

PITTSBURG REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

July 2015



BETTY T. YEE
California State Controller

July 30, 2015

Tina Olson, Finance Director
City of Pittsburg
65 Center Plaza Drive
Pittsburg, CA 94553

Dear Ms. Olson:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Pittsburg Redevelopment Agency (RDA) to the City of Pittsburg (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 the asset 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 \$261,312,744 in assets after January 1, 2011, including unallowable transfers to the City totaling \$54,302,660, or 20.78% of transferred assets.

However, the City has taken the following corrective actions:

- On various dates after January 31, 2012, the City turned over \$863,887 in land held for resale to the Successor Agency.
- On May 4, 2012, the City turned over \$25,992,046 in land held for resale to the Successor Agency.
- On November 30, 2012, the City turned over \$25,946,727 in loan receivables to the Successor Agency.

Therefore the remaining \$1,500,000 in unallowable transfers must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

cc: Joe Sbranti, City Manager
City of Pittsburg
Garrett Evans, Assistant City Manager
City of Pittsburg
Maria Aliotti, Development Manager
City of Pittsburg
Ruthann Ziegler, City Attorney
City of Pittsburg
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Pittsburg 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 \$261,312,744 in assets after January 1, 2011, including unallowable transfers to the City of Pittsburg (City) totaling \$54,302,660, or 20.78% of transferred assets.

However, the City has taken the following corrective actions:

- On various dates after January 31, 2012, the City turned over \$863,887 in land held for resale to the Successor Agency.
- On May 4, 2012, the City turned over \$25,992,046 in land held for resale to the Successor Agency.
- On November 30, 2012, the City turned over \$25,946,727 in loan receivables to the Successor Agency.

Therefore the remaining \$1,500,000 in unallowable transfers 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.

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 identified asset transfers 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 action 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 Successor Agency, the Oversight Board, and the Entity Assuming the Housing Functions.
- 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 Pittsburg Redevelopment Agency transferred \$261,312,744 in assets after January 1, 2011, including unallowable transfers to the City of Pittsburg (City) totaling \$54,302,660, or 20.78% of transferred assets.

However, the City has taken the following corrective actions:

- On various dates after January 31, 2012, the City turned over \$863,887 in land held for resale to the Successor Agency.
- On May 4, 2012, the City turned over \$25,992,046 in land held for resale to the Successor Agency.
- On November 30, 2012, the City turned over \$25,946,727 in loan receivables to the Successor Agency.

Therefore the remaining \$1,500,000 in unallowable transfers must be turned over to the Successor Agency.

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

**Views of
Responsible
Officials**

We issued a draft review report on August 27, 2014. Tina Olson, City Finance Director, responded by letter dated September 22, 2014. The City provided additional documentation regarding transfers that occurred as a result of an accounting “clean up” of the RDA’s capital assets. These items were removed from the findings. 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 Pittsburg, 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

July 30, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Pittsburg

The Pittsburg Redevelopment Agency (RDA) made unallowable asset transfers of \$54,302,660 to the City of Pittsburg (City). The transfers 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 3, 2011, the RDA purchased from the City two parcels totaling \$1,500,000. Specifically:
 - 65 Civic Avenue, in the amount of \$1,485,000.
 - A frontage road, in the amount of \$15,000.
- On November 18, 2011, the RDA transferred \$25,946,727 in loan receivables to the City. This transfer was accomplished in accordance with Resolution No. 11-11605.
- On May 20, 2011, the RDA transferred to the City two parcels of land held for resale, valued at \$863,887.
- On November 21, 2011, the RDA transferred to the City 121 properties, with a value of \$25,992,046.

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).

Some of the 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:

- (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 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

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of assets in the amount of \$54,302,660, and turn over the assets to the Successor Agency.

However, on various dates, the City reversed transfers totaling \$52,802,660 and turned over the assets to the Successor Agency. Therefore, the remaining \$1,500,000 in unallowable transfers must be turned over to the Successor Agency.

