

AUBURN URBAN DEVELOPMENT AUTHORITY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

April 2013



JOHN CHIANG
California State Controller

April 4, 2013

Robert Richardson, City Manager
City Of Auburn
1225 Lincoln Way, Room 9
Auburn, CA 95603

Dear. Richardson:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Auburn Urban Development Authority (RDA) to the City of Auburn 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 Auburn Urban Development Authority/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 Auburn or any other public agencies have been reversed.

Our review found that the Auburn Urban Development Authority transferred \$2,640,953 in assets. These included unallowable transfers of assets totaling \$1,258,341, or 47.65%, that must be turned over to the Auburn Successor Agency.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Robert Richardson, City Manager
City of Auburn
Steven Szaley, Local Government Consultant
Department of Finance
Keith Nesbitt, Oversight Board Chairperson
Auburn Successor Agency
Andrew Sisk, CPA, Auditor-Controller
Placer County
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
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Anita Bjelobrk, Auditor-in-Charge
Division of Audits, State Controller's Office
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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 Auburn Urban Development Authority (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 \$2,640,953 in assets. These included unallowable transfers totaling \$1,258,341, or 47.65%, that must be turned over to the Auburn 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 redevelopment agencies (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 RDA, the City of Auburn, 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.

Objectives, 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 City of Auburn, Auburn Urban Development Authority, and the Auburn Successor 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 Auburn Urban Development Authority transferred \$2,640,953 in assets. This included unallowable transfers of assets totaling \$1,258,341, or 47.65%, that must be turned over to the City of Auburn Redevelopment Successor Agency.

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

Views of Responsible Official

We issued a draft review report on March 5, 2013. Andy Heath, Director of Administrative Services, responded by letter dated March 15, 2013, agreeing with the review results. 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 Auburn Urban Development Authority, the SCO, the Successor Agency Oversight Board, and the City of Auburn; 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

April 4, 2013

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to entity
assuming housing
functions**

The Auburn Urban Development Authority (RDA) made unallowable asset transfers of \$1,258,341, described in Schedule 1, to the entity assuming the housing functions. The asset transfers occurred during the period of January 1, 2011, through January 31, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On January 23, 2012, the RDA transferred \$350,000 in capital assets to the entity assuming the housing functions.
- On January 23, 2012, the RDA transferred current assets of \$908,341 in unencumbered cash to the entity assuming the housing functions. Based on Health & Safety (H&S) Code section 34177(e), the Successor Agency, not the entity assuming the housing functions, is responsible for the disposition of assets and properties of the former RDA.

H&S Code section 34175(b) states, “All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.” Pursuant to H&S Code section 34175(b) the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34177(d) states, “Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency...for allocation and distribution...[in accordance with]...Section 34188.”

Pursuant to H&S Code section 34177(e) the “Successor Agency is to dispose of all former RDA assets”...As directed by the oversight board. . .” Also, pursuant to H&S Code section 34177(g) the Successor Agency is to “effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.” However, H&S Code section 34181(c) requires the oversight board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to Section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions is ordered to reverse the transfers of assets in the amount of \$1,258,341, and to turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e) and 34181(c).

City's Response

The Auburn Successor Agency agrees with the Unallowable Asset Transfer to Entity Assuming Housing Functions finding noted in the State Controller's March 5, 2013, Asset Transfer Review. The \$350,000 in land currently resides with the Entity Assuming the Housing Functions (Auburn Housing Successor Agency) and, pursuant to the finding noted herein, will be reserved and transferred to the Auburn Successor Agency and disposed of in accordance with California Health and Safety Code section 34177(d) and (e) and 34181(c).

The \$908,341 transfer of current assets is solely related to the remaining unencumbered funds from the former Low Moderate Income Housing Fund. These funds were inadvertently transferred directly from the Auburn Housing Successor agency to the County of Placer on November 9, 2012 for distribution to appropriate taxing entities consistent with the November 7, 2012 Due Diligence T=Review Finding issued by the State Department of Finance. As a result of this inadvertent oversight, the Housing Successor Agency will administratively reverse and the Successor Agency will administratively assume the current assets of the former Low and Moderate Income Housing Fund and subsequently obtain Oversight Board direction to dispose of said assets in accordance with California Health and Safety Code Section 34177(d) and (e) and 34181(c).

SCO Comments

The State Controller's Office agrees with the City. The finding remains as stated.

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

Capital Assets	\$ 350,000
Unencumbered Cash	<u>908,341</u>
Total Unallowable Transfers to the Entity Assuming Housing Functions	<u>\$ 1,258,341</u>

¹ See the Finding and Order of the Controller section.

**Attachment 1—
City's Response to
Draft Review Report**

City of **Auburn**

1225 Lincoln Way, Auburn, CA 95603 • (530)833-4211 • FAX (530)885-5508
www.auburn.ca.gov

March 15, 2013

State of California Controller's Office
Attn: Steven Mar, Chief
Local Government Audits Bureau, Divisions of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

RE: Auburn Urban Development Authority Asset Transfer Review Report – March 2013

Dear Mr. Mar:

The information presented below is provided in response to a finding detailed in the Draft Review Report for the Auburn Urban Development Authority Asset Transfer Review completed by the Office of the California State Controller and provided to the Auburn Successor Agency on March 5, 2013. This information comprises the "views of responsible officials" with respect to the finding(s) noted in the aforementioned draft review report.

Finding: *The Auburn Urban Development Authority (RDA) made an unallowable asset transfer of \$1,258,341 (\$350,000 of capital and \$908,341 of current assets), described in Schedule 1, to the Entity Assuming the Housing Functions. The asset transfers occurred during the period of January 1, 2011, through January 31, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.*

Response: The Auburn Successor Agency agrees with the Unallowable Asset Transfer to Entity Assuming Housing Functions finding noted in the State Controller's March 5, 2013 Asset Transfer Review. The \$350,000 in land currently resides with the Entity Assuming the Housing Functions (Auburn Housing Successor Agency) and, pursuant to the finding noted herein, will be reversed and transferred to the Auburn Successor Agency and disposed of in accordance with California Health and Safety Code sections 34177(d) and (e) and 34181(c).

The \$908,341 transfer of current assets is solely related to the remaining unencumbered funds from the former Low and Moderate Income Housing Fund. These funds were inadvertently transferred directly from the Auburn Housing Successor Agency to the County of Placer on November 9, 2012 for distribution to appropriate taxing entities

State of California Controller's Office, Attn: Steven Mar
RE: Auburn Urban Development Authority Asset Transfer Review Report – March 2013
March 15, 2013
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consistent with the November 7, 2012 Due Diligence Review Finding issued by the State Department of Finance. As a result of this inadvertent oversight, the Housing Successor Agency will administratively reverse and the Successor Agency will administratively assume the current assets of the former Low and Moderate Income Housing Fund and subsequently obtain Oversight Board direction to dispose of said assets in accordance with California Health and Safety Code sections 34177(d) and (e) and 34181(c).

Please feel free to call me at (530) 823-4211, extension 110 if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Heath', with a stylized flourish at the end.

Andy Heath
Director of Administrative Services
City of Auburn

cc: Robert Richardson, City of Auburn City Manager

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

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