

# **LINDSAY REDEVELOPMENT AGENCY**

Review Report

## **ASSET TRANSFER REVIEW**

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



**BETTY T. YEE**  
California State Controller

May 2015



**BETTY T. YEE**  
California State Controller

May 13, 2015

Rich Wilkinson, City Manager  
City Of Lindsay/Successor Agency  
251 E. Honolulu Street  
Lindsay, CA 93247

Dear Mr. Wilkinson:

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

Our review found that the RDA transferred \$9,744,296 in assets after January 1, 2011, including unallowable transfers to the City totaling \$492,992, or 5.06% of transferred assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Ms. González by telephone at (916) 324-0622, or by email at [egonzalez@sco.ca.gov](mailto:egonzalez@sco.ca.gov).

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/ls

Attachment

cc: Tamara Laken, Finance Director  
City Of Lindsay/Successor Agency  
Maria Knutson, Administrative Supervisor  
City Of Lindsay/Successor Agency  
Greg McQueen, Oversight Board Chair  
City of Lindsay/Successor Agency  
Rita A. Woodard, Auditor-Controller  
County of Tulare  
Richard J. Chivaro, Chief Legal Counsel  
State Controller's Office  
Elizabeth González, 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

# Contents

## Review Report

<b>Summary</b> .....	1
<b>Background</b> .....	1
<b>Objective, Scope, and Methodology</b> .....	2
<b>Conclusion</b> .....	2
<b>Views of Responsible Officials</b> .....	2
<b>Restricted Use</b> .....	2
<b>Finding and Order of the Controller</b> .....	3
<b>Attachment—City’s Response to Draft Review Report</b>	

# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Lindsay 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 \$9,744,296 in assets after January 1, 2011, including unallowable transfers to the City of Lindsay (City) totaling \$492,992, or 5.06% of transferred assets. These assets 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 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 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 Lindsay Redevelopment Agency transferred \$9,744,296 in assets after January 1, 2011, including unallowable transfers to the City of Lindsay totaling \$492,992, or 5.06% of transferred assets. These assets must be turned over to the Successor Agency.

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

## **Views of Responsible Officials**

We issued a draft review report on November 21, 2014. Rich Wilkinson, City Manager, responded by letter dated December 10, 2014, disagreeing with the review results. The City's response is included in this final report as an attachment.

## **Restricted Use**

This report is solely for the information and use of the City of Lindsay, the 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

May 13, 2015

# Finding and Order of the Controller

**FINDING—  
Unallowable asset  
transfers to the  
City of Lindsay**

The Lindsay Redevelopment Agency (RDA) made unallowable asset transfers of \$492,992 to the City of Lindsay (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On June 30, 2011, the RDA transferred \$492,992 in bond proceeds to the City. The transfers were made to City Fund No. 263 and No. 867 for project reimbursements.

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).

### Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers totaling \$492,992 and turn over the assets to the Successor Agency.

### City's Response

The city respectfully disputes the finding on the basis that the funds were committed to the projects – downtown and affordable housing – and were actually spent on those projects in 2009 and 2010, but not coded correctly at the time of the expenditures.

Please see Attachment for the City's complete response.

### SCO's Comment

We initially identified \$805,662 in questioned asset transfers. Upon review of additional documents received, we determined that the City was able to substantiate \$312,670 of approved RDA funding for the transportation enhancement project, prior to January 1, 2011, per resolution LRA 04-04. However, the City was not able to substantiate the remaining \$492,992 in RDA bond proceeds transferred to the City. Therefore, the remaining \$492,992 in unallowable transfers must be turned over to the Successor Agency.

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

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

---



# City of Lindsay



P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street  
559 • 562 • 5927  
559 • 562 • 7021 fax

December 10, 2014

Elizabeth Gonzalez, Chief  
Local Governments Compliance Bureau  
State Controller's Office  
Division of Audits  
PO Box 942850  
Sacramento, CA 94250-5874

RE: Initial Response to State Controller's Office Staff Audit Asset Transfer Review Findings

Dear Ms. Gonzalez,

## FINDING – Unallowable asset transfers to the City of Lindsay

The City respectfully disputes the finding on the basis that the funds were committed to the projects - downtown and affordable housing - and were actually spent on those projects in 2009 and 2010, but not coded correctly at the time of the expenditure(s). What appears to be a transfer of assets is, in effect, an accounting entry to correct the coding for monies spent in previous years. Both the independent audit firm and the RDA attorney were satisfied that this transaction was appropriate, or we would have lost the tax-exempt status of the bond - which would be just one of the catastrophic effects of this finding should the city have to return funds it does not have for projects that were completed long ago for the public benefit: blight was eradicated downtown, the business owners got a boost with a more pedestrian-friendly downtown and the development of the Friday Night Market, a huge economic boon to the community were facilitated with that project as well as development of McDermott Field House which has continued to provide steady employment for Lindsay residents.

