

## **ABx1 26 QUESTIONS & ANSWERS**

### **RECOGNIZED OBLIGATION PAYMENT SCHEDULES (ROPS) AND REPORTING**

**1. When will Successor Agencies receive payments from the County Auditor-Controller?**

Health and Safety (H&S) § 34177(l)(3) contemplated that Redevelopment Agencies (RDAs) had sufficient tax increment distributed to them in the Spring of 2011 to allow them to pay their obligations through December 31, 2011. Since the Spring of 2011, LA County has remitted payments to RDAs in July, August, November, and December 2011 and January 2012, which Successor Agencies should use to cover enforceable obligations up to June 30, 2012.

Therefore, the first payment Successor Agencies will receive from the County will be on June 1, 2012. This payment is intended to cover enforceable obligations for the period July 1, 2012 through December 31, 2012. Please refer to the chart "Distribution, Reporting, and Transaction Periods for Redevelopment Property Tax Trust Funds" (RPTTF) on the Department of Finance (DOF) website (Exhibit 8 in their Q&A Section).

**2. DOF recently provided Instructions for ROPS on their website, stating the ROPS should cover the period January 1, 2012 through June 30, 2012. Does that mean the County Auditor-Controller will deposit funds in the RPTTF for the month of January?**

DOF's intent in adding the month of January on the ROPS was to allow each Successor Agency (SA) to identify pass-through obligations owed for the Fiscal Year (FY) 2011-12 that were due, but not paid by the former RDA as of January 31<sup>st</sup>. These obligations should carry forward onto the ROPS covering July 1, 2012 to December 31, 2012 if they are not paid by Successor Agencies.

**3. Can Successor Agencies include reserves on ROPS filings to ensure they have sufficient funds on hand to pay uneven bond payments?**

H&S §34177(b) permits RDAs to maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds. However, there is nothing mentioned in ABx1 26 that permits Successor Agencies to report additional reserves to allow for uneven bond payments.

DOF has stated in their FAQs (dated 2-29-12) that they may allow reserves to ensure large bond payments can be made. Successor Agencies must prove a need

for future reserves by developing a long-term budget that incorporates estimates of periodic payments and revenues.

**4. What if a Successor Agency does not have enough cash to pay all the items listed on the ROPS?**

Successor Agencies are expected to ensure bond payments are made. If the Successor Agency does not have sufficient revenue/cash on hand to pay their bond obligations, H&S §34183(b) requires Successor Agencies to notify the A-C. The A-C then notifies the Department of Finance (DOF). This section also describes the priority order Successor Agencies are to pay items listed on the ROPS.

In the event Successor Agencies cannot meet their bond obligations, they may also request the County Treasurer to loan funds sufficient to pay the bonds (§ 34183(b)).

**5. Can a Successor Agency borrow funds from the County Treasury in order to ensure prompt payment of debts, pursuant to California Health and Safety Code Section 34183 (c)?**

No, not at the present time. The loaning of funds from the County Treasury to a Successor Agency raises a number of complex issues which the Treasurer and County Counsel are currently reviewing. Within the next 45 to 60 days, the County will determine if the Treasurer will participate in a loan program, and, if so, under what specific circumstances.

**6. Are Successor Agencies allowed to refinance bonds?**

Yes. H&S §34180 permits Successor Agencies (with Oversight Board approval) to refund outstanding bonds or other debt of the former RDA as long as no additional cost is created and debt service is not accelerated.

**7. When will cities receive their distribution of property tax revenue not needed by the RDA to pay the ROPS.**

If there are excess property tax revenues, taxing entities, including cities, will receive these distributions on January 16<sup>th</sup> and June 1<sup>st</sup> annually.

**8. When will Successor Agencies find out if any of the items on their ROPS do not qualify as enforceable obligations?**

The Oversight Board should be notifying the Successor Agencies as they identify items that they do not believe meet the definition of an enforceable obligation. In addition the DOF has started to request information from agencies to begin evaluating certain obligations. The completion of their evaluation will be contingent on receiving information timely from Successor Agencies.

**9. Do Successor Agencies need to deposit funds into Low and Moderate Housing Funds?**

No. H&S §34177(d) requires Successor Agencies to remit the unencumbered balance of the Low and Moderate Income Housing Fund of a former RDA to the County Auditor-Controller for distribution to taxing entities.

**10. Do loans from the Low and Moderate Housing Funds need to be repaid?**

According to H&S 34171(d)(1)(G) the Oversight Board must approve repayment of amounts borrowed from the Low and Moderate Income Housing Fund.

**11. What impact does ABx1 26 have on loans made by a City to its RDA?**

H&S §34171(d)(2) specifies that agreements between an RDA and the city that created it, including loan agreements, are not enforceable obligations, and therefore cannot be listed on the ROPS. The exceptions include:

- a. Written agreements that were entered into:
  - i. at the time of issuance but no later than December 31, 2010, of indebtedness obligations
  - ii. solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations.
- b. Loan agreements entered into between the RDA and city/county that created it, within two years of the date of creation of the RDA

In addition, H&S §34178(a) states that agreements, contracts, or arrangements between the RDA and the city that created it are invalid and shall not be binding on the Successor Agency.

**12. What happens to the assets of the former RDA?**

H&S §34177(e) requires the former RDA to transfer all assets to the Successor Agency, who in turn is responsible for disposing the assets, as directed by the Oversight Board. Proceeds from asset sales and related funds no longer needed for redevelopment projects are remitted to the Auditor-Controller for distribution as property tax proceeds (H&S § 34188). However, the Oversight Board may direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose such as roads, school buildings, parks and fire stations to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset.

**13. Can the Successor Agency use bond proceeds to pay obligations including administrative costs?**

H&S §34177(i) requires bond proceeds to be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case the proceeds may be used to defease the bonds.

**14. Why did the Auditor-Controller require Successor Agencies to submit the ROPS by March 1<sup>st</sup>?**

H&S §34177((l)(2)(A) required the Successor Agencies to prepare a draft ROPS by November 1, 2011. The Supreme Court extended this due date by four months (to March 1, 2012).

**15. Will the County Auditor-Controller be providing a form to the Successor Agency to request monies from the Redevelopment Property Tax Trust Fund in order to make payments on the ROPS? If so, when will the form be available?**

We are in the process of creating a database to store ROPS information for each agency. We will be loading the ROPS we receive from each SA, and will then produce an Excel version in a format we would like the SA to utilize going forward to track how the SA paid RPTTF monies. We will request that each SA adjust the Total Obligation Column to identify the use of RPTTF monies and return the Excel document to report the expenses that will be paid in the next 6 months.

**16. How will administration dollars be calculated?**

H&S §34171(b) states that “administrative cost allowance” is payable from property tax revenues of up to 5% of the property tax allocated to the Successor Agency for FY 2011-12 and up to 3% of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the Successor Agency for each fiscal year thereafter. The amount of the Administrative Cost Allowance will not be less than \$250,000.00, and must be approved by the Oversight Board. Please refer to the chart referenced in question one for more clarification.

**AGREED UPON AUDIT ENGAGEMENTS/AUDITS**

**17. What is the status for the Upcoming Engagement process for CPA firms to contract with the County to perform Agreed Upon Procedures developed by the State Controller’s Office (SCO) on Redevelopment Agencies in LA County?**

It is anticipated that contract CPA firms will begin contacting cities to begin the Agreed Upon Procedures (AUP) engagements toward the end of March or early April.

**18. What procedures are required in the AUP?**

A copy of the AUPs approved by the SCO can be obtained from their website at [http://www.sco.ca.gov/aud\\_aup\\_report.html](http://www.sco.ca.gov/aud_aup_report.html).

**19. Will the County have outside CPAs review all or only some agencies under these Agreed Upon Procedure contracts? If not all, is the County then going to use only in-house Auditor-Controller staff for other agency reviews?**

County internal auditors are gathering information to complete the AUP Engagements, but will not fully complete any of the engagements.

**20. Why is Auditor-Controller staff requesting copies of documents (e.g., contracts, bond issuance statements, etc.), including some documents we provided in prior years? Will the County share what information we have provided with the external CPA firms that will be performing the Agreed Upon Audit Engagements?**

Auditor-Controller internal audit staff is gathering information to assist in completion of the AUP Engagements. Internal audit staff is utilizing existing files to determine if we have supporting documentation before we request copies from Successor Agencies. We apologize for any inconvenience this is creating. We will provide external auditors with complete copies of documents we have for each Successor Agency to ensure documents already provided are not requested a second time. However, external auditors may request additional information to complete their Agreed Upon Audit Engagement.

**21. Will the A-C be completing the audits due by July 1? Some A-Cs have said they won't make RPTTF allocations until the audit is completed.**

We anticipate that all audits will be completed by the July 1 deadline. As long as Successor Agencies provide the July 1 to December 31, 2012 ROPS by April 15<sup>th</sup>, as suggested by the California Redevelopment Association, the June 1<sup>st</sup> distribution will not be impacted by the completion date of the audit.

**22. Will Successor Agencies be required to produce financial statements for the former RDAs for the period ending January 31, 2012?**

Although the law does not require financial statements to be produced, it would be helpful if Successor Agencies would provide financial statements for this period to assist auditors in completing the AUP engagements.

**23. Will the County be certifying the ROPS before the audits are complete? If so, what needs to happen before then?**

No. The AUP Engagements need to be completed before the County can certify the ROPS.

## **PASS-THROUGH**

### **24. Are the former Redevelopment Agencies responsible for calculating the AB1290 pass-through amounts through January 31, 2012?**

Yes. The County Auditor-Controller assumes responsibility for calculating pass-through effective with the dissolution of RDAs on February 1, 2012.

