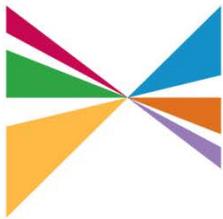


SOUTHERN CALIFORNIA



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NO. 4 MEETING OF THE

REGIONAL HOUSING NEEDS ASSESSMENT & HOUSING ELEMENT REFORM

Thursday, May 29, 2014
10:00 a.m. – 1:00 p.m.

SCAG Main Office
818 W. 7th Street, 12th Floor, Board Room
Los Angeles, CA 90017
(213) 236-1800

Teleconference Sites

Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

Videoconference Sites

Imperial County Regional Office
1405 North Imperial Avenue, Suite 1
El Centro, CA 92243

Orange County Regional Office
600 S. Main Street, Suite 912
Orange, CA 92863

Due to the limited size of the meeting room, participants are encouraged to reserve a seat in advance of the meeting. In the event the meeting room fills to capacity, participants may attend the meeting at the main location or any of the other video-conference locations.

City of Palmdale
38250 Sierra Hwy.
Palmdale, CA 93550

Riverside County Regional Office
3403 10th Street, Suite 805
Riverside, CA 92501



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Human Development
Margaret Finlay, Duarte

Energy & Environment
Deborah Robertson, Rialto

Transportation
Alan Wapner, San Bernardino
Associated Governments

San Bernardino Regional Office

1170 W. 3rd Street, Suite 140
San Bernardino, CA 92410

Ventura County Regional Office

950 County Square Drive, Suite 101
Ventura, CA 93003

South Bay Cities COG, Environmental Services Center

20285 S. Western Avenue, Suite 100
Torrance, CA 90501

Coachella Valley Association of Governments

73-710 Fred Waring Drive, Suite 200
Palm Desert, CA 92260

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Ma'Ayn Johnson at (213) 236-1975 or via email johnson@scag.ca.gov. In addition, the RHNA and Housing Element Reform Subcommittee meeting may be viewed live or on-demand at <http://www.scag.ca.gov/NewsAndMedia/Pages/SCAGTV.aspx>.

Agenda and Minutes for the Regional Housing Needs Assessment & Element Reform Subcommittee are also available at:

<http://www.scag.ca.gov/committees/Pages/default.aspx>

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. SCAG is also committed to helping people with limited proficiency in the English language access the agency's essential public information and services. You can request such assistance by calling (213) 236-1858. We require at least 72 hours (three days) notice to provide reasonable accommodations. We prefer more notice if possible. We will make every effort to arrange for assistance as soon as possible.

**Regional Housing Needs Assessment and
Housing Element Reform Subcommittee
Member List**

- San Bernardino County: Hon. Bill Jahn, Big Bear Lake, District 11 (Alternate), **Chair**
Hon. Larry McCallon, Highland, District 7 (Primary)
- Los Angeles County: Hon. Margaret Finlay, Duarte, District 35 (Primary)
Hon. Steven Hofbauer, Palmdale, District 43 (Alternate)
- Orange County: Hon. Ron Garcia, Brea, OCCOG (Primary)
Hon. Kathryn McCullough, Lake Forest, OCCOG (Alternate)
- Riverside County: Hon. Randon Lane, Murrieta, WRCOG (Primary)
Hon. Debbie Franklin, Banning, WRCOG (Alternate)
- Ventura County: Hon. Carl Morehouse, San Buenaventura, District 47 (Primary)
Hon. Linda Parks, County of Ventura, (Alternate)
- Imperial County: Hon. Cheryl Viegas-Walker, El Centro, District 1 (Primary)
Hon. Jack Terrazas, Imperial County (Alternate)

**REGIONAL HOUSING NEEDS ASSESSMENT AND
HOUSING ELEMENT REFORM
SUBCOMMITTEE
AGENDA
MAY 29, 2014**

The Regional Housing Needs Assessment and Housing Element Reform Subcommittee can consider and act upon any of the items listed on the agenda regardless of whether they are listed as information or action items.

CALL TO ORDER & PLEDGE OF ALLEGIANCE
(Hon. Bill Jahn, Chair)

PUBLIC COMMENT PERIOD – Members of the public desiring to speak on items on the agenda, or items not on the agenda, but within the purview of the Regional Housing Needs Assessment and Housing Element Reform Subcommittee, must fill out and present a speaker’s card to the Assistant prior to speaking. Comments will be limited to three (3) minutes. The Chair may limit the total time for all comments.

REVIEW AND PRIORITIZE AGENDA ITEMS

CONSENT CALENDAR

Receive and File

- | | <u>Time</u> | <u>Page No.</u> |
|--|-------------------|-----------------|
| 1. <u>Minutes of the March 13, 2014 RHNA and Housing Element Reform Subcommittee Meeting</u> | Attachment | 1 |
| 2. <u>RHNA and Housing Element Reform Topic Outlook/Matrix</u> | Attachment | 9 |

INFORMATION ITEMS

- | | | |
|---|---------------|----------------|
| 3. <u>RHNA and Housing Element Reform Status Update from the California Department of Housing and Community Development (HCD)</u>
<i>(Huasha Liu, Director of Land Use & Environmental Planning; Glen Campora, Assistant Deputy Director, HCD)</i> | Verbal | 30 min. |
|---|---------------|----------------|

ACTION ITEMS

- | | | | |
|--|-------------------|----------------|-----------|
| 4. <u>Issues and Recommendations Relating to RHNA and Housing Element Reform</u>
<i>(Huasha Liu, Director of Land Use & Environmental Planning)</i> | Attachment | 50 min. | 25 |
|--|-------------------|----------------|-----------|

Recommended Action: Review and recommend actions regarding RHNA and housing element reform.

**REGIONAL HOUSING NEEDS ASSESSMENT AND
HOUSING ELEMENT REFORM
SUBCOMMITTEE
AGENDA
MAY 29, 2014**

CHAIR'S REPORT

(Hon. Bill Jahn, Chair)

STAFF REPORT

(Ma'Ayn Johnson, SCAG Staff)

ANNOUNCEMENTS

ADDITIONAL PUBLIC COMMENT PERIOD

ADJOURