

# **SAN BUENAVENTURA 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 15, 2015

Mark Watkins, City Manager  
San Buenaventura Redevelopment/Successor Agency  
501 Poli Street  
Ventura, CA 93002-0009

Dear Mr. Watkins:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the San Buenaventura Redevelopment Agency (RDA) to the City of San Buenaventura (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 \$10,634,407 in assets after January 1, 2011, including unallowable transfers to the City totaling \$890,410, or 8.37% 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](mailto:egonzalez@sco.ca.gov).

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/mh

Attachment

cc: Dori Boyer, Management Technician  
San Buenaventura Redevelopment/Successor Agency  
Jeffrey Lambert, AICP, Community Development Director  
San Buenaventura Redevelopment/Successor Agency  
Jim Friedman, Chairperson to the Oversight Board  
San Buenaventura Redevelopment/Successor Agency  
Jeffrey S. Burgh, Auditor-Controller  
County of Ventura 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  
Kevin Kanemasu, Auditor  
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 San Buenaventura 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 \$10,634,407 in assets after January 1, 2011, including unallowable transfers to the City of San Buenaventura (City) totaling \$890,410, or 8.37% 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 San Buenaventura Redevelopment Agency transferred \$10,634,407 in assets after January 1, 2011, including unallowable transfers to the City of San Buenaventura totaling \$890,410, or 8.37% 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 23, 2014. Jeffrey Lambert, AICP, Community Development Director, responded by letter dated October 9, 2014, disagreeing 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 San Buenaventura, 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 15, 2015

# Finding and Order of the Controller

**FINDING—  
Unallowable asset  
transfers to the  
City of San  
Buenaventura**

The San Buenaventura Redevelopment Agency (RDA) made unallowable asset transfers totaling \$890,410 to the City of San Buenaventura (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

- On June 30, 2011, the RDA transferred cash totaling \$562,364 to the City for a loan repayment, including \$233,674 in principal and \$328,690 in interest. The transfer was made pursuant to the March 9, 2011 amended loan agreement between the RDA and the City.
- On January 31, 2012, the RDA transferred \$328,046 in cash to the City for a loan repayment, including \$143,125 in principal and \$184,921 in interest. The transfer was made pursuant to the above amended loan agreement.

Pursuant to 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 transfers in the amount of \$890,410 and turn over the assets to the Successor Agency.

## City's Response

The Successor Agency respectfully disagrees with the finding of the State Controller's Office that the transfer of funds to the City to repay a loan was an unallowable transfer. The Successor Agency's Other Funds and Accounts DDR took this transfer into account and determined that even when that amount was added to determine the balance available for allocation to affected taxing agencies, the Successor Agency still had a deficit of \$216,035, and that therefore there was no amount available to allocate to the affected taxing entities.

Thus, the effect of the Controller's order that funds be transferred to the City so that the Successor Agency could "properly dispose of the assets in accordance with H&S Code section 34177(d)" has already been taken into account in the DOF's Other Funds and Accounts DDR.

See Attachment for the City's complete response.

## SCO's Comment

The asset transfer review performed by the SCO is a different and separate review from the Department of Finance's (DOF) Due Diligence Reviews.

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. This responsibility is not limited by the other provisions of the redevelopment agency dissolution legislation. As a result, the loan payments made by the RDA to the City during the period of January 1, 2011, through January 31, 2012 are unallowable.

On April 26, 2013, the Successor Agency received a Finding of Completion from the Department of Finance. Pursuant to H&S Code section 34191.4, the Successor Agency may place loan agreements between the RDA and the City on the Recognized Obligations Payment Schedule as an enforcement obligation, provided that the Oversight Board finds that the loans were for legitimate redevelopment purpose.

The Finding and Order of the Controller remain as stated.



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

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Current assets:

6/30/2011	Loan repayment to the City	\$ 562,364
1/31/2012	Loan repayment to the City	<u>328,046</u>
Total unallowable transfers		<u>\$ 890,410</u>

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

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October 9, 2014

State Controller's Office  
P.O. Box 942850  
Sacramento, CA 94250-5874  
Attn: Mr. Jeffrey V. Brownfield, CPA  
Chief, Division of Audits

RE: San Buenaventura Redevelopment/Successor Agency Asset Review Response

Dear Mr. Brownfield:

We received the State Controller's Office Asset Review letter on September 29, 2014 and are responding within the 10 day period herewith.

