AB 1484
SUMMARY OF KEY CHANGES TO AB 26

In June 2012 the California Legislature and Governor adopted, as a trailer bill, Assembly Bill 1484 ("AB 1484") to amend Assembly Bill 26 ("AB 26"). AB 1484 materially changed provisions of AB 26 in ways that will affect the operations of the Oversight Board and the Successor Agency.

The key changes by AB 1484 include the following (not necessarily in order of importance):

(1) (a) changes the process for approving Recognized Obligation Payment Schedules ("ROPS"), including establishing a deadline of September 1, 2012 for submittal to Department of Finance (DOF) of the January 1, 2013 to June 30, 2013 ROPS, requiring earlier submittal of ROPS to DOF going forward, giving DOF a significantly longer period to review and approve the ROPS (i.e. 45 days from submittal of the ROPS to DOF), providing for a new meet and confer process for disagreements, and giving DOF new remedies for failure to timely adopt ROPS or to make payments limited to approved ROPS, including per diem penalties against the City for a late ROPS and property and sales tax withholding for inappropriate payments, and (b) excludes from the definition of "administrative cost allowance" litigation expenses related to assets or obligations, settlements and judgments, and the cost of maintaining assets prior to disposition, which are instead expenses related to enforceable obligations, and employee project implementation activities, which are project-specific costs;

(2) providing clearer authority – subject to Oversight Board approval and DOF review - for the Successor Agency to issue refunding bonds (other than variable rate bonds) and to issue new tax allocation bonds in limited circumstances where there is an irrevocable pledge and increment and issuance of new bonds is required by enforceable obligations;

(3) adding a new requirement for the Successor Agency to complete and the Oversight Board to approve new due diligence reviews of the unobligated balances of the former Low and Moderate Income Housing Fund (submittal to DOF by October 15, 2012) and other funds (submittal to DOF by December 15, 2012) of the former Redevelopment Agency. DOF's review of the due diligence review must be completed no later than April 1, 2013, following which DOF will issue a finding of completion after full payment of any amounts for the benefit of the taxing entities as required by DOF;

(4) adding a new requirement for submission of a list of affordable housing assets in a specified format by the Mayor's Office of Housing ("MOH") to DOF by August 1, 2012. DOF approved the MOH’s list on September 7, 2012;

(5) requiring the Oversight Board's and DOF's approval of a long-range property management plan prepared by the Successor Agency that governs the disposition and use of real property, and suspending the provisions of AB 1484 authorizing the disposition of Successor Agency’s non-affordable assets;

(6) requiring the Successor Agency to create a new Community Redevelopment Property Fund into which real property and real property interests of the former Redevelopment Agency must be deposited;
(7) requiring the Oversight Board to direct the disposition of all non-housing assets and properties of the former Redevelopment Agency, including those not funded with tax increment revenues, subject to the review and approval of DOF;

(8) requiring the Controller to conduct an annual post-audit of financial transactions of the Successor Agency;

(9) establishing the Successor Agency as a separate legal entity, with the Oversight Board a policy body of that separate entity for matters within its purview, and requiring the Successor Agency to simultaneously submit all documents it submits to the Oversight Board for approval to the City Administrator, the City Controller and DOF, and requiring the Successor Agency to dispose of all remaining assets and terminate its existence within one year of the final debt payment;

(10) giving new authority and rights to the Oversight Board, and requiring that all actions of the Oversight Board must be by resolution, that the Oversight Board provide to DOF written notice and information about all actions taken by the Board by electronic means and in a manner specified by DOF, and that such action will become effective in 5 business days, unless DOF requests a review during an additional 40-day period;

(11) extending the deadline for the Controller to complete the agreed-upon procedures audit until October 1, 2012;

(12) increasing the time for the reviews by DOF of an Oversight Board action (subject to the separate process for ROPS approval) from 3 business days with an extension of up to 10 days to 5 business days with DOF’s ability to seek an extension of up to 40 additional days;

(13) granting the Successor Agency the right to request a written confirmation from DOF that the approval on the ROPS of an enforceable obligation requiring an irrevocable commitment of property tax funds is final;

(14) granting the City the right to loan or grant funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses and, if DOF has issued a finding of completion, the Oversight Board the authority to approve loan agreements between the former Redevelopment Agency and the City if the Oversight Board finds that the loan was for a legitimate redevelopment purpose;

(15) granting the Successor Agency the authority to conduct the winding down of the former Redevelopment Agency so long as those new obligations are in compliance with existing enforceable obligations;