City's Response

The City's response refers to only the findings that it disagreed with, which were subsequently removed from the Final report. The City did not respond to the other items.

See Attachment for the City's complete response.

SCO's Comment

After further review of additional documentation provided by the Successor Agency, we agree that the transfers were a result of accounting or book entry transfers from the RDA to the City for assets that were legally owned by the City but left on the books and records of the RDA.

The Finding and the Order of the Controller have been modified accordingly.

**Schedule 1—
Unallowable RDA Asset Transfers to
the City of Pittsburg
January 1, 2011, through January 31, 2012**

Current Assets	
On March 3, 2011, the RDA purchased two parcels from the City	\$ 1,500,000
On November 18, 2011, the RDA transferred loan receivables to the City	<u>25,946,727</u>
Subtotal	<u>27,446,727</u>
Capital Assets	
On May 20, 2011, the RDA transferred land held for resale to the City	863,887
On November 21, 2011, the RDA transferred land held for resale to the City	<u>25,992,046</u>
Subtotal	<u>26,855,933</u>
Total unallowable transfers	<u>\$ 54,302,660</u>
Less:	
On various dates after January 31, 2012, the City reversed the journal entry for land held for resale	(863,887)
On May 4, 2012, the City reversed the journal entry of land held for resale	(25,992,046)
On November 30, 2012, the City reversed the transfer of loan receivables	<u>(25,946,727)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 1,500,000</u>

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



City of Pittsburg

Finance Department • 65 Civic Avenue • Pittsburg, California 94565-3814
Telephone: (925) 252-4946 • Fax: (925) 252-6969 • ci.pittsburg.ca.us

September 19, 2014

Ms. Elizabeth Gonzales,
Chief, Local Government Compliance Bureau
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Subject: City of Pittsburg's Response to Controller's Asset Transfer Audit

Dear Ms. Gonzales,

This letter is in response to the draft report ("Draft Report") of the State Controller's audit of the asset transfers between the former Redevelopment Agency of the City of Pittsburg ("RDA") and the City of Pittsburg ("City") that I received on September 4, 2014. Your letter notes that we have 10 calendar days to respond to this report which would be Sunday September 14, 2014. I requested an extension to Monday September 22, 2014.

Please note that the Draft Report did not include most of the details of the asset transfers in question. We are using our records from spring of 2013 when the State Controller's auditors were in Pittsburg doing field work as the back-up to this response.

Findings and Orders of the Draft Report:

Page 4 Bullet #3 "...The remaining nine parcels, worth \$2,673,067, were not returned to the RDA, and currently reside with the City."

City of Pittsburg Response:

We disagree with this finding and order. The Draft Report notes that the transfers took place on May 20, 2011. However, all of these nine parcels were transferred to the City from the RDA between 2002 and 2007 and recorded with the County Assessor's Office on May 21, 2008 which is before January 1, 2011. Please see Exhibit 1 to this response for copies of the property details recorded with the County Assessor for the nine parcels transferred to the City from the RDA. Please note that the Assessor Office's current assessed valuation for all of those properties is considerably less than that which the City's valuation in the years the properties transferred from the RDA to the City. A summary table of the specific properties is as follows:

**Properties Recorded by Assessor as City
 Properties on 05/21/2008
 ParcelQuest by CD-DATA**

Property	City's Fixed Asset Database Value	Assessor's AV
2003 Railroad Ave	\$307,482	\$78,303
2011 Railroad Ave	130,000	66,609
2027 Railroad Ave	266,000	66,069
2035 Railroad Ave	302,445	66,069
2043 Railroad Ave	380,000	66,069
2059 Railroad Ave	295,000	66,069
2067 Railroad Ave	465,000	66,069
2075 Railroad Ave	299,543	66,069
2083 Railroad Ave	227,597	66,069
Totals	\$2,673,067	\$607,395

On May 20, 2011, the City's accountants were cleaning up the City's fixed asset database to ensure all assets were correctly recorded under the jurisdiction to which an asset rightfully belonged based on prior actions. We gave the documentation and the explanation to the auditors last summer. We are therefore unclear as to why this is a finding and an order.

