

COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

December 2014



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California State Controller

December 31, 2014

Jennifer Haruyama, City Manager
Tracy Redevelopment/Successor Agency
333 Civic Center Plaza
Tracy, CA 95376

Dear Ms. Haruyama:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Community Development Agency of the City of Tracy (RDA) to the City of Tracy (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 \$39,908,599 in assets after January 1, 2011, including unallowable transfers to the City totaling \$9,967,619, or 24.98% of transferred assets.

However, as of June 30, 2012, the City turned over \$1,843,395 in cash and \$3,661,229 in property to the Successor Agency. Therefore, the remaining \$4,462,991 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/kw

cc: Jerome Wilverding, Auditor-Controller
San Joaquin County
Paul Sensibaugh, Oversight Board Chairman
Tracey Community Development 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
Nicole Baker, Auditor-in-Charge
Division of Audits, State Controller's Office

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Attachment—Auditee’s Response to Draft Review Report

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Community Development Agency of the City of Tracy (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 \$39,908,599 in assets after January 1, 2011, including unallowable transfers to the City of Tracy (City) totaling \$9,967,619, or 24.98% of transferred assets.

However, as of June 30, 2012, the City turned over \$1,843,395 in cash and \$3,661,229 in property to the Successor Agency. Therefore, the remaining \$4,462,995 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 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 Community Development Agency of the City of Tracy transferred \$39,908,599 in assets after January 1, 2011, including unallowable transfers to the City of Tracy (City) totaling \$9,967,619, or 24.98% of transferred assets.

However, as of June 30, 2012, the City turned over \$1,843,395 in cash and \$3,661,229 in property to the Successor Agency. Therefore, the remaining \$4,462,995 in unallowable transfers 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 October 8, 2014. Robert Harmon, CPA, Senior Accountant, responded by email dated November 5, 2014, and had no comments to add. 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 Tracy, 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

December 31, 2014

Finding and Order of the Controller

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

The Community Development Agency of the City of Tracy (RDA) made unallowable asset transfers of \$9,967,619 to the City of Tracy (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 January 17, 2011, the RDA made an unallowable transfer of \$6,306,390 in cash to the City pursuant to a City-RDA Cooperation Agreement.
- On March 8, 2011, the RDA made an unallowable transfer of \$3,661,229 in property to the City.

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 should 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 of Tracy is ordered to reverse the transfers in the amount of \$9,967,619 and turn over the assets to the Successor Agency.

However, as of June 30, 2012, the City turned over \$5,504,624 (\$1,843,395 in cash and \$3,661,229 in property) to the Successor Agency. Therefore, the remaining \$4,462,995 in unallowable transfers must be turned over to the Successor Agency.

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

Current Assets	
Cash transferred on January 17, 2011	\$ 6,306,390
Capital Assets	
Land and improvements transferred on March 8, 2011	<u>3,661,229</u>
Total unallowable asset transfers	9,967,619
Cash turned over to the Successor Agency as of June 30, 2012	(1,843,395)
Land and improvements turned over to the Successor Agency as of June 30, 2012	<u>(3,661,229)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 4,462,995</u>

**Attachment—
Auditee’s Response to
Draft Review Report**

Baker, Nicole

From: Robert Harmon <Robert.Harmon@ci.tracy.ca.us>
Sent: Wednesday, November 05, 2014 3:12 PM
To: Baker, Nicole
Cc: Jenny Haruyama
Subject: RE: City of Tracy RDA

Hi Nicole – Yes, we received the draft report and reviewed it. It was just we had discussed in the exit interview and as we expected. We are satisfied with the report and have no comments to add.

Thanks – Robert

Robert Harmon, CPA
Senior Accountant
ERP Project Manager
City of Tracy
(209) 831-6828 Voice
(209) 831-6846 Fax



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

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