(16) prohibiting the Successor Agency from transferring powers or revenues except in compliance with an enforceable obligation;

(17) granting DOF the ability to waive the 2-year statute of limitation for amendments to redevelopment plans if DOF finds that the waiver is necessary for the Successor Agency to fulfill an enforceable obligation;

(18) transferring all land use related plans and functions to the City at the City's request; and

(19) MOH may designate the use of and commit indebtedness obligations that remain after the satisfaction of enforceable obligations approved in the ROPS and that are
consistent with the indebtedness covenants, after providing notice to the Successor Agency at least 20 days before the deadline for submittal of the ROPS; provided the designation of uses or commitments are separately listed in the approved and valid ROPS.

Important deadline set by AB 1484 are summarized in the attached July 2, 2012 publication of the League of Cities.

I. RECOGNIZED OBLIGATION PAYMENT SCHEDULES (ROPS)

A. The January-June 2013 ROPS Is Due to DOF by September 1, 2012

The Recognized Obligation Payment Schedule (ROPS) for the period January 1, 2013 to June 30, 2013 shall be submitted to DOF for approval no later than September 1, 2012. (H&SC §34177(m))

AB 1484 excludes from the definition of "administrative cost allowance" litigation expenses related to assets or obligations, settlements and judgments, and the cost of maintaining assets prior to disposition. (H&SC §34171(b)). However, the expenses of contracts for such purposes have been added to the definition of an enforceable obligation and, therefore, may be included on the ROPS. (H&SC §34171(d)(1)(F)) The expense for work by employees on project implementation activities also should not be included as an administrative cost allowance, but should be considered project-specific costs. (H&SC §34171(b))

B. Other Future ROPS Are Due to DOF 90 Days Before the Date of Property Tax Allocation

The Successor Agency must submit all other future ROPS to DOF no later than 90 days before the date for the distribution of property taxes (January 2 tax distribution—October 4 ROPS submittal date; June 1 tax distribution—March 3 ROPS submittal dates). The Successor Agency must submit an electronic copy of the ROPS to DOF. (H&SC §§34177(m); 34183(a)(4))

The Successor Agency must submit each ROPS electronically in the manner provided by DOF. Simply submitting a message that a ROPS has been approved by the Oversight Board without including the ROPS will be deemed non-compliant. (H&SC §34177(l))

C. DOF Must Make a Decision on the ROPS Within 45 Days After the ROPS Is Submitted

DOF must complete its decision on a ROPS no later than 45 days after the ROPS is submitted. A Successor Agency may request an additional review of the ROPS and to meet and confer with DOF within 5 business days of DOF's decision. (H&SC §34177(m)). Prior to AB 1484, DOF had 3 business days after submission of the ROPS to request a review. If DOF

---

1 (1) Regarding the July dates, the City Controller has informed the Executive Director that $0 is owed to the taxing entities for the January-June 2012.

(2) The proper citation for the League of Cities' August 10 deadline for the Successor Housing entities notification of the successor agency is Section 34176(g) instead of Section 34176.6(c).
requested the review, it had 10 days to complete the review. The previous legislation did not provide for a meet and confer with DOF.

The City Controller may also object to any item on the ROPS. For the January-June 2013 ROPS, the City Controller must notify the Successor Agency, the Oversight Board, and DOF of any objections no later than October 1, 2012. For subsequent ROPS, the City Controller must give notice at least 60 days before the date for allocation of taxes. (H&SC §34182.5)

D. **DOF May Eliminate or Modify Any Item on ROPS Before Approval**

DOF may eliminate or modify any item on the ROPS before approval. DOF must provide notice to the Successor Agency and the City Controller as to the reasons for its action. If an Oversight Board disputes DOF’s actions, one or more future ROPS may reflect the resolution of that dispute or DOF may agree to an amendment to the ROPS to reflect the resolution of the dispute. DOF's agreement to reflect the resolution on the amended ROPS shall not affect a past allocation of property tax or create a liability for any affected taxing entity. (HS&C §34179(h))

E. **The City Is Subject to Civil Penalty if the ROPS Is Late, and the Administrative Cost Allowance Is Reduced if the ROPS Is not Submitted Within 10 of the Deadline for Submittal of the ROPS**

