

ATASCADERO REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

December 2014



JOHN CHIANG
California State Controller

December 22, 2014

Rachelle Rickard, City Manager
City of Atascadero
6500 Palma Avenue
Atascadero, CA 93422

Dear Ms. Rickard:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Atascadero Redevelopment Agency (RDA) to the City of Atascadero (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 \$23,400,920 in assets after January 1, 2011, including unallowable transfers to the City totaling \$115,223, or less than 1% of transferred assets. These assets 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 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: James P. Erb, CPA, Auditor-Controller
SLO County Office of the Auditor-Controller
Roberta Fonzi, Oversight Board Chair
Atascadero Redevelopment/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
Cecilia Michaels, Auditor-in-Charge
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 Atascadero 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 \$23,400,920 in assets after January 1, 2011, including unallowable transfers to the City of Atascadero (City) totaling \$115,223, or less than 1% 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 Atascadero Redevelopment Agency transferred \$23,400,920 in assets after January 1, 2011, including unallowable transfers to the City of Atascadero totaling \$115,223, or less than 1% 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 September 30, 2014. Rachelle Rickard, City Manager, responded by letter dated October 14, 2014. In its response, the City disagreed 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 City of Atascadero, 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 22, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Atascadero

The Atascadero Redevelopment Agency (RDA) made unallowable asset transfers of \$115,223 to the City of Atascadero (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

The unallowable transfers are as follows:

- On June 24, 2011, the RDA posted 11 journal entries; each journal entry consisted of one payment on three loans, totaling \$105,758.55
- On August 18, 2011, the RDA posted one journal entry; the entry consisted of one payment on three loans, totaling \$9,464.42.

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).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the assets in the amount of \$115,223, and turn over the assets to the Successor Agency.

City's Response

The City contends that payments made on loans were applied to the applicable month the interest was due and that the payment date noted in the report was a processing date. Therefore, only \$58,081 of the \$115,223 was for interest due in 2010.

SCO's Response

The SCO's authority under H&S Code section 34167.5 extends to all assets transferred after January 1, 2011, by the RDA to the city or county, or city and county that created the RDA, or any other public agency. This responsibility is not limited by the other provisions of the RDA dissolution legislation. As a result, the cash transfers made by the RDA to the City during the periods of January 1, 2011, through January 31, 2012, are unallowable.

The City stated that the transfers for interest payments on loans from the City were posted to the correct period when the interest should have been paid. However, the payments of interest were not paid when scheduled but were actually paid in June 2011 and August 2011, and are therefore unallowable transfers.

When the Successor Agency receives its Finding of Completion from the Department of Finance, it can place the loan agreements between the RDA and the City on the Recognized Obligation Payment Schedule as an enforceable obligation, provided the Oversight Board finds that the loans were for a legitimate redevelopment purpose.

The Finding and Order of the Controller remain as stated.

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



CITY OF ATASCADERO

October 14, 2014

Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Atascadero Redevelopment Agency Asset Transfer Review and Findings

Dear Ms. Gonzalez,

The City of Atascadero (City) disagrees with the finding in the Draft Asset Transfer Review. The Atascadero Redevelopment Agency (RDA) borrowed three loans from the City. The interest on these loans was paid monthly. The RDA paid a total of \$115,222.97 in interest expense on these loans to the City during fiscal year July 1, 2010 – June 30, 2011. Of this amount \$58,081.41 was due and payable by the RDA to the City prior to January 1, 2011.

The Draft report indicates that the transfers occurred on June 24, 2011, and August 18, 2011. Those dates are not the effective dates of the interest payments. Since fiscal year 2002, interest payment accounting entries were processed as staff time allowed and posted to the interest expense account on a monthly basis for each of the outstanding loans. As was consistent with past practice for the prior nine years, interest payments were posted to each month beginning July 2010 through June 2011. The June and August dates referenced in the draft report were processing dates and did not correspond with the payment effective dates, due simply to delays caused by heavy workload levels exceeding the capacities of available staff hours. The processing date does not affect the effective date of the payment. The monthly payments were effective for each of the periods the expense was posted to, consistent with almost a decade of past practice and intent.

The City disagrees with the Finding that the City received unallowable transfers of \$115,223, and the City hereby requests, at a minimum, that the interest payments by the RDA to the City of \$58,081.41 for the effective period prior to January 1, 2011, stand as authorized transfers.

Elizabeth Gonzalez
State Controller's Office
October 14, 2014
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While the City does not agree with the argument that payments made after January 1, 2011, are not authorized, the City is willing to concede the \$57,141.56 in payments that were made effective after January 1, 2011.

Regards,

A handwritten signature in black ink that reads "Rachelle Rickard". The signature is written in a cursive, flowing style.

Rachelle Rickard
City Manager
City of Atascadero

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

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