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**To:** Kelly Culver  
**Subject:** Enforceable Obligation Considerations Under AB 1X 26 and 27



The Latest Information

**July 26, 2011**

## **ENFORCEABLE OBLIGATION CONSIDERATIONS UNDER AB 1X 26 AND 27**

Redevelopment agencies, the California Redevelopment Association (CRA), legal experts, and fiscal and financial consultants have all been working to interpret this legislation. CRA has held webinars and its working group(s) are developing guidance on implementation. Recently, CRA and the League of California Cities filed legal actions to overturn these provisions; however, until either a stay of its provisions or decision of its merits occurs, agencies have to comply with these requirements. To provide additional guidance to agencies, I am taking this opportunity to elaborate on these and other discussions to clarify aspects of the Enforceable Obligation reporting.

### **Requirement**

Section 34169(g)(1) indicates that agencies are "within 60 days of the effective date of this part, adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are enforceable within the meaning of subdivision (d) of Section 34167 which includes the following information about each obligation:

1. The project name associated with the obligation.
2. The payee.
3. A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.
4. The amount of payments obligated to be made, by month, through December 2011."

Additionally, Section 34167(h) states "After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part, whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment

schedule, other than payments required to meet obligations with respect to bonded indebtedness." It is recognized that August 28, 2011 will be the end of the 60 day period prescribed and, by that date, all agencies will have to comply with this provision. However, this provision is eliminated by AB 1X 27 for agencies which elect to continue. To do so, those will have to have the community (city/county which formed them) enact the appropriate ordinance indicating that intention. A copy of a sample ordinance for this purpose is available on CRA's website.

### **Reporting Format and Approval**

Since this schedule is to include all obligations and it is to be detailed by payee, this document can involve substantial work in its preparation. No specific format, other than the requirements above, is contained in the law or has been developed by regulatory departments of the State. A format for this is presently being developed by a working group of CRA and it, along with instructions should be available on CRA's website once it is finalized. Once completed, the Code states "The Enforceable Obligation Payment Schedule shall be transmitted by mail or electronic means to the county auditor-controller, the Controller, and the Department of Finance." Additionally, approval must be obtained from the State prior to making payments in connection with this schedule.

### **Operational Considerations**

This process has created confusion on the part of agencies as to whether or not to prepare this Enforceable Obligation Payment Schedule and what the timing should be for the election to continue. It has been discussed in CRA webinars and by legal counsels that adopting the ordinance to continue provides an agency with the ability to continue its operations (contract, etc.) and removes this requirement for the Enforceable Obligation Payment Schedule. Additionally, should agencies and its community find that they are unable to make the continuation payments later they can rescind their previous ordinance.

Therefore, all agencies which are uncertain at present as to whether to continue or not should consider adopting a continuation ordinance. By doing this, they can avoid having to prepare the Enforceable Obligation Payment Schedule, can continue to conduct their operations and can obtain additional time to evaluate their individual situations for continuance or not.

Specific procedures in this area need to be discussed with and evaluated by your legal counsel. **To make the deadlines discussed above, that process needs to be started immediately.** As to timing, the law requires this ordinance to be enacted by the community. Some legal counsels that have indicated that this means a second reading only and does not involve the time after that before ordinances take effect or that possibly this enactment could be considered as urgency legislation and the second reading waived. Either of these may be appropriate but must be reviewed by your legal counsel and completed by the governing boards prior to August 28, 2011. If not done by that date, payments may not legally be made by your agency unless you have prepared the Enforceable Obligation Payment Schedule and it has been approved by the State.

Additionally, so that you can better understand the date requirements of the legislation, a flowchart on considerations/dates prepared by Ms. Alexa Smittle of RSG, Inc. can be found on LSL's website, or [click here](#).

*This information is being provided by Donald L. Parker, CPA, Principal, Redevelopment Reporting Solutions, a consultant of LSL CPAs.*

*The above comments are based upon Donald L. Parker, CPA's experience and discussions with various legal counsels and other authorities in the field. Please discuss these with your legal counsel to make sure they are appropriate and valid in your locality.*

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If you have any questions, please feel free to contact a partner or manager.

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