If a Successor Agency fails to timely and properly submit a ROPS, the City shall be subject to a civil penalty of $10,000 per day for each day the ROPS is late. The City must pay the penalty to the City Controller for allocation to the taxing entities. In addition, if the ROPS is not submitted within 10 days of the deadline for submittal, the maximum administrative cost allowance for the period covered by the ROPS shall be reduced by 25%. (H&SC §34177(m)(2))

F. **DOF May Instruct the City Controller to Withhold and Distribute Funds if the ROPS Is Not Submitted Within 5 Days of the April 1 or October 1 Deadline for Estimating Tax Allocation**

If the Successor Agency has failed to submit the Oversight Board approved ROPS to DOF within 5 business days of the April 1 or October 1 deadline by which the City Controller must provide its estimates of the tax allocations to DOF and the taxing entities, DOF may determine if any amount should be withheld by the City Controller for payments for enforceable obligations from distributions to taxing entities, pending approval of the ROPS. The Controller shall distribute the amounts to the taxing entities upon notice from DOF that a portion of the amount withheld is in excess of the amount of the enforceable obligations. The Controller may distribute withheld funds to the Successor Agency only in accordance with a ROPS approved by DOF. (H&SC §§34177(m)(3))

II. **THE SUCCESSOR AGENCY HAS CLEARER AUTHORITY TO ISSUE REFUNDING BONDS AND NEW TAX ALLOCATION BONDS UNDER ENFORCEABLE OBLIGATIONS AND SPEND BOND PROCEEDS**

AB 1484 recognizes the authority of the Successor Agency, subject to the approval of the Oversight Boards, to issue bonds and indebtedness under limited circumstances for the following purposes: (1) issuing bonds or incurring other indebtedness of the former Redevelopment Agency or of the Successor Agency to provide savings to the Successor Agency; (2) issuing bonds or other indebtedness to finance debt service spikes, including balloon maturities; (3) amending an existing enforceable obligation under which the Successor Agency is obligated to
reimburse a political subdivision of the state for the payment of debt service on a bond or other obligation of the political subdivision, or to pay all or a portion of the debt service on the bond or other obligation of the political subdivision to provide savings to the successor agency; or (4) issuing bonds or incurring other indebtedness to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment or other funds and the obligation to issue bonds secured by that pledge. (H&SC §§34177.5(a)(1)-(4); 34177.5(f))

The Successor Agency shall make diligent efforts to ensure that the lowest long-term cost financing is obtained, make use of an independent financial advisor in developing financing proposals, and make the work product of the advisor available to DOF on request. (H&SC §34177.5(h))

An action to challenge the issuance of bonds, the incurrence of indebtedness, the amendment of an enforceable obligation, or the execution of a financing agreement by a Successor Agency shall be brought within 30 days after the date on which the Oversight Board approves the resolution of the Successor Agency for the action. (H&SC §34177.5(e))

If DOF either reviews or approves or fails to request review of an Oversight Board's decision to issue bonds or indebtedness within 5 business days of the Oversight Board’s approval action, the scheduled payments on the bonds or indebtedness shall be listed on the ROPS and shall not be subject to further review and approval by DOF or the State Controller. However, DOF may extend its review time by 60 days and may seek assistance from the State Treasurer in evaluating the proposed action. (H&SC §34177.5(f))

III. THE SUCCESSOR AGENCY MUST CONDUCT, AND THE OVERSIGHT BOARD MUST APPROVE, A DUE DILIGENCE AUDIT OF ASSETS TO DETERMINE UNOBLIGATED BALANCES. DOF MUST COMPLETE ITS REVIEW OF THE AUDIT NO LATER THAN APRIL 1, 2013, FOLLOWING WHICH IT SHALL ISSUE A FINDING OF COMPLETION IF THE SUCCESSOR AGENCY PAYS ALL AMOUNTS OWED TAXING ENTITIES

A. The Successor Agency Must Conduct a Due Diligence Review of Assets for Unobligated Fund Balances

The Successor Agency shall employ a licensed accountant, with experience and expertise in local government accounting, approved by the City Controller, to conduct a due diligence review to determine unobligated balances, including the unobligated balance of the Low and Moderate Income Housing Fund (LMIHF), available for transfer to the taxing entities. Instead of employing a licensed accountant, the Successor Agency may use an audit provided by the City Controller. (H&SC §34179.5(a))

As part of its review, the Successor Agency shall make a separate accounting for the balance for the LMIHF and for all other funds and accounts combined. (H&SC §34179.5(c)(5))

