

***AB 1389 – Report on Property Tax
Pass-Through Payments
Frequently Asked Questions
as of July 1, 2009***

This document will hopefully answer some of the most pressing concerns regarding the *AB 1389 Report on Property Tax Pass-Through Payments* issued by the State Controller's Office (SCO).

General Questions:

Q – Now that the report is out, what's next?

A – The June report covered the five-year period of 2003-04 through 2007-08. The report was sent to the following: California Legislative Analyst's Office, Department of Finance, California Department of Education, California Community College Agency, County Auditors, and Redevelopment Agencies.

Q – When is the latest I can submit a revised report for this first year's reporting (five-year period ending 2007-08)?

A – The law is mute on this point. However, the SCO will continue to accept revised reports from the county auditors until both the county auditor and the SCO are satisfied that the redevelopment agency (RDA) is in compliance with AB 1389 reporting requirements. While SCO will continue to accept a revised report, the *AB 1389 Report on Property Tax Pass-Through Payments* will not be changed. The Sanction Listing is the only section of the June report that will be updated on the SCO's website, and that will be done on a quarterly basis.

Q – Our agency wasn't listed anywhere in the first publication – how come?

A – While every RDA was required to report, 85 RDAs were not included in the publication because the plan was adopted prior to January 1, 1994, and was not amended after that date to require a pass-through payment. Additionally, another 23 RDAs were not included because, while reporting criteria was met, they were not yet required to make payments. In the June report, Appendix B contains a listing of all of these agencies. All agencies were required to report regardless of when the plan was adopted. The 85 basically had nothing to report.

Q – How do I make my 2008-09 tax sharing payments to the Local Educational Agencies (LEAs)? Should the entire payment be made to the LEAs or should the ERAF portions be paid to the County Auditors?

A – The normal 2008-09 payments should be made as they normally would during the regular fiscal year process. That would be directly to the LEA as if AB 1389 was not there. However, outstanding obligations carried over from 2007-08, and prior years, and paid during 2008-09 are split between the LEA and ERAF. Finally, after the October 1, 2009 timeframe, any outstanding obligations left over for 2008-09 should be split as well. Any payments made and already reported against pre-2008-09 obligations should NOT appear on the 2008-09 report. However, if there were unpaid outstanding obligations NOT YET PAID, these need to be reported during the 2008-09 reporting year. Great care must be taken not to show duplicate payments.

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Sanctioned Agencies:

Q – My agency was on the “List of Agencies Subject to Being Sanctioned”. How do I get my agency removed from this list?

A – RDAs were placed on this list for one or more of the following reasons: failure to file a report, did not receive concurrence from their county auditor, or has an outstanding payment obligation. Once the SCO receives notice from the county auditor that it has concurred with the RDA, or submitted proof of the payment of the outstanding obligation along with a revised worksheet, the SCO will remove the agency from the sanction list. Each agency will be individually contacted once SCO staff verifies that the RDA is in compliance with AB 1389 requirements. The website list will be updated quarterly.

Q – My agency shouldn’t have been listed on the “List of Agencies Subject to Being Sanctioned” in the first report released in April 2009, because we paid the additional payments already!

A – What your agency and several others experienced is simply a timing issue. In order to compile the data for the report, we had to select a point in time from which to gather the financial information for publishing purposes. However, in the meantime, we continuously received revised reports. If the revised report or proof of your payments was received after February 27, 2009, staff didn’t have time to re-review the entire report to ensure that nothing else was changed and that the payment supplied did in fact cover the outstanding obligations. Staff are currently reviewing the resubmitted and revised reports and verifying that the payments have been made and/or that the county has mailed their concurrence letter to us for each RDA reported as subject to sanctions. As detailed in the “Sanction List Follow-up Procedures”, as each RDA’s report is verified as complete and in compliance, the agency name will be removed from the list and the RDA will be notified as such.

Q – If our RDA is unable to meet the conditions to remove our name from the list by the time the SCO publishes the final report for the year, what happens next?

A – SCO staff continue to work with the RDAs and County Auditors to clear the sanction. Once an RDA is cleared, it will be notified in writing that the sanction is lifted and the list on the SCO website will be updated quarterly.

Q – How is the interest penalty going to be applied?

A – That has yet to be determined.

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Dispute Issues:

- Q – Our agency filed a statement of dispute with our County Auditor because we disagreed with how the pass-through payments were calculated. Who is responsible for resolving these disputes?**
- A – RDAs should work with their County Auditor to resolve the disputes if at all possible. AB 1389 states that the SCO is to provide the status of the disputes, including whether the SCO, or another state agency has provided instructions on how the disputes should be resolved. Neither the SCO nor another state agency has yet issued any instructions on how the disputes should be resolved.