

RIPON REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

July 2014



JOHN CHIANG
California State Controller

July 30, 2014

Kevin Werner, Deputy City Administrator
Ripon Redevelopment/Successor Agency
259 N. Wilma Avenue
Ripon, CA 95366

Dear Mr. Werner:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Ripon Redevelopment Agency (RDA) to the City of Ripon (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 \$22,084,130 in assets after January 1, 2011, including unallowable transfers to the City totaling \$3,300,000, or 14.94% of transferred assets. However, on February 1, 2012, the City turned over \$3,300,000 in loan receivables to the Successor Agency. Therefore, no further action is necessary.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Lisa Roos, Finance Director
Ripon Redevelopment/Successor Agency
Michael P. Restuccia, Chairperson
Oversight Board of the Ripon Redevelopment 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
Nicole Baker, Auditor-in-Charge
Division of Audits, State Controller's Office
Tuan Tran, Auditor
Division of Audits, State Controller's Office

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Attachment—City’s Response to Draft Review Report

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Ripon 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 RDA transferred \$22,084,130 in assets after January 1, 2011, including unallowable transfers to the City of Ripon (City) totaling \$3,300,000, or 14.94% of transferred assets. However, on February 1, 2012, the City turned over \$3,300,000 in loan receivables 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 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 has identified transfers of assets 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 RDA, the Ripon City Council, 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 Ripon Redevelopment Agency transferred \$22,084,130 in assets after January 1, 2011, including unallowable transfers to the City of Ripon (City) totaling \$3,300,000, or 14.94% of transferred assets. However, on February 1, 2012, the City turned over \$3,300,000 in loan receivables to the Successor Agency. Therefore, no further action is necessary.

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

Views of Responsible Officials

We issued a draft review report on November 9, 2013. On June 12, 2014, Lisa Roos, Finance Director, sent an email with comments to the draft report.

Restricted Use

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

July 30, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Ripon

The Ripon Redevelopment Agency (RDA) made unallowable asset transfers of \$3,300,000 to the City of Ripon (City). The asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

The unallowable asset transfers consisted of cash and bond proceeds used to finance improvements at the Mistlin Sports Park Softball Complex pursuant to the loan agreement between the RDA and the City under RDA and City Joint Resolution No. 11-5.

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. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(e).

Order of the Controller

Based on H&S Code section 34167.5, the City is ordered to reverse the transfer of the above assets, in the amount of \$3,300,000. However, a \$3,300,000 loan receivable was turned over to the Successor Agency on February 1, 2012. Therefore, no further action is necessary.

City's Response to Draft

We wanted to clarify that of the \$3,300,000 that was loaned, \$1,256,635.70 has already been paid back as part of the City's true-up payment, leaving a balance of only \$2,043,694.30. Of that, \$1,558,266 is bond proceeds that was included in the due diligence review, so the only portion that could be unallowable is \$485,428.30.

SCO's Comment

The SCO partially agrees with the City; however, the bond proceeds transferred to the City are still unallowable. Under H&S Code section 34177(i), the Successor Agency must carry out any responsibilities associated with the bond funding. If the bond proceeds are not contractually committed to a third party, then SCO would have ordered the return of bond proceeds under H&S Code section 34167.5. However, the \$3,300,000 loaned to the City was recognized as an investment plus interest obligation with the City, and on February 1, 2012, the loan receivable was transferred to the Successor Agency. Therefore, no further action is necessary.

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

Subject: RE: State Controller's Redevelopment Asset Transfer Draft Report

From: Lisa Roos

Sent: Thursday, June 12, 2014 4:29 PM

To:

Cc:

Subject: RE: State Controller's Redevelopment Asset Transfer Draft Report

Nicole,

We wanted to clarify that of the \$3,300,000 that was loaned, \$1,256,635.70 has already been paid back as part of the City's true-up payment, leaving a balance of only \$2,043,694.30. Of that, \$1,558,266 is bond proceeds that was included in the due diligence review, so the only portion that could be unallowable is \$485,428.30. It is important to incorporate this into the report to avoid confusion and added difficulty to resolve this situation in the future.

Thank you,
Lisa Roos
City Clerk/Finance Director
City of Ripon
209-599-2108

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

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