B. The Successor Agency Must Submit the Due Diligence Reviews to the Oversight Board for Review
The Successor Agency shall provide the review of assets to the Oversight Board for review and simultaneously submit copies of the ROPS to the City Administrator, the City Controllers, and DOF. (H&SC §34179.6)

C. The Successor Agency Must Submit the Review of LMIHF funds to the Oversight Board by October 1, 2012

By October 1, 2012 the Successor Agency shall provide the Oversight Board, the City Controller, the State Controller, and DOF the results of the review for the LMIHF; specifically, the amount of cash and cash equivalent available for allocation to the taxing entities. (H&SC §34179.6(a)) The Oversight Board shall convene a public comment session at least 5 business days before it approves the review. (H&SC § 34179.6(c))

D. The Oversight Board Must Approve the LMIHF Review by October 15, 2012

By October 15, 2012 the Oversight Board shall review and approve the review for the LMIHF and transmit to DOF and the City Controller the determination of the amount of cash and cash equivalents available for disbursement to taxing entities. The Oversight Board's review and approval shall occur in public meetings. The Oversight Board may request additional information from the Successor Agency, and adjust any amount to reflect additional information and analysis. (H&SC §34179.6(c))

The Oversight Board may authorize the Successor Agency to retain certain assets or funds that are reviewed. Those assets and funds are: (a) assets that are legally restricted and cannot be provided to taxing entities; (b) assets that are not cash or cash equivalents; (c) assets that are legally or contractually dedicated or restricted for the funding of an enforceable obligation; and (d) any amounts of current balances that are needed to satisfy obligations that will be placed on the ROPS for the current fiscal year. (H&SC §§34179.6(c); 34179.5(c)(5)(B)-(E)) If the Oversight Board authorizes the retention of assets or funds, it shall identify to DOF the amount of funds authorized for retention, the source of those funds, and the purpose for which those funds are being retained, all subject to review and approval of DOF.

E. The Successor Agency Must Submit the Review for All Other Funds to the Oversight Board by December 15, 2012

By December 15, 2012, the Successor Agency shall provide the Oversight Board, the City Controller, and DOF the results of the review for all other funds and account balances; specifically, the amount of cash and cash equivalents available for allocation to the taxing entities. (H&SC §34179.6(a)) The Oversight Board shall convene a public comment session at least 5 business days before it approves the review, and exercise the same authority and in the same manner as for LMIHFs described above. (H&SC § 34179.6(c))

F. The Oversight Board Must Approve the Review for All Other Funds by January 15, 2013

By January 15, 2013 the Oversight Board shall approve the review for the remaining funds and account balances. (H&SC §34179.6(c))
G. **DOF May Specify the Form and Manner of the Review**

DOF may specify the form and manner information about the review should be presented to it, and may request supporting documentation and results of the review to assist its review. (H&SC §34179.6(a))

DOF may adjust the net balance available for distribution based on its analysis and information provided by the Successor Agency and others. DOF must consider the opinions and findings of the City Controller and the State Controller.

H. **DOF Must Complete Its Review of the LMIHF Determinations By November 9, 2012**

DOF shall complete its review of the determinations for the LMIHFs no later than November 9, 2012. (H&SC §34179.6(d))

I. **DOF Must Complete Its Review of the Determinations for All Other Funds by April 1, 2013**

DOF shall complete its review of the determinations for all other funds and accounts no later than April 1, 2013. (H&SC §34179.6(d))

J. **DOF's May Modify the Oversight Board's Decisions**

DOF shall notify the Oversight Board and the Successor Agency of its decision to overturn any decision of the Oversight Board to authorize the Successor Agency to retain assets or funds. DOF shall provide the Oversight Board and the Successor Agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the Oversight Board. (H&SC §34179.6(d))

K. **The Successor Agency May Request to Meet and Confer**

Within 5 business days of DOF’s submission of it determination of the amounts or sources of funds, the Successor Agency may request to meet and confer with DOF regarding disputes. The request must not be made later than November 16, 2012 for determinations regarding the LMIHF. The request must be accompanied by an explanation and documentation of the basis for the dispute. DOF shall meet and confer, and modify or confirm its determinations and decisions within 30 days of the request to meet and confer. (H&SC §34179.6(e))

L. **The Successor Agency Must Transmit Funds to the City Controller as Required by DOF**

The Successor Agency must transmit to the City Controller the amount of funds required by DOF’s determination within five working days of the receipt of notification (or notification following the meet and confer if one is requested). (H&SC §34179.6(f))
M. **DOF May Exercise Sales and Property Tax Clawback Remedies for Funds That Were Transferred Without an Enforceable Obligation**