The Successor Agency respectfully disagrees with the finding of the State Controller's Office that the transfer of funds to the City to repay a loan was an unallowable transfer. The Successor Agency's Other Funds and Accounts DDR took this transfer into account and determined that even when that amount was added to determine the balance available for allocation to affected taxing agencies, the Successor Agency still had a deficit of \$216,035, and that therefore there was no amount available to allocate to the affected taxing entities.

Thus the effect of the Controller's order that funds be transferred to the City so that the Successor Agency could "properly dispose of the assets in accordance with H&S Code section 34177(d)" has already been taken into account in the DOF's Other Funds and Accounts DDR.

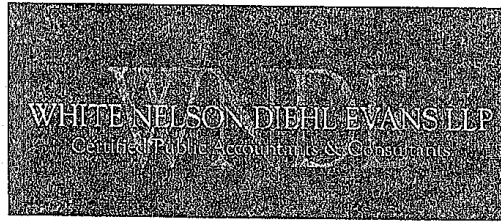
We are including specific pages of the AUP – Other Funds Review Report that supports the above information. Please contact Dori Boyer, Management Technician, at (805) 654-7732 or [dboyer@cityofventura.net](mailto:dboyer@cityofventura.net) if you have any questions.

Sincerely,

Jeffrey Lambert, AICP  
Community Development Director

Enclosures

C: Dori Boyer, Management Technician  
San Buenaventura Redevelopment/Successor Agency  
Rudy Livingston, Assistant Chief Financial Officer  
San Buenaventura Redevelopment/Successor Agency  
Wan Ting Lo, Auditor-in-Charge  
Division of Audits, State Controller's Office



**Independent Accountants' Report on Applying  
Agreed-Upon Procedures Related to All Other Funds**

Oversight Board of the Successor Agency  
to the Redevelopment Agency of the City of San Buenaventura  
San Buenaventura, California

We have performed the minimum required agreed-upon procedures (AUP) enumerated in Attachment A, which were agreed to by the California Department of Finance, the California State Controller's Office, the Ventura County Auditor-Controller, and the Successor Agency to the Redevelopment Agency of the City of San Buenaventura (Successor Agency), (collectively, the Specified Parties), solely to assist you in meeting the statutory requirements of Health and Safety Code Section 34179.5 related to all other funds except for the Low and Moderate Income Housing Fund (All Other Funds) of the former Redevelopment Agency of the City of San Buenaventura and the Successor Agency. Management of the Successor Agency is responsible for meeting the statutory requirements of Health and Safety Code Section 34179.5 related to All Other Funds. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

The scope of this engagement was limited to performing the agreed-upon procedures as set forth in Attachment A. Attachment A also identifies the findings noted as a result of the procedures performed.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on whether the Successor Agency has met the statutory requirements of Health and Safety Code Section 34179.5 related to All Other Funds. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Oversight Board and management of the Successor Agency to the Redevelopment Agency of the City of San Buenaventura, the California Department of Finance, the California State Controller's Office, and the Ventura County Auditor-Controller, and is not intended to be, and should not be, used by anyone other than these specified parties.

*White Nelson Diehl Evans LLP*

Irvine, California

December 6, 2012

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SAN BUENAVENTURA

ATTACHMENT A - AGREED-UPON PROCEDURES AND FINDINGS  
RELATED TO ALL OTHER FUNDS

1. **Procedure:**

Obtain from the Successor Agency a listing of all assets that were transferred from All Other Funds of the former redevelopment agency to the Successor Agency on February 1, 2012. Agree the amounts on this listing to account balances established in the accounting records of the Successor Agency. Identify in the Agreed-Upon Procedures (AUP) report the amount of the assets transferred to the Successor Agency as of that date.