At the time the DOF Audit staff was on-site we were looking for resolutions and documents in FY2008 and FY2009 regarding authorization for use of RDA/LMI Funds on projects. We were unable to produce them at the time of the site visit because the Downtown project was originally approved and the monies leveraged in 2004. We were also asked for the support for the AJE that accounted for the Transfer of Funds and were not able to locate that document either. However, in light of the seriousness of this issue, we have done further research and are submitting a packet of information which will substantiate our position that the Bond Proceeds were spent almost immediately upon receipt in November of 2009; however, the expenditures were never properly coded to the RDA Fund - only the cash transfer between bank accounts was booked.



The documents we are sending include a copy of the bank statement for the RDA account showing the incoming Bond Wire and a transfer out of the cash to a city bank account (statement included) to pay for payroll and AP related to the projects. We are also including expenditure ledgers from the Downtown Project and the Sequoia Villas Project both of which ran over cost-wise and were finished with RDA/LMI funds.

We are including a copy of the FY04 Downtown Grant Application that specifically states the local fund match (leverage) from the RDA; the Downtown Project, which included Measure R Funds, CalTrans Funds, Gas Tax Funds, and RDA Funds did not receive clearance from CalTrans until FY08, with contracts being awarded in the fall of 2008, construction beginning in January 2009 and continuing through the end of FY2012. This was a multi-year, multi-funding source project. Also included in the packet is the Bond Declaration page and pertinent pages that verify the amount of proceeds actually received from the Bond, after issuance costs, which correspond to the bank statement. Due to a turn-over in staff at the highest administrative level, it took longer for us to determine where these supporting documents were – I apologize for this.

We would entreat the SCO to send a representative to view Sequoia Villas and the Downtown Project, Friday Night Market, and McDermont Field House, as they would see this is where those funds were spent for both the bond and all other capital project funds available from 2007 thru 2010. Further, because the former administration engaged in extremely poor accounting practices and were not consistent with expenditure budget resolutions and/or amendments (this can be attested to by the SCO auditor who saw the shoddy record keeping entries) only a very expensive, very time-consuming forensic audit would ever be able to determine which agency - former RDA or City - actually owes who money. We chose to apply the funds in FY11, for project expenses committed and/or incurred in the July-December 2010 portion of the year to preserve the integrity of the bond and to provide greater support detail – the new supporting documents that we are including herein, that we apologize for not making available to your on-site auditor, should provide sufficient support for our position that the actual expenditures were made prior to January 1, 2011, the cash was actually transferred in November of 2009, but the appropriate accounting entry was never made until the audit for fiscal year ending June 30, 2011, which made it appear we had transferred after the deadline, when in fact, we did not.

The lack of proper authorization, resolutions, contract change orders and budget amendments, improper coding of expenditures, failure to use correct accounting codes such as Transfers In/Out as opposed to Due To/From and other poor accounting practices by the previous administration has been a challenge for my staff and myself to overcome and rectify. We feel we have done a good job in sorting through the detritus left us by our predecessors and ask the DOF to recognize that this administration has conducted all business in an open and transparent manner, and forgive us if we made any honest error in the timing of the accounting entries as we learned our new positions and kept the City from going into bankruptcy.

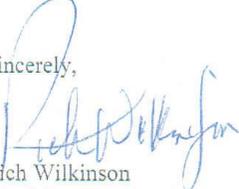
Elizabeth Gonzalez, Bureau Chief

-3-

December 10, 2014

If additional information is needed, I will be happy to come to Sacramento and bring all bank statements, expenditure ledgers, and Project Binders that support my position that the cash assets were spent in accordance with RDA/LMI restrictions *prior* to January 2011 and only the *accounting* entry was done after-the-fact. Therefore, I would respectfully ask the DOF to modify the finding regarding asset transfer and reverse the decision ordering the City to turn over \$805,662 in assets to the Successor Agency.

Sincerely,



Rich Wilkinson  
City Manager

RW/tkl

Attachments

Cc: Kandy Liu, Auditor-in-Charge  
Division of Audits, State Controller's Office

Tamara Laken  
Director of Finance, City of Lindsay/Successor Agency

Maria Knutson  
Administrative Supervisor, City of Lindsay/Successor Agency

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

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