If the Successor Agency fails to timely transmit the full amount of funds to the City Controller, the State may pursue the following remedies:

(a) If the funds were transferred to another public agency without an enforceable obligation, DOF may order the State Board of Equalization to recover the funds by offsetting sales tax or use tax allocations to the agency to which the funds were transferred. If DOF does not order a sales tax offset, the City Controller may reduce the property tax allocations to the local agency if in the City and County;

(b) The City Controller and DOF each has the authority to demand the return of funds "improperly" spent or transferred to a private person or entity. If the funds are not returned within 60 days, the City Controller or DOF may recover the funds using any lawful means of collection and subject to a 10% penalty plus interest at the rate charged for late personal income tax payments.

(c) DOF may direct the City Controller to deduct unpaid amounts from future allocations of property tax to the Successor Agency under H&SC §34183 until the amount is repaid.

(d) If DOF determines that it is not currently feasible to repay the full amount and would jeopardize the ability of the Successor Agency to pay enforceable obligations in a timely manner, it may agree to an installment payment plan.

(N&SC §34179.6(h))

N. **DOF Will Issue a Finding of Completion on Full Payment of Amounts Shown by the Review**

Within 5 business days of full payment of the amounts as reported by the City Controller (and amounts owed under passthrough agreements) DOF shall issue a finding of completion. (H&SC §34179.7) The finding of completion makes the Successor Agency eligible to do the following:

1. move real property assets identified in the review into the Community Redevelopment Property Trust Fund on approval of the long-range management plan by DOF unless the property is subject to an enforceable obligation;
2. deem loan agreements between the City and the former Redevelopment Agency enforceable obligations, on approval by the Oversight Board; and
3. (a) use bond proceeds derived from bonds issued on or before December 31, 2010 for the purposes for which the bonds were sold and (b) expend bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations in a manner consistent with the "original" bond covenants. If remaining bond proceeds cannot be spent consistent with the bond covenants, the proceeds must be used to defease the bonds or to purchase those same outstanding bonds on the market for cancellation.

(H&SC §34191.4)

The 2-year statutes of limitations (H&SC §33500(c)-(d)) for actions to review the validity of adoptions, findings, and determinations of former redevelopment agencies are tolled until the issuance of the finding of completion. (HS&C §33500(e))
IV. THE MAYOR’S OFFICE OF HOUSING WAS REQUIRED TO SUBMIT A LIST OF HOUSING ASSETS TO DOF BY AUGUST 1, 2012

AB 1484 required the Mayor’s Office of Housing (MOH) to submit a list to DOF of all housing assets transferred to MOH between February 1, 2012 and the date the list is created by August 1, 2012. The bill required the list to explain how the asset meets the definition of a "housing asset" in the bill. (H&SC §34176(a)(2)) DOF approved the list on September 7, 2012.

Funds transferred to MOH and any funds generated from housing assets will be maintained in a separate Low and Moderate Income Housing Asset Fund (“LMIHAF”) to be used in accordance with applicable provisions of the Community Redevelopment Law. (H&SC §34176(d))

V. THE SUCCESSOR AGENCY MUST PREPARE, AND THE OVERSIGHT BOARD APPROVE A LONG-RANGE PROPERTY MANAGEMENT PLAN THAT ADDRESSES THE DISPOSITION AND USE OF REAL PROPERTY. THE PLAN MUST BE SUBMITTED TO DOF FOR REVIEW WITHIN 6 MONTHS OF THE FINDING OF COMPLETION

A. The Provisions of AB 1484 for the Disposition of Assets Are Suspended Until Completion of a Long-Range Property Management Plan, Except for Transfers for Governmental Purposes

The provisions authorizing the disposition of Successor Agency non-affordable housing assets, H&SC §34177(e) and H&SC §34181(a), except for transfers for governmental use, are suspended until DOF has approved a "long-range property management plan" for the Successor Agency. The plan once approved, shall govern the disposition and use of real property assets of the former Redevelopment Agency. If the plan is not approved by January 1, 2015, H&SC §§34177(e) and 34181(a) shall govern the disposition of assets. (H&SC §34191.3)

B. The Long-Range Property Management Plan Must Include an Inventory of Properties and Plans for the Disposition and Use of the Properties and Must Be Submitted to DOF No Later Than 6 Months From the Issuance of the Finding of Completion

