

COLTON REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

October 2014



JOHN CHIANG
California State Controller

October 31, 2014

Bill Smith, Acting City Manager
Colton Redevelopment/Successor Agency
650 N. La Cadena Drive
Colton, CA 92324

Dear Mr. Smith:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Colton Redevelopment Agency (RDA) to the City of Colton (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 \$53,934,014 in assets after January 1, 2011, including unallowable transfers totaling \$3,414,432, or 6.33% of transferred assets. The unallowable transfers included \$3,403,860 to the City and \$10,572 to the Colton Utility Authority.

However, on May 9, 2013, and May 13, 2013, the City turned over \$3,403,860 in cash to the Successor Agency. Also, on June 29, 2014, the City turned over \$10,572 in cash to the Successor agency. Therefore, no further action is necessary.

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/mh

Attachment

cc: Frank A. Gonzalez, Chairperson of the Oversight Board

Colton Redevelopment/Successor Agency

Larry Walker, CPA, Auditor-Controller

County of San Bernardino Auditor-Controller

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

Wan Ting Lo, Auditor-in-Charge

Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background.....	1
Objective, Scope, and Methodology.....	2
Conclusion.....	2
Views of Responsible Officials.....	2
Restricted Use	3
Findings and Orders of the Controller	4
Schedule 1—Unallowable Asset Transfers to the City of Colton	7
Schedule 2—Unallowable Asset Transfers to the Colton Utility Authority	8
Attachment—City of Colton’s Response to Draft Review Report	

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Colton 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 \$53,934,014 in assets after January 1, 2011, including unallowable transfers totaling \$3,414,432, or 6.33% of transferred assets. The unallowable transfers included \$3,403,860 to the City of Colton (City) and \$10,572 to the Colton Utility Authority.

However, on May 9, 2013, and May 13, 2013, the City turned over \$3,403,860 in cash to the Successor Agency. Also, on June 29, 2014, the City turned over \$10,572 in cash 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 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 Colton Redevelopment Agency transferred \$53,934,014 in assets after January 1, 2011, including unallowable transfers totaling \$3,414,432, or 6.33% of transferred assets. The unallowable transfers included \$3,403,860 to the City of Colton (City) and \$10,572 to the Colton Utility Authority.

However, on May 9, 2013, and May 13, 2013, the City turned over \$3,403,860 in cash to the Successor Agency. Also, on June 29, 2014, the City turned over \$10,572 in cash to the Successor agency. Therefore, no further action is necessary.

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

Views of Responsible Officials

We issued a draft review report on August 15, 2014. Bill Smith, Acting City Manager, responded by email dated September 29, 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 Colton, the Successor Agency, the Oversight Board, the Colton Utility Authority, 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

October 31, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Colton

The Colton Redevelopment Agency (RDA) made unallowable asset transfers totaling \$3,403,860 to the City of Colton (City). The asset transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

- On February 1, 2011, the RDA transferred cash for a loan repayment in the amount of \$1,753,860. This included \$199,827 to the Traffic Impact Fees Fund and \$1,554,033 to the General Fund. However, on May 9, 2013, the City turned over \$1,753,860 in cash to the Successor Agency.
- On January 18, 2012, the RDA transferred cash for reimbursement of City's public improvement costs in the amount of \$1,650,000. However, on May 13, 2013, the City turned over \$1,650,000 in cash to the Successor Agency.

Pursuant to Health and Safety (H&S) Code section 34167.5, any asset transfers by the RDA to a city, county, city and county, or any other public agency after January 1, 2011, that were not contractually committed to a third party 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 above assets in the amount of \$3,403,860, and turn the assets over to the Successor Agency. However, because the City already turned over the assets totaling \$3,403,860 to the Successor Agency, no further action is necessary.

City's Response

The City did not address the finding.

SCO's Comment

The finding and Order of the Controller remains as stated.

FINDING 2— Unallowable asset transfers to the Colton Utility Authority

The RDA made an unallowable asset transfer totaling \$10,572 to the Colton Utility Authority (CUA). The asset transfer occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On June 29, 2011, the RDA made an interest payment totaling \$10,572 to the CUA. The CUA is a blended component unit of the City. The City Council acts as the governing board of the CUA. The activity of the CUA is reported in the City's Comprehensive Audited Financial Report (CAFR).

