

ALAMEDA COUNTY 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 25, 2013

Patrick O'Connell, Auditor-Controller
Alameda County Redevelopment Successor Agency
1221 Oak Street, Room 249
Oakland, CA 94612

Dear Mr. O'Connell:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Alameda County Redevelopment Agency to the County of Alameda 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 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 County of Alameda or any other public agencies have been reversed.

Our review found that the Alameda County Redevelopment Agency transferred \$107,868,892 in assets to the County of Alameda, the Housing Successor Agency, and the Redevelopment Successor Agency. These included unallowable transfers of assets totaling \$14,279,198 (\$7,297,269 to the County of Alameda and \$6,981,929 to the Housing Successor Agency), or 13.24%, that should have been turned over to the Redevelopment Successor Agency. However, on November 20, 2012, the County of Alameda turned over to the Redevelopment Successor Agency \$6,210,625 in capital assets from the Eden Project Area, and \$1,086,644 in capital assets from the San Leandro Joint Project Area. Also, on July 3, 2013, the Oversight Board retroactively approved the transfer of \$6,981,929 in housing assets that were transferred to the Housing Successor Agency. Therefore, no further action is needed.

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/kw

cc: Eileen Dalton, Director of Redevelopment
Alameda County
U. B. Singh, Director of Finance
Alameda County
Upendera Kukreja, Finance Manager
Alameda County
Steven Szalay, Local Government Consultant
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Richard J. Chivaro, Chief Legal Counsel
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Steven Mar, Bureau Chief
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Nicole Baker, Auditor-in-Charge
Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Officials	3
Restricted Use	3
Findings and Orders of the Controller	4
Schedule 1—Unallowable RDA Assets Transferred to the County of Alameda	6
Schedule 2—Unallowable RDA Assets Transferred to the County of Alameda Housing Successor Agency	7

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Alameda County 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 Alameda County Redevelopment Agency transferred \$107,868,892 in assets to the County of Alameda, the Housing Successor Agency, and the Redevelopment Successor Agency. These included unallowable transfers of assets totaling \$14,279,198 (\$7,297,269 to the County of Alameda and \$6,981,929 to the Housing Successor Agency), or 13.24%, that should have been turned over to the Redevelopment Successor Agency. However, on November 20, 2012, the County of Alameda turned over to the Redevelopment Successor Agency \$6,210,625 in capital assets from the Eden Project Area, and \$1,086,644 in capital assets from the San Leandro Joint Project Area. Also, on July 3, 2013, the Oversight Board retroactively approved the transfer of \$6,981,929 in housing assets that were transferred to the Housing Successor Agency. Therefore, no further action is needed.

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 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 Alameda County Redevelopment Agency, the County of Alameda, 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 County of Alameda, and the Alameda County 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 Alameda County Redevelopment Agency transferred \$107,868,892 in assets to the County of Alameda, the Housing Successor Agency, and the Redevelopment Successor Agency. These included unallowable transfers of assets totaling \$14,279,198 (\$7,297,269 to the County of Alameda and \$6,981,929 to the Housing Successor Agency), or 13.24%, that should have been turned over to the Redevelopment Successor Agency. However, on November 20, 2012, the County of Alameda turned over to the Redevelopment Successor Agency \$6,210,625 in capital assets from the Eden Project Area, and \$1,086,644 in capital assets from the San Leandro Joint Project Area. Also, on July 3, 2013, the Oversight Board retroactively approved the transfer of \$6,981,929 in housing assets that were transferred to the Housing Successor Agency. Therefore, no further action is needed.

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

**Views of
Responsible
Official**

We issued a draft review report on August 19, 2013. Eileen Dalton, Director, responded by letter dated August 29, 2013, agreeing with the review results. The Alameda County Redevelopment Successor Agency'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 Alameda, the Redevelopment Successor Agency, the Housing 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

September 25, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the County of Alameda

The Alameda County Redevelopment Agency (RDA) made unallowable asset transfers of \$7,297,269 to the County of Alameda (County). The asset transfers to the County occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 8, 2011, the RDA transferred \$6,210,625 in capital assets from the Eden Project Area to the County. However, on November 20, 2012, those assets were turned over to the Redevelopment Successor Agency (SA Resolution No. 2012-402).
- On March 8, 2011, the RDA transferred \$1,086,644 in capital assets from the San Leandro Joint Project Area to the County. However, on November 20, 2012, those assets were turned over to the Redevelopment Successor Agency, (SA Resolution No. 2012-402).

