

PORTERVILLE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2014



JOHN CHIANG
California State Controller

November 26, 2014

John D. Lollis, City Manager
Porterville Redevelopment/Successor Agency
291 North Main Street
Porterville, CA 93257

Dear Mr. Lollis:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Porterville Redevelopment Agency (RDA) to the City of Porterville (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 agency have been reversed.

Our review found that the RDA transferred \$6,230,114 in assets after January 1, 2011, including unallowable transfers to the Housing Authority, totaling \$1,458,655, or 23.41% of transferred assets. These assets must be turned over to the Successor Agency.

However, on October 22, 2014, the Housing Authority turned over \$1,458,655 in assets to the Successor Agency. Therefore, no further action is necessary.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Rita Woodard, Auditor-Controller
County of Tulare
John Snavely, Chair of the Oversight Board
Porterville Redevelopment/Successor Agency
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Kevin Kanemasu, 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 Porterville 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 \$6,230,114 in assets after January 1, 2011, including unallowable transfers to the Housing Authority, totaling \$1,458,655, or 23.41% of transferred assets.

However, on October 22, 2014, the Housing Authority turned over \$1,458,655 in assets to the Successor Agency. Therefore, no further action is necessary.

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 and oversight boards 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 identified asset transfers that occurred after January 1, 2011, between the RDA, the City of Porterville (City) and/or any other public agency. 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's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, 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 Porterville Redevelopment Agency transferred \$6,230,114 in assets after January 1, 2011, including unallowable transfers to the Housing Authority, totaling \$1,458,655, or 23.41% of transferred assets.

However, on October 22, 2014, the Housing Authority turned over \$1,458,655 in assets to the Successor Agency. Therefore, no further action is necessary.

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

Views of Responsible Official

We issued a draft review report on September 8, 2014. Maria Bemis, Finance Director, responded by letter dated September 24, 2014. 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 Porterville, the Successor Agency, the Oversight Board, the Housing Authority, 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

November 26, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
Housing Authority**

The Porterville Redevelopment Agency (RDA) made unallowable asset transfers totaling \$1,458,655 to the Housing Authority. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On January 31, 2012, the RDA transferred \$209,747 in cash and cash equivalents, \$318,908 in housing receivables, and \$930,000 in notes receivable.

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, that were not contractually committed to a third party prior to June 28, 2011. The assets must 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 Housing Authority is ordered to reverse the transfers in the amount of \$1,458,655 and turn over the assets to the Successor Agency.

However, on October 22, 2014, the Housing Authority turned over \$1,458,655 in assets to the Successor Agency. Therefore, no further action is necessary.

City's Response

In response to the findings, the City commented that the Housing Authority did not assume the housing assets as of January 31, 2012.

As to the order of the Controller, the Housing Authority turned over the housing assets to the Successor Agency.

See the Attachment for the City's full response to the draft report.

SCO's Comment

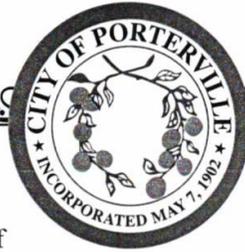
On October 22, 2014, the Housing Authority made a journal entry to reverse the transfer and turned over the housing assets in the amount of \$1,458,655 to the Successor Agency. Therefore, no further action is necessary.

**Schedule 1—
Unallowable Asset Transfers to
the Housing Authority
January 1, 2011, through January 31, 2012**

Current assets transferred on January 31, 2012:

| | |
|--|--------------------|
| Cash and cash equivalents | \$ 209,747 |
| Housing receivables | 318,908 |
| Notes receivable | <u>930,000</u> |
| Total unallowable asset transfers | 1,458,655 |
| Less: | |
| Housing Authority reversed the housing asset transfer to the Successor Agency on October 22, 2014 | <u>(1,458,655)</u> |
| Total transfers subject to H&S Code section 34167.5 | <u>\$ —</u> |

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



Maria Bemis
Finance Director
(559) 782-7435

September 24, 2014

Mr. Jeffrey Brownfield, CPA, Chief
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Asset Transfer Review Report

Dear Mr. Brownfield:

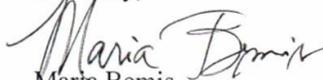
We received the State Controller's Office draft Review Report of the Porterville Redevelopment Agency's Asset Transfer Review for the period January 1, 2011 through January 31, 2012. The review concluded that the Porterville Redevelopment Agency (RDA) made unallowable asset transfers to the Porterville Housing Authority on January 31, 2012 and ordered the Housing Authority to reverse the transfers and turn over the assets to the Successor Agency.

In response, we submit the following comments:

1. On January 31, 2012, the Porterville City Council approved Resolution No. 11-2012 wherein the City of Porterville declined to assume the housing assets and functions of the RDA and designated the Housing Authority to assume the same. It was not the intent of the City to transfer the housing assets and functions of the RDA on that same day but to have in place the Housing Authority as the entity designated to assume the housing assets and functions of the RDA upon its dissolution on February 1, 2012. No assets were transferred to the Porterville Housing Authority prior to February 1, 2012.
2. As to the order of the Controller, the Housing Authority reversed the transfer and turned over to the Porterville Successor Agency the housing assets in the amount of \$1,458,655 effective on January 31, 2012, as well as all the transactions that had occurred since then, including the remittance of \$194,351 made to the Tulare County Auditor-Controller.
3. The Porterville Successor Agency will work with the California Department of Finance to implement the transfer of the housing assets to the Porterville Housing Authority pursuant to H&S Code section 34176(a)(2) and as approved by DOF on September 11, 2012.

If you need any other information or documentation, please contact me at (559) 782-7435.

Sincerely,


Maria Bemis
Finance Director

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

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