The Successor Agency must prepare a long-range property management plan that addresses the disposition and use of real properties of the former Redevelopment Agency. The Successor Agency must submit the report to the Oversight Board and DOF for approval no later than 6 months following the issuance of the finding of completion. (H&SC §34191.5(b))

The long-range plan includes the following:

(1) An inventory of all properties in the Community Redevelopment Property Trust Fund, including: (a) date of acquisition of each property, (b) the purpose for which the property was acquired, (c) the address, size, and current zoning of the parcel, (d) an estimate of the current value of the property, and estimate of any lease rental or other revenue generate by the property, (e) the property's history of environmental contamination, (f) a description of the property's
potential for transit-oriented development, and (g) a brief description of any previous development proposals.

(2) The plan for use or disposition of all the properties in the Community Redevelopment Property Trust Fund. Permissible uses include the retention for governmental purposes, retention for development, sale, or use to satisfy enforceable obligations. The plan shall separately identify property dedicated to governmental use or retained for purposes of fulfilling an enforceable obligation. For all other property: (a) the property transfers to the City if the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan; (b) the proceeds from the sale of the property shall be distributed to the taxing entities if the plan directs the liquidation of the property or use of revenues generated from the property for any purposes other than to satisfy an enforceable obligation specified above in (a); and (c) property shall not be transferred to the City or Successor Agency unless the plan is approved by the Oversight Board and DOF. (H&SC §34191.5(c)(2))

VI. ALL REAL PROPERTY OR INTEREST IN REAL PROPERTY SHALL BE TRANSFERRED TO THE COMMUNITY REDEVELOPMENT PROPERTY TRUST FUND

On approval of the long-range management plan, all real property or interest in real property shall be transferred from the plan to the Community Redevelopment Property Trust Fund unless the property is subject to the requirements of an existing enforceable obligation. (H&SC §34191.3(a))

VII. THE OVERSIGHT BOARD MUST DIRECT THE DISPOSITION OF ASSETS EVEN WHERE THE ASSET WAS NOT FUNDED BY TAX INCREMENT REVENUES.

The Oversight Board shall direct the Successor Agency in the disposition of assets and properties of the former Redevelopment Agency, even if the asset or property was not funded by tax increment revenues. (H&SC §34181(a)). If the asset was constructed for a governmental purpose, the Oversight Board may direct the Successor Agency to transfer ownership to the appropriate public jurisdiction pursuant to any existing agreement relating to the construction or use of the asset.

The Oversight Board's action must be approved by resolution at a public meeting following at least 10 days' public notice of the specific proposed action. The Oversight Board's actions are subject to review and approval by DOF under H&SC §34179(h) (discussed below), except that DOF may extend its review period from 40 to 60 days. If DOF does not object to the action of the Oversight Board, and no action challenging the Oversight Board’s action is commenced within 60 days of the approval of the Oversight Board's action, the action shall be considered final. (H&SC §34181(f)). Before AB 1484, Section 34181(a) required the Oversight Board to direct the disposition of assets if the assets were funded with tax increment revenues.

VIII. THE SUCCESSOR AGENCY MUST CAUSE AN ANNUAL POST-AUDIT OF THE FINANCIAL RECORDS

A Successor Agency must cause a post-audit of its financial transactions and records to be made at least annually by a certified public accountant. (H&SC §34177(n))
IX. THE SUCCESSOR AGENCY IS A SEPARATE LEGAL ENTITY

AB 1484 declares the Successor Agency to be a separate public agency from the city and county that created the former Redevelopment Agency. Except for affordable housing assets, neither the assets nor the liabilities of the former Redevelopment Agency are transferred to the City. The Successor Agency has its own name and can sue and be sued. All litigation to which the former Redevelopment Agency is a party transfers to the Successor Agency. The Successor Agency succeeds to the organizational status of the former Redevelopment Agency, but without any authority to participate in development activities, except to complete work related to approved enforceable obligations.

The Successor Agency must submit any document that it has submitted to an Oversight Board for approval to the City Administrator, the City Controller, and DOF at the same time the Successor Agency submitted the document to the Oversight Board. (H&SC §34180(j))

The former Redevelopment Agency employees do not automatically become employees of the city and county, and the Successor Agency shall retain its own collective bargaining status. (California Health & Safety Code (H&SC §34173(g))

When all of the debt of the former Redevelopment Agency is retired or paid off, the Successor Agency must dispose of all remaining assets and terminate its existence within one year of the final debt payment. (H&SC §34187(b)).

