

A Legal Guide to California Redevelopment

Third Edition

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integrated part of the community's annual budgeting process. If the agency budget is prepared as part of an integrated community budget, the agency must still adopt a separate budget.

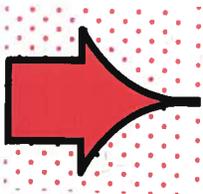
Conforming Expenditures to the Adopted Budget

An agency's expenditures and statement of indebtedness (documenting the level of an agency's indebtedness) must conform to the agency's adopted budget. Therefore, an agency must adhere to accounting procedures consistent with this requirement (*County of Santa Cruz v. City of Watsonville*, 177 Cal. App. 3d 831, 848 (1985)). If an agency wishes to undertake an activity that does not conform to the agency's adopted budget, then the agency can amend the budget to accommodate the desired activity.

A redevelopment agency should try to coordinate its annual budget with its current five-year implementation plan (discussed below). For example, the work program of the annual budget should be consistent with the implementation plan's goals, including the annual housing program goals. In addition, the planned expenditures in the budget should be generally consistent with expenditures listed in the implementation plan. Consistency among these various documents eliminates the risk of a challenge to an agency on grounds of inconsistency in these various agency-planning documents.

Statement of Indebtedness (SOI)

The purpose of the Statement of Indebtedness (SOI) is to provide a mechanism for an agency to receive its annual tax increment revenues from the county auditor. The SOI documents the level of indebtedness of the agency, a prerequisite in the CRL for agencies to receive tax increment revenues.



Constitutional Basis of the Tax Increment Revenue System

The constitutional basis of the tax increment revenue system is found in California Constitution Article XVI, Section 16. The relevant constitutional provision states

...that portion of the levied taxes each year in excess of that amount [the amount of tax produced from the last equalized assessment roll prior to the effective date of the ordinance adopting the redevelopment plan] shall be allocated to and when collected paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to or, an indebtedness... incurred by the redevelopment agency to finance or refinance, in whole or in part the redevelopment project.... When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all money thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing entities... (California Constitution, Article XVI, Section 16(b))

IN BRIEF

Article XVI, Section 16(b) of the constitution creates the essential underpinning of the tax increment system that agencies may only collect tax increment revenues in order to pay debt. The result of this section is that agencies must create debt in order to receive the funds necessary to eliminate blight.

To implement the constitutional provision, the CRL requires agencies to complete an SOI and submit it to the county auditor (Section 33675). The auditor must then either allocate the tax increment funds to the agency, or dispute the SOI. If the auditor disputes the SOI and the agency is unable to provide additional information to the satisfaction of the auditor to justify allocation of the tax increment revenue to the agency, then the auditor must bring an action for declaratory relief to resolve the dispute with the agency (Section 33675(h)).

If an agency does not show sufficient indebtedness in excess of available revenues on its SOI, then any tax increment revenue for that year in excess of the net indebtedness will be paid by the auditor to the taxing entities that would otherwise receive that property tax revenue.

ALERT

Redevelopment agencies must file the SOI *no later than October 1* of each year. An SOI must be filed for each project area, and each SOI must be certified by the agency's chief fiscal officer (Section 33675(b)). The indebtedness to be listed on an agency's SOI must be incurred prior to the October 1 filing date for the SOI.

Reconciliation Statement

Each agency must also file a reconciliation statement when it files an SOI (on or before October 1). The agency fiscal officer must also certify the reconciliation statement (Section 33675(b)).

The reconciliation statement is a report detailing how tax increment received in the previous fiscal year was actually spent and showing the agency's tax increment reserves as of the beginning and end of the previous fiscal year (Section 33675(d)). The primary purpose of the reconciliation statement is to show how the previous year's tax increment was spent and the indebtedness balances of the agency.

The basic information that must be shown on a reconciliation statement includes the following:

1. The debts listed on the previous fiscal year's SOI.
2. Debts paid with tax increment in the previous fiscal year, but not shown on the previous fiscal year's SOI.
3. For each debt listed on the reconciliation statement, any additions, reductions, or payments on the debt from the previous fiscal year. The payments from tax increment must be listed separately from payments that come from other revenue sources.