHN CHIANG**  
California State Controller

September 10, 2013

Marc P. Bierdzinski, Interim City Manager  
City of Buellton  
107 W. Highway 246  
Buellton, CA 93427

Dear Mr. Bierdzinski:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office reviewed all asset transfers made by the Buellton Redevelopment Agency (RDA) to the City of Buellton 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 of Buellton or any other public agencies have been reversed.

Our review found that the RDA transferred \$8,499,392 in assets. This included unallowable transfers of assets totaling \$6,093,459, or 71.69%, that must be turned over to the Successor Agency.

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

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD, CPA**  
Chief, Division of Audits

JVB/vb

cc: Richard Carmody, Chairman  
    Buellton Redevelopment Agency Oversight Board  
Steven Szalay, Local Government Consultant  
    California Department of Finance  
Robert W. Geis, Auditor-Controller  
    County of Santa Barbara Auditor-Controller's Office  
Annette Muñoz, Finance Director  
    City of Buellton  
Richard J. Chivaro, Chief Legal Counsel  
    State Controller's Office  
Steven Mar, Bureau Chief  
    Division of Audits, State Controller's Office  
Scott Freesmeier, Audit Manager  
    Division of Audits, State Controller's Office  
Kandy Liu, 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 Buellton 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 \$8,449,392 in assets after January 1, 2011. This included unallowable transfers of assets to the City of Buellton totaling \$6,093,459, or 71.69%, 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 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 Buellton Redevelopment Agency, the City of Buellton, 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 Buellton City Council, Buellton RDA, 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 RDA transferred \$8,449,392 in assets after January 1, 2011. This included unallowable transfers of assets to the City of Buellton totaling \$6,093,459, or 71.69%, that must be turned over to the Successor Agency.

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

## **Views of Responsible Official**

We issued a draft review report on June 11, 2013. Marc P. Bierdzinski, Interim City Manager/Planning Director, responded by letter dated August 13, 2013. 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 County of Santa Barbara, the Successor Agency, the Successor Agency Oversight Board, the City of Buellton, 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

September 10, 2013

# Finding and Order of the Controller

**FINDING—  
Unallowable loan  
payment to the  
City of Buellton**

The Buellton Redevelopment Agency (RDA) made loan repayments in the amount of \$6,093,459 to the City of Buellton (City) on June 30, 2011. A cooperation agreement was signed by the City and RDA on February 26, 1993; however, no repayment schedule was included in the agreement.

The unallowable loan payments were as follows:

Fund #	Account #	Fund Name	Date	Reference	Vendor	Description	Amount
041	041-100-1001-000	Community Development	6/30/2011	6/11 YE-14	City of Buellton	Repay Portion of RDA Loan 6/11	\$ 1,490,682.15
042	042-100-1001-000	Capital Projects	6/30/2011	6/11 YE-14	City of Buellton	Repay Portion of RDA Loan 6/12	<u>4,602,776.75</u>
						Total	<u>\$ 6,093,458.90</u>

Pursuant to Health and Safety (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 that were not contractually committed to a third party must be returned to the Successor Agency for disposition in accordance with H&S Code sections 34177 (d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of Buellton is ordered to turn over the loan payments in the amount of \$6,093,459 to the Successor Agency. The Successor Agency is then directed to properly dispose of these assets in accordance with H&S code section 34177.

City’s Response

The city has filed a lawsuit against the Department of Finance regarding the loan repayments. The City will not make a formal response until a ruling is made.

SCO’s Comment

The finding remains as stated.

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**Schedule 1—  
Unallowable RDA Assets Transferred to  
the City of Buellton  
January 1, 2011, through January 31, 2012**

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Unallowable loan repayments	<u>\$ 6,093,459</u>
Total	<u>\$ 6,093,459</u>

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<sup>1</sup> See the Finding and Order of the Controller section.



**Attachment—  
Auditee’s Response to  
Draft Review Report**

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# City of Buellton

August 13, 2013

Kandy Liu, Auditor  
State Controller's Office, Division of Audits  
Local Government Bureau, RDA  
901 Corporate Center Drive, Suite 200  
Monterey Park, CA 91754

RE: Response to State Controller Letter of June 11, 2013, Regarding the Buellton RDA

Dear Ms. Liu,

In response to your June 11, 2013, letter, the issue of our repayment is pending in Superior Court (Case No. 34-2013-80001468-CU-WM-GDS) with the case to be heard on August 16, 2013. We will not have a formal response to your letter until a ruling is made on this lawsuit.

If you have any further questions, please call me at 805-686-0137.

Sincerely,

Marc P. Bierdzinski  
Interim City Manager

Cc: Ralph Hanson, City Attorney  
Annette Munoz, Finance Director

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

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