

LEMOORE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

January 2015



BETTY T. YEE
California State Controller

January 22, 2015

Jeff Laws, City Manager
Lemoore Redevelopment/Successor Agency
119 Fox Street
Lemoore, CA 93245

Dear Mr. Laws:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Lemoore Redevelopment Agency (RDA) to the City of Lemoore (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 \$41,058,361 in assets after January 1, 2011, including unallowable transfers to the City totaling \$1,045,132, or 2.55% of transferred assets.

However, on March 19, 2013, and April 17, 2013, the City turned over \$645,132 and \$43,654 respectively, in cash, to the Successor Agency. Therefore, the remaining \$356,346 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 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Rebecca Carr, CPA, Auditor-Controller/Director of Finance
Kings County
John Murray, Oversight Board Chair
City of Lemoore
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
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Anita Bjelobrk, 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 Lemoore 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 \$41,058,361 in assets after January 1, 2011, including unallowable transfers to the City of Lemoore (City) totaling \$1,045,132, or 2.55% of transferred assets.

However, on March 19, 2013, and April 17, 2013, the City turned over \$645,132 and \$43,654 respectively, in cash, to the Successor Agency. Therefore, the remaining \$356,346 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 Lemoore Redevelopment Agency transferred \$41,058,361 in assets after January 1, 2011, including unallowable transfers to the City of Lemoore totaling \$1,045,132, or 2.55% of transferred assets.

However, on March 19, 2013, and April 17, 2013, the City turned over \$645,132 and \$43,654 respectively, in cash, to the Successor Agency. Therefore, the remaining \$356,346 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 November 18, 2014. Cheryl Silva, Finance Director, responded by letter dated December 9, 2014. 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 Lemoore, 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

January 22, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Lemoore

The Lemoore Redevelopment Agency (RDA) made unallowable asset transfers of \$1,045,132 to the City of Lemoore (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.

Unallowable asset transfers were as follows:

- On March 11, 2011, the RDA made a loan repayment of \$200,000 to the City.
- On December 16, 2011, the RDA made a prepayment on administrative charges of \$430,088 to the City.
- On January 12, 2012, the RDA made a loan payment of \$200,000 and a prepayment on administrative charges of \$215,044 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. Those assets must 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 Lemoore is ordered to reverse the transfers totaling \$1,045,132 and turn over the assets to the Successor Agency.

However, on March 19, 2013, and on April 17, 2013, the City of Lemoore turned over \$645,132 and \$43,654, respectively, in cash, to the Successor Agency. Therefore, the remaining \$356,346 in unallowable transfers must be turned over to the Successor Agency.

City's Response:

The City agreed with the process of returning the remaining funds, totaling \$356,346, to the Successor Agency, and including the funds on the ROPS 15-16A cycle for approval by the Oversight Board and the Department of Finance. The remaining amount is a final payment to the City in association with an agreement between the former RDA and the City to invest in the City's general fund receivables due from a golf course.

The City stated:

...the City would like to be on record to state that if the item is not approved on the ROPS 15-16A cycle, the receivable owed to the Successor Agency would be reduced because the amount would then be owed to the General Fund.

See Attachment for the City's complete response.

SCO's Comment

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 other provisions of the RDA dissolution legislation. As a result, loan repayments made by the RDA to the City during the periods of January 1, 2011, through January 31, 2012, were unallowable.

The Successor Agency may place loan agreements between the RDA and the City on the Recognized Obligation Payment Schedule, as an enforceable obligation, provided that the Oversight Board finds that the loan was for legitimate redevelopment purposes.

The Finding and Order of the Controller remain as stated.

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

On March 11, 2011, the RDA made a loan repayment to the City	\$ 200,000
On December 16, 2011, the RDA made a prepayment on administrative charges to the City	430,088
On January 12, 2012, the RDA made a loan repayment to the City	200,000
On January 12, 2012, the RDA made a prepayment on administrative charges to the City	<u>215,044</u>
Total unallowable transfers to the City	<u>1,045,132</u>
On March 19, 2013, the City turned over cash to the Successor Agency	(645,132)
On April 17, 2013, the City turned over cash to the Successor Agency	<u>(43,654)</u>
Total transfers subject to Health and Safety Code section 34167.5	<u>\$ 356,346</u>

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

Mayor
Lois Wynne
Mayor Pro Tem
Jeff Chedester
Council Members
Ray Madrigal
Eddie Neal
William Siegel



Finance Department

119 Fox Street
Lemoore, CA 93245
Phone (559) 924-6710
Fax (559) 924-9003

December 9, 2014

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

Dear Elizabeth:

This letter serves as the response to the draft report regarding the Lemoore RDA Asset Transfer Review. During the exit interview with Anita Bjelobrk, the unallowable transfers to the City in the amount of \$356,346 were discussed in detail. The City was directed to return the funds to the Successor Agency and then include the \$356,346 amount on the ROPS 15-16A cycle (July – December 2015) for approval by the Oversight Board and by the Department of Finance.

While in agreement with this process, the City would like to be on record to state that if the item is not approved on the ROPS 15-16A cycle, the receivable owed to the Successor Agency would be reduced because the amount would then be owed to the General Fund. This unallowable transfer is associated with agenda items that were passed by the City of Lemoore and the Lemoore Redevelopment Agency in 2005. The agreement at that time was that the Redevelopment Agency was going to invest in the General Fund Receivable due from the Golf Course that was recorded at an estimated amount of \$1,512,654 on the financials at that point. The Redevelopment Agency was to pay \$200,000 per year to the City General Fund until the amount was paid in full. This was recorded as a receivable from the RDA on the City General Fund and a payable to the City on the Redevelopment Fund. At the same time, the Redevelopment Agency recorded a receivable from the Golf Course on the books and the City recorded a payable to the RDA on the Golf Course financials.

The unallowable transfer of \$356,346 was the final payments on the LRA payable to the City General Fund. If the item is not approved on the ROPS 15-16A, the receivable from the Golf Course on the Successor Agency financials will be decreased by \$356,346 and then be recorded as a receivable to the General Fund to properly account for this transaction.

"In God We Trust"

The transactions as presented will only affect the timing of the cash available to the Successor Agency. It does not increase the overall cash that will be received by the Lemoore Successor Agency.

If you have any questions regarding this response, please give me a call at (559) 924-6707 or e-mail me at csilva@lemoore.com.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl Silva".

Cheryl Silva
Finance Director

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

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