### **25. Will the County be making reductions to the pass-through payment amounts otherwise calculated as due to the various taxing entities to take into account the distribution to the taxing entities of the property tax remaining after paying for the Successor Agency's obligations, as provided for in Section 34188?**

The calculation of pass-through under the new law is still under analysis.

### **26. As part of the tax revenue calculation, will the A-C consider incremental changes in overrides?**

Upon dissolution, amounts previously allocated to RDAs resulting from bond/pension override tax rates will be distributed to the taxing entity that issued the bond that levied the tax. We are aware that prior to dissolution, some RDAs may have pledged tax increment related to the override tax rates. In these situations, it is suggested the DOF and the SCO be contacted for specific guidance.

### **27. When will the Board of Supervisors be formally making Oversight Board appointments?**

The County is in the process of evaluating nominees and expects to begin making appointments at the end of March and into April.

### **28. The State has advised that the July 1 – December 31 ROPS must be submitted to DOF by May 11<sup>th</sup>. How will the Oversight Board meet this deadline?**

We understand the DOF guidance to state the ROPS for July to December 2012 should be turned in as soon as possible, but no later than May 11, 2012. While this due date may be a challenge for Oversight Boards to meet, due to the number of Successor Agencies in Los Angeles County, it would not be possible for us to issue payments to Successor Agencies by June 1<sup>st</sup> if ROPS are received in May. Therefore, we are recommending that Successor Agencies provide this ROPS by April 15, 2012. To meet these dates, it is recommended that Oversight Boards meet as soon as there is a quorum.

**29. What rules apply to Oversight Board Meetings (e.g. how many members constitute a quorum)?**

According to H&S 34179(e), a majority of the total membership (4 members) of the Oversight Board shall constitute a quorum for the transaction of business.

**30. How should Successor Agency actions be transmitted to the Oversight Board?**

There is no guidance provided in the law. Therefore, the Oversight Board and Successor Agency should mutually agree on how this process will take place.

**31. Who will post the Agenda for the Oversight Board meetings and be responsible for satisfying Brown Act requirements?**

There is no guidance provided in the law. Therefore, the Oversight Board and Successor Agency should mutually agree on how this process will take place.

**32. Who will prepare minutes for Oversight Board Meetings?**

According to H&S §34179(c), the Oversight Board may direct the staff of the Successor Agency to perform work in furtherance of the Oversight Board's duties and responsibilities. However, our Board of Supervisors is willing to assist with this responsibility.

**33. Will Oversight Boards adopt rules of conduct that include time periods for public participation?**

Full compliance with the Ralph Brown Act requires allowing time for public participation/comment.

**34. Can the city retain the assets of the former RDA?**

According to H&S 34180(f)(1) if a city wishes to retain any properties or other assets for future redevelopment activities, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, pursuant to H&S §34188.

**35. What happens to projects that are partially completed? Can the Successor Agency enter into new contracts to complete partially completed projects?**

H&S §34177(i) requires Successor Agencies to continue to oversee the development of properties until the contracted work has been completed, or the contractual obligations of the former RDA can be transferred to other parties. Additionally, H&S §34181(d) permits the Oversight Board to direct the Successor

Agency to determine whether contracts, agreements or other arrangements should be terminated or renegotiated to reduce liabilities.

**36. What is the role of the Oversight Board, and what happens if Oversight Boards do not agree with Successor Agency actions?**

All actions taken by the Successor Agency are subject to approval by the Oversight Board. Thus, disagreements between the Oversight Board and the successor agency are resolved in favor of the Oversight Board.

**37. How was the largest Special District determined?**

H&S §34179 identifies the largest special district as the district with the largest property tax share. We interpret this to be the district that contributes the largest property tax share to the former redevelopment agency pursuant to H&S 33670.

**QUESTIONS FOR DOF and SCO**

**38. Once an Oversight Board has taken action, how will it be transmitted to the DOF?**

We will refer this question to DOF for response.

**39. Has the SCO confirmed whether closeout audits are required for the period July 1, 2011 through January 31, 2012?**

SCO has not yet provided us with clarification. As soon as we receive a response from the SCO, we will advise all Successor Agencies.

**40. Will the SCO be issuing new/revised audit guidelines to external auditors of Successor Agency financial statements for the five month period ending 6/30/12.**

We will forward this question to SCO for clarification.

**41. Will a Statement of Indebtedness, Redevelopment Agency Annual Report, State Controller's Report and Housing & Community Development Report need to be prepared and filed with the State and/or County for FY 2011-12 activities?**

In accordance with H&S §34177(a)(3), the ROPS will supersede the Statement of Indebtedness, which shall no longer be prepared.

The SCO will need to address whether the Agency Annual Report, State Controller's Report and Housing & Community Development Report will still be required.