X. THE AUTHORITY OF OVERSIGHT BOARD IS INCREASED BY AB 1484 IN SPECIFIC WAYS

AB 1484 has several new provisions regarding oversight boards. AB 1484 increases the protection and authority of Oversight Boards. The Oversight Board:

(1) is protected by the immunities applicable to public entities and public employees (H&SC § 34179(d));

(2) may direct Successor Agency to provide additional legal or financial advice than what was given by agency staff (H&SC §34179(n));

(3) is authorized to contract with any public or private agency for administrative support (H&SC §34179(o));

(4) for matters within the purview of the Oversight Board, the Oversight Board's decision supersedes those made by the Successor Agency or the staff of the Successor Agency (H&SC §34179(p)); and

(5) if DOF issues a certificate of completion, on application by the Successor Agency, approve loan agreements between the former Redevelopment Agency and the City if the Oversight Board finds that the loan was for legitimate redevelopment purposes (H&SC §34191.4(b))

All actions of the Oversight Board must be by resolution. (H&SC §34179(e)). The Oversight Board must provide to DOF written notice and information about all actions taken by the board by electronic means and in a manner specified by DOF. The action will become effective in 5 business days, unless DOF requests a review during an additional 40-day period. (H&SC §34179(h))
XI. THE AGREED-UPON PROCEDURES AUDIT HAS BEEN EXTENDED UNTIL OCTOBER 1, 2012

The deadline for the Controller's agreed-upon procedures audit has been extended from July 1, 2012 to October 1, 2012. (H&SC §34182(a))

XII. IN GENERAL, DOF HAS 5 BUSINESS DAYS TO REVIEW THE ACTION OF THE OVERSIGHT BOARD, WHICH IT MAY EXTEND BY 40 DAYS.

After DOF receives written notice of action by the Oversight Board by electronic means, the action shall become effective within 5 business days unless DOF requests a review. If DOF requests a review, it shall have 40 days from the date of its request to approve the action of the Oversight Board or return the action for reconsideration. (HS&C §34179(h)) Previously, DOF's period of review was 3 business days, which DOF could extend by an additional 10 days.

XIII. IF DOF GRANTS WRITTEN CONFIRMATION THAT ITS APPROVAL ON THE ROPS OF AN ENFORCEABLE OBLIGATION REQUIRING AN IRREVOCABLE COMMITMENT OF PROPERTY TAX REVENUES IS FINAL AND CONCLUSIVE AND REFLECTS APPROVAL OF SUBSEQUENT PAYMENTS, FOR FUTURE ROPS, DOF WILL BE LIMITED TO CONFIRMING THAT THE PAYMENTS ARE REQUIRED BY THE ENFORCEABLE OBLIGATION

If an enforceable obligation provides for an irrevocable commitment of property tax revenues, and where allocation of such revenues occurs over time, the Successor Agency may petition DOF for written confirmation that its determination of such enforceable obligation as approved in the ROPS is final and conclusive, and reflects DOF's approval of subsequent payments made pursuant to the enforceable obligation. If DOF grants the confirmation, for future ROPS, DOF will be limited to confirming that the payments are required by the prior enforceable obligation. (H&SC §34177.5(i))

XIV. THE CITY MAY LOAN OR GRANT FUNDS TO THE SUCCESSOR AGENCY FOR ADMINISTRATIVE COSTS, ENFORCEABLE OBLIGATIONS, OR PROJECT-RELATED EXPENSES

The City may loan or grant funds to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses at the City's discretion, but receipt and use of the funds must be reflected on the ROPS or administrative budget approved by the Oversight Board. The repayment of the loans shall be an enforceable obligation. (H&SC §34173(h)) If DOF has issued a finding of completion, the Oversight Board may approve loan agreements between the former Redevelopment Agency and the City if the Oversight Board finds that the loan was for legitimate redevelopment purposes. (H&SC §34191.4)
XV. THE SUCCESSOR AGENCY MAY NOT CREATE NEW ENFORCEABLE OBLIGATIONS BASED ON AUTHORITY UNDER THE COMMUNITY REDEVELOPMENT LAW, BUT MAY CREATE ENFORCEABLE OBLIGATIONS TO CONDUCT THE WORK OF WINDING DOWN THE FORMER REDEVELOPMENT AGENCY