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 turned over to the Redevelopment 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 Redevelopment Successor Agency to do all of the following:

- (a) 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 Redevelopment 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 an asset. Any compensation to be provided to the Redevelopment Successor Agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

Order of the Controller

Based on H&S Code section 34167.5, the County would have been ordered to reverse the transfer of the above assets in the amount of \$7,297,269. However, on November 20, 2012, the County turned over the above assets in total to the Redevelopment Successor Agency (SA Resolution No. 2012-402). Therefore, no further action is needed.

County of Alameda's Response

The County of Alameda did not object to the finding.

SCO's Comments

The finding remains as stated.

**FINDING 2—
Unallowable asset
transfers to the
Housing Successor
Agency**

On February 1, 2012, the RDA transferred a total of \$6,981,929 in non-cash loan receivable housing assets to the Housing Successor Agency. 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 turned over to the Redevelopment Successor Agency for disposition in accordance with H&S Code sections 34177 (d) and (e).

Order of the Controller

Based on H&S Code sections 34167.5 and 34177(e), the Housing Successor Agency would have been ordered to reverse the transfer of the above assets in the amount of \$6,981,929. However, on July 3, 2013, the Oversight Board retroactively approved the transfer of \$6,981,929 in housing assets to the Housing Successor Agency. Therefore, no further action is needed.

County of Alameda's Response

The County of Alameda did not object to the finding but did request more detail on how the amount of housing assets in the amount of \$6,981,929 was determined.

SCO's Comments

The final report has been revised to detail these assets as loans receivables for the two project areas. Please see Schedule 2 for more detail.

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

Unallowable transfers to the County

Capital assets:

Properties transferred to the County (March 8, 2011)	\$ <u>7,297,269</u>
Total unallowable transfers to the County	<u>\$ 7,297,269</u>
County of Alameda returned properties to the Redevelopment Successor Agency (November 20, 2012)	(7,297,269)
Total amount subject to Health and Safety Code section 34167.5	<u>\$ —</u>

**Schedule 2—
Unallowable RDA Assets Transferred to
the County of Alameda Housing Successor Agency
January 1, 2011, through January 31, 2012**

Unallowable assets transfers to the Housing Successor Agency:

Capital assets:

Eden project area loan receivables transferred to the Housing Successor Agency January 31, 2011	\$ 1,319,342
San Leandro Joint project area loan receivables transferred to the Housing Successor Agency January 31, 2011	<u>5,662,587</u>
Total unallowable asset transfers to the Housing Successor Agency	<u>6,981,929</u>
Oversight Board retroactively approved July 3, 2013	<u>(6,981,929)</u>
Total amount subject to Health and Safety Code section 34167.5	<u>\$ —</u>

**Attachment—
City's Response to
Draft Review Report**



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

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Agency Director

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August 29, 2013

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
PO Box 942850
Sacramento, CA 94250-5874

Subject: Alameda County Redevelopment Agency Asset Transfer Review –
Comments on Draft Review Report

Dear Mr. Mar:

I am in receipt of the Draft Asset Transfer Review Report (the "Draft Report") dated August 19, 2013 and have a few comments.

Throughout the Draft Report, you refer to the "Housing Authority" or the "County of Alameda Housing Authority". Please change this reference to "Housing Successor Agency" or the "County of Alameda Housing Successor Agency" as appropriate. We did NOT transfer any housing assets to the Housing Authority.

In the report you correctly refer to the action taken by the Alameda County Successor Agency Oversight Board on July 3, 2013 to retroactively transfer housing assets. Please provide more detail as to how the amount of housing assets (\$6,981,929) was determined.

Thank you for an opportunity to review the Draft Report and provide you with comments.

Please feel free to contact me with any questions at (510) 670-6509 or Eileen.dalton@acgov.org.

Sincerely,

A handwritten signature in blue ink that reads "Eileen Dalton".

Eileen Dalton, Director
Alameda County Redevelopment Successor Agency

cc: Patrick O'Connell, Auditor-Controller
UB Singh, CDA Finance Director

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