H&S Code section 34167.10 states the following:

- (a) Notwithstanding any other law, for purposes of this part and Part 1.85 (commencing with Section 34170), the definition of a city, county, or city and county includes, but is not limited to, the following entities:
 - (1) Any reporting entity of the city, county, or city and county for purposes of its comprehensive annual financial report or similar report.
 - (2) Any component unit of the city, county, or city and county.
 - (3) Any entity which is controlled by the city, county, or city and county, or for which the city, county, or city and county is financially responsible or accountable.
- (b) The following factors shall be considered in determining that an entity is controlled by the city, county, or city and county, and are therefore included in the definition of a city, county, or city and county for purposes of this part and Part 1.85 (commencing with section 34170):
 - (1) The city, county, or city and county exercises substantial municipal control over the entity's operations, revenues, or expenditures.
 - (2) The city, county, or city and county have ownership or control over the entity's property or facilities.
 - (3) The city, county, or city and county and the entity share common or overlapping governing boards, or coterminous boundaries.
 - (4) The city, county, or city and county was involved in the creation or formation of the entity.
 - (5) The entity performs functions customarily or historically performed by municipalities and financed thorough levies of property taxes.
 - (6) The city, county, or city and county provides administrative and related business support for the entity, or assumes the expenses incurred in the normal daily operations of the entity.
- (c) For purposes of this section, it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. The provisions in this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part and Part 1.85 (commencing with section 34170) and any attempt to determine otherwise would thwart the intent of these two parts.

Pursuant to H&S Code section 34167.5, any asset transfers by the RDA to a city, county, city and county or any other public agency after January 1, 2011, that were not contractually committed to a third party 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 and 34167.10, the CUA is ordered to reverse the transfer of assets in the amount of \$10,572, and turn the assets over to the Successor Agency.

City's Response

Our only comment to the State Controller's Office letter dated August 15, 2015 is that the City of Colton transferred the remaining \$10,572.30 to the Successor Agency on June 29, 2014.

See Attachment for the City's complete response.

SCO's Comment

We acknowledge that the City has taken corrective action to turn over the assets to the Successor Agency. Therefore, no further action is necessary.

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

Current assets

February 1, 2011: Loan repayment to the City's Traffic Impact Fees Fund	\$ 199,827
February 1, 2011: Loan repayment to the City's General Fund	1,554,033
January 18, 2012: Reimbursement to the City for Public Improvement Cost	<u>1,650,000</u>
Total unallowable asset transfer to the City of Colton	3,403,860
Less:	
May 9, 2013: Cash turned over to the Successor Agency	(1,753,860)
May 13, 2013: Cash turned over to the Successor Agency	<u>(1,650,000)</u>
Total transfers subject to Health and Safety Code section 34167.5	\$ —

**Schedule 2—
Unallowable Asset Transfer to
the Colton Utility Authority
January 1, 2011, through January 31, 2012**

Current assets

June 29, 2011: Interest payment to Colton Utility Authority	\$ 10,572
Total unallowable asset transfer to the Colton Utility Authority	10,572
Less:	
June 29, 2014: Cash turned over to the Successor Agency	(10,572)
Total transfers subject to Health and Safety Code section 34167.5	\$ —

Attachment—
City of Colton's Response to
Draft Review Report

Lo, Wan-Ting

From: Bill Smith <BSmith@ci.colton.ca.us>
Sent: Monday, September 29, 2014 4:36 PM
To: Lo, Wan-Ting
Cc: Anita Agramonte; Arthur Morgan; Mark Tomich; Altheia Franklin; Bill Smith
Subject: Colton RDA Asset Transfer Review (Draft Report)
Attachments: S14RDC903_Draft.pdf; City of Colton Adjusting Journal Entry per DOF Letter 8-15-2014.pdf

Good afternoon Sarah,

Our only comment to the State Controller's Office letter dated August 15, 2014 is that the City of Colton transferred the remaining \$10,572.30 to the Successor Agency on June 29, 2014. I have attached a copy of the City's Adjusting Journal Entry for your review and files.

Should you have any questions, please do not hesitate to contact me directly at 909-370-6152, or Altheia Franklin, Senior Accountant at 909-370-5554. Let me know if anything additional to this email is needed.

Sincerely,
Bill Smith
Acting City Manager

From: WLo@sco.ca.gov [mailto:WLo@sco.ca.gov]
Sent: Tuesday, September 23, 2014 3:08 PM
To: Bill Smith
Subject: Colton RDA Asset Transfer Review (Draft Report)

Hi Bill,

To speed up the report processing time, you can also email me the pdf copy of the City's response.

Thank you,

Wan Ting (Sarah) Lo

Auditor | Local Government Compliance Bureau
Division of Audits | State Controller's Office
916.319.0770 | wlo@sco.ca.gov

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