The Successor Agency may not create new enforceable obligations based on the authority of the Community Redevelopment Law, or begin new redevelopment work except as complies with enforceable obligations that existed before June 28, 2011. However, the Successor Agency may create enforceable obligations to conduct the work of winding down the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance. (H&SC §34177.3(a)-(b))

XVI. THE SUCCESSOR AGENCY MAY NOT TRANSFER ANY POWERS OR REVENUES OF THE SUCCESSOR AGENCY TO ANY OTHER PARTY EXCEPT PURSUANT TO AN ENFORCEABLE OBLIGATION ON A ROPS APPROVED BY DOF

The Successor Agency may not transfer any of its powers or revenues to any other party except pursuant to an enforceable obligation on a ROPS approved by DOF. Any such transfer of powers or revenues not made pursuant an enforceable obligation on an approved ROPS shall be void, and the Successor Agency must take action to reverse the transfer. The State Controller may audit any unauthorized transfer of power or revenues and order the prompt return of any money or other asset from the recipient of the transfer. (H&SC §34177.3(c))

XVII. DOF MAY WAIVE THE 2-YEAR STATUTE OF LIMITATION FOR AN ACTION CHALLENGING THE VALIDITY OF AN AMENDMENT TO A REDEVELOPMENT PLAN ADOPTED AFTER JANUARY 1, 2011 IF DOF DETERMINES THE WAIVER IS NECESSARY FOR THE SUCCESSOR AGENCY TO FULFILL AN ENFORCEABLE OBLIGATION

AB 1484 provides that, on the request of the successor agency, DOF may waive the 2-year statute of limitation for an action challenging the validity of an amendment to a redevelopment plan approved after January 1, 2011, if DOF, in its discretion, determines the waiver is necessary for the successor agency to fulfill an enforceable obligation. (H&SC §§ 33500(c); 34177.5(j)) These provisions seem to imply an ongoing authority of the Successor Agency and the City to amend redevelopment plans subject to Oversight Board approval and DOF review so long as there is no additional allocation of former tax increment.

XVIII. AT THE REQUEST OF THE CITY, ALL LAND USE RELATED PLANS AND FUNCTIONS OF THE FORMER REDEVELOPMENT AGENCY ARE TRANSFERRED TO THE CITY

At the request of the City, all land use related plans and functions of the former redevelopment agency are transferred to the City. However, the City may not create a new project area, add territory to, or expand or change the boundaries of a project area, or take any
action that would increase the amount of obligated property tax needed to fulfill an enforceable obligation beyond the amount authorized as of June 27, 2011. (H&SC §34173(i))

XIX. MOH MAY DESIGNATE THE USE OF AND COMMIT INDEBTEDNESS OBLIGATIONS THAT REMAIN AFTER THE SATISFACTION OF ENFORCEABLE OBLIGATIONS APPROVED IN THE ROPS AND THAT ARE CONSISTENT WITH THE INDEBTEDNESS COVENANTS, AFTER PROVIDING NOTICE TO THE SUCCESSOR AGENCY AT LEAST 20 DAYS BEFORE THE DEADLINE FOR SUBMISSION OF THE ROPS; PROVIDED THE DESIGNATION OF USES OR COMMITMENTS ARE SEPARATELY LISTED IN THE APPROVED AND VALID ROPS

MOH may designate the use of and commit indebtedness obligations that remain after the satisfaction of enforceable obligations approved in a ROPS and that are consistent with the indebtedness obligation covenants. The indebtedness proceeds must have been issued for the purpose of affordable housing before January 1, 2011 and backed by the LMIHF. The enforceable obligations may be satisfied by creating reserves for the projects that are the subject of the enforceable obligation consistent with the contractual obligations for those projects, or by expending funds to complete the projects. (H&SC §34176(g))

Before using the excess proceeds, MOH must provide notice to the Successor Agency that of its designation of use or commitments of funds at least 20 days before the deadline for submission of the ROPS to the Oversight Board. Excess proceeds must be listed separately on the ROPS. Commitments and designations shall not be binding until included in an approved and valid ROPS. The Successor Agency, Oversight Board and DOF are limited to reviewing the designations and commitments for a determination that the designations and commitments are consistent with bond covenants and that there are sufficient funds available. (H&SC §34176(g))

Funds must be used in a manner consistent with the purpose of the LMIHAF. At the discretion of MOH, the Successor Agency shall retain and expend the excess proceeds, provided that it ensures that the proceeds are expended in a manner consistent with indebtedness obligation covenants and with any requirements relating to the tax of those obligations. (H&SC §34176(g))