Page 4, Bullet #4, "On July 7, 2011, the City transferred \$351,749 (excluding depreciation) in Construction in Progress (CIP), infrastructure costs, machinery and equipment, less depreciation. These capital assets currently reside with the City."

City of Pittsburg Response:

We disagree with the Finding and Order. The first three adjustments were CIP accounting adjustments that we made to reflect the fact that the project was under the City and not the RDA. The equipment transfers happened in 2010 as the result of eliminating RDA positions due to budget cuts in FYs 2008-09 and 2009-10 but had not been correctly coded in the City's fixed asset database.

CIP Adjustment	Amount (excluding depreciation)	Description/Asset Status
Project 8006, Railroad Avenue Properties	\$270,878	Adjustment in the City's fixed asset database to reflect a project that was under the City since 2009 but coded under the RDA. Assets under this project vary as to whether they are currently under the SA or the City.
Street Lights - 3rd and Cumberland	17,614	Project completed in 2010. Street lights are City-owned asset prior to, during, and after construction project.
Street Lights - 3rd and Railroad	10,328	Project completed in 2011. Street lights are City-owned assets prior to, during, and after construction.
Transfer Computer Equipment to City	30,271	Surplus computer equipment from RDA positions eliminated in FYs 2008-09 and 2009-10 that were transferred to the City in 2010.
Transfer Furniture Equipment to the City	12,280	Surplus furniture from RDA positions eliminated in FYs 2008-09 and 2009-10 that was transferred to the City in 2010.
Sold Furniture to Pittsburg Power Company	9,232	Surplus furniture from RDA positions eliminated in FYs 2008-09 and FY 2009-10 that were sold to the Pittsburg Power Company. The RDA received the funds from the sale.
Totals	\$350,603	

Page 4 Bullet #5 "On July 7, 2011, the RDA transferred to the City three parking lots with a value of \$14,774. The transfer was postdated back to September 7, 2010. The transfer was accomplished with Resolution No. 10-11527. The Parking lots remain with the City."

City of Pittsburg Response:

We disagree with the Finding and Order. As the Draft Report notes, the three parking lots were transferred to the City on September 7, 2010 under City Council Resolution No. 10-11527 and RDA Resolution No. 10-1430 (Exhibit 2 to this response) which is before January 1, 2011. The July 7, 2011 date noted in the Draft Report is the day the City's accountants made a clean-up entry in the City's fixed asset database to correctly record the jurisdiction to which an asset rightfully belonged based on prior actions.

Page 4, Bullet #6, "On July 17, 2011, the RDA transferred to the City \$36,111,688 in CIP (Construction in Progress). Of the CIP transferred, \$6,711,349 is attributed to the Vidrio Building, which the City transferred to the Entity Assuming the Housing Functions after January 31, 2012. The remaining \$29,400,339 in CIP currently resides with the City."

City of Pittsburg Response:

We disagree with this finding and order. As described in more detail in the table below, the CIP adjustments totaling \$36,111,688 were not transfers of assets. In fact, some of the CIP adjustments resulted in assets that are on the Successor Agency's Property Management Plan ("PMP") to be sold.

Breakdown of Construction in Progress ("CIP") Adjustments

Project	Total CIP Adjustment	Years Affected by CIP Adjustment	Resulted in Fixed Asset?	Current Status of Fixed Asset
Housing	\$3,351,080	2005 thru 2010	Yes	\$6,711,349 of the \$26,111,688 is <u>not</u> attributed to the Vidrio Building. Rather, there was \$3,351,079.55 in housing assets within the \$36,111,688 in CIP adjustments that the City transferred to the Entity Assuming the Housing Functions after January 31, 2012.
Vidrio	19,810,627	2005 thru 2009	Yes	Condominiums sold to private owners in 2010 and 2011, proceeds from which went to the RDA. Commercial property on the Successor Agency ("SA") Project Management Plan ("PMP") to sell.
Enean Theater	1,054,603	2005 thru 2009	Yes	On the SA's PMP to sell.
Century Park Plaza Construction	387,298	2005 thru 2009	Yes	City-owned asset prior to, during, and after construction project.
Old Town Streetscape/Lighting	478,385	2006 thru 2009	Yes	City-owned asset prior to, during, and after construction project.
Misc. Project Expenses that are not Capitalized	2,552,993	2005 thru 2009	No	Capital project expenses that did not result in a capital asset such as design and environmental review.

California Theater	998,957	2005 thru 2009	Yes	Asset transferred to City through Oversight Board ("OB") Resolution 12-009OSB (Exhibit 3).
Bed & Breakfast	170,445	2005 thru 2009	No	Design and environmental review expenses. Construction did not occur. The City uses the land for various outdoor functions and was transferred to the City through OB Resolution 12-009OSB.
Plaza Marina	3,038,133	2007 thru 2009	Yes	City owns the building. The land was transferred to the City through OB Resolution 12-009OSB.
Old Town Infrastructure Design	1,630,284	2005 thru 2009	Yes	City-owned asset prior to, during, and after construction project.
Old Town 8th to 12th Infrastructure	435,857	2004 thru 2009	Yes	City-owned asset prior to, during, and after construction project.
Marina Shoreside Promenade	1,952,252	2005 thru 2008	Yes	City-owned asset prior to, during, and after construction project.
Old Town Core Project	215,749	2006	Yes	City-owned asset prior to, during, and after construction project.
West Blvd Alley	35,025	2006 thru 2007	Yes	City-owned asset prior to, during, and after construction project.

Total CIP Adjustments \$36,111,688

These CIP adjustments or corrections in the City's fixed asset database were made to reflect the fact that the capital project resided with the City and not the RDA. All of the adjustments are related to CIP in the years 2004 through 2010 which is before January 1, 2011. In the table above, I noted whether the CIP resulted in a capital asset and the current status of that capital asset. In some cases, the capital asset was a City-owned asset before, during, and after the construction project. In other cases, the asset was a RDA asset at the time of the construction project. Please note that \$2,723,438 of the \$36,111,688 in CIP adjustments did not result in a capital asset. In those cases, the capital project design and/or environmental review phase did not progress to a construction project.

Vidrio Background

The Vidrio project was a complicated transaction that requires some background before we address the SCO's Finding and Order.

Beginning in 2005 the Agency and Black Diamond Old Town LLC and Trinity Housing Foundation (together, "Developer") entered into several agreements for the construction of a mixed use development on Railroad Avenue in downtown Pittsburg. The Developer commenced construction of the project ("Vidrio" or "Project"), on property located at 600 Railroad Avenue, in June of 2006 and completed approximately ninety percent (90%) of the Project before stopping construction. The project's original total cost estimate was \$97.8 million. Prior to 2009, the RDA allocated \$24.4 million to help fund the Project which was approximately 25% of the total project costs with the developer providing the balance of the funding.

Between August 2008 and February 2009, the RDA received notice that the Developer was in default with respect to a loan the Developer had obtained with Union Bank, N.A. ("Bank") for construction of the Project. In February of 2009, the Bank initiated legal proceedings seeking appointment of a receiver for the property secondary to non-judicial foreclosure on the Project.

In October 2009, the RDA acquired the Project from the Bank for \$4.5 million and proceeded to complete construction of the Project. Completing construction of the Project cost the Agency \$7.7 million through June 30, 2011. Thus, the RDA spent a total of \$36.6 towards the Project (\$24.4 million prior to 2009, \$4.5 million to acquire the Project from the Bank, and \$7.7 million to complete construction of the Project.)

The Project consisted of 75 condominium units, 42,715 square feet of garage space, 25,106 square feet of common area space, and 10,764 of ground floor commercial space. The RDA sold all of the condominium units between June 29, 2010 and August 8, 2011 for a total of \$11.3 million. The \$11.3 million was deposited in the RDA's fund.

Draft Report Finding Related to Vidrio and City Response

There isn't \$19,810,627 in Vidrio construction in progress (CIP) that currently resides with the City. As described above, the project is complete and the condominium units have been sold and the RDA received the proceeds from the sale. The commercial space in the Vidrio building is under the RDA and listed to be sold in the Successor Agency's Property Management Plan. Thus, the City does not own any of the Vidrio building so there is nothing to transfer back to the RDA. The \$19,810,627 in CIP referenced in the Draft Report was an accounting adjustment in the City's fixed asset database that was made because the CIP was recorded in the RDA's ledger but subsequently removed from the City's ledger (not RDA ledger where the CIP was recorded) when the project was complete. We moved the CIP from the RDA's ledger to the City's ledger so it would balance. Another option would be to move the \$19,810,627 adjustment when the project was capitalized from the City's ledger to the RDA's ledger so the two entries balance. In either case, there isn't a \$19,810,627 Vidrio asset available to transfer to the RDA.

Page 5, Bullet #1 "On December 16, 2011, the RDA transferred to the City a houseboat, equipment, and machinery, with a value of \$324,902. The fixed assets remain with the City with the exception of the houseboat, which the City sold in 2011."

City of Pittsburg Response:

We disagree with this finding and order. All of the equipment had been transferred to the City at an earlier date but was not reflected in the City's fixed asset database. The following is a list of the equipment in question with a description of the transfer from the RDA to the City.

Item	Description	Value (Net of Depreciation)
Houseboat - Marina	The houseboat served as the Marina Office during reconstruction of the Marina. The houseboat was transferred to the Marina in 2004-05 and subsequently sold in July of 2011 when they replaced it with a permanent Marina Office.	\$93,683
Various Equipment	Several pieces of equipment purchased between 1987 and 2010 through RDA Capital Projects and Programs that were transferred to the City once the projects were complete but had not been adjusted in the City's fixed asset database to reflect that transfer.	231,219
Total Value (Net of Depreciation)		\$324,902

RDA's Ability to Own Assets Prior to Dissolution

Since many of the SCO's findings relate to accounting adjustments staff made to the City's fixed asset database for properties, equipment, and CIP that should have been recorded as City and not RDA several years ago, I think it would be useful to provide back-up as to why those transfers happened several years ago. As you may know, RDAs were not in the business of purchasing and/or improving assets with the intent of owning such assets. Rather, the intent was to purchase and/or improve assets to reduce blight and turn those assets over to the appropriate public agency or lease the property to a private sector entity.

In fact, California Health and Safety Code ("HSC") 33445(b)(3) states "A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section."

Since the RDA could not pay for normal maintenance, it needed to convey a public building and equipment (even one it paid for) to another public body. Otherwise it could not pay to maintain something once it was constructed.

In addition, HSC 33402 states "Except as provided in Article 9 (commencing with Section 33410), this part does not authorize an agency to own or operate rental property acquired and rehabilitated in prospect of resale beyond a reasonable period necessary to effect such resale. [Note: This is in the "Property Management" Article.]

I hope this helps clarify that the RDA could not have owned the properties and equipment under question since the RDA could not legally maintain the properties and equipment.

Conclusion

I hope you will revise your report to reflect the additional information I've provided in this letter. If not, I respectfully request that the State Controller's Office attorneys review this letter documentation we provided before you issue your final report. If you have any questions, please contact me at (925) 252-4848 or tolson@ci.pittsburg.ca.us.

Best regards,



Tina Olson
Director of Finance and Administration

Attachments:

- Exhibit 1 – ParcelQuest Report of City-owned properties formerly owned by RDA
- Exhibit 2 – Resolution 10-1430 (RDA) & Resolution 10-11527 (City)
- Exhibit 3 – Resolution 12-009OSB

Cc: Joe Sbranti, City Manager
Ruthann Ziegler, City Attorney
Garrett Evans, Assistant City Manager
Karen Chang, Finance Manager, Financial Reporting
Maria Aliotti, Development Manager

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