**Finding:**

We agreed the amounts listed on Schedule 1 to the Successor Agency's accounting records without exceptions. The former redevelopment agency transferred \$3,934,003 in assets from All Other Funds to the Successor Agency as detailed in Schedule 1.

2A. **Procedure:**

Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from All Other Funds of the former redevelopment agency to the city that formed the redevelopment agency for the period from January 1, 2011 through January 31, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

**Finding:**

\* The former redevelopment agency transferred assets from All Other Funds to the City of San Buenaventura as shown in Schedule 2.

2B. **Procedure:**

Obtain a listing prepared by the Successor Agency of transfers (excluding payments for goods and services) from All Other Funds of the Successor Agency to the city that formed the redevelopment agency for the period from February 1, 2012 through June 30, 2012. For each transfer, the Successor Agency should describe the purpose of the transfer and describe in what sense the transfer was required by one of the Agency's enforceable obligations or other legal requirements. Provide this listing as an attachment to the AUP report.

**Finding:**

This procedure is not applicable as the Successor Agency did not make any transfers other than payments for goods and services to the City of San Buenaventura from All Other Funds during the period from February 1, 2012 through June 30, 2012.

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN BUENAVENTURA  
 AGREED-UPON PROCEDURES RELATED TO ALL OTHER FUNDS

TRANSFERS TO THE CITY OF SAN BUENAVENTURA

FOR THE PERIOD JANUARY 1, 2011 THROUGH JANUARY 31, 2012:

<u>Date of Transfer</u>	<u>Description of Transfer</u>	<u>Purpose of Transfer</u>	<u>Amount</u>	<u>Enforceable Obligation/ Other Legal Requirement Supporting Transfer</u>
6/30/2011	Note repayment	Payment of principal and interest on promissory note payable to the City of San Buenaventura	\$ 562,364 (A)	Promissory note between the City of San Buenaventura and San Buenaventura Redevelopment Agency dated July 1, 1984 (for original project areas) and January 12, 1998 (for merged project area). Amended on March 9, 2011.  Promissory note executed more than two years from the date of creation of redevelopment agency. Not permitted by Section 34171(C)(2). Added back to assets of the Successor Agency. *
1/31/2012	Note repayment	Payment of principal and interest on promissory note payable to the City of San Buenaventura	328,046 (A)	Promissory note between the City of San Buenaventura and San Buenaventura Redevelopment Agency dated July 1, 1984 (for original project areas) and January 12, 1998 (for merged project area). Amended on March 9, 2011.  Promissory note executed more than two years from the date of creation of redevelopment agency. Not permitted by Section 34171(C)(2). Added back to assets of the Successor Agency. *

TOTAL TRANSFERS

\$ 890,410

(1) AMOUNT ADDED BACK TO TOTAL ASSETS OF SUCCESSOR AGENCY

\$ 890,410 \*

SCHEDULE 9

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY CITY OF SAN BUENAVENTURA  
 AGRBED-UPON PROCEDURES RELATED TO ALL OTHER FUNDS

SUMMARY OF BALANCE AVAILABLE FOR ALLOCATION TO AFFECTED TAXING AGENCIES

As of June 30, 2012

Total amount of assets held by the Successor Agency as of June 30, 2012 - (Procedure 5)	\$ 4,424,748
Less assets legally restricted for uses specified by debt covenants, grant restrictions, or restrictions imposed by other governments - (Procedure 6)	(1,403,231)
Less assets that are not cash or cash equivalents (e.g., physical assets) - (Procedure 7)	(2,540,880)
Less balances that are legally restricted for the funding of an enforceable obligation (net of projected annual revenues available to fund those obligations) - (Procedure 8)	(2,467)
Less balances needed to satisfy ROPS for the 2012-13 fiscal year - (Procedure 9)	(1,130,050)
Less the amount of payments made on July 12, 2012 to the County Auditor-Controller as directed by the California Department of Finance	(454,565)
Add the amount of any assets transferred to the City for which an enforceable obligation with a third party requiring such transfer and obligating the use of the transferred assets did not exist - (Procedures 2 and 3)	<u>890,410</u> *
Amount to be remitted to County for disbursement to affected taxing agencies	<u>\$ (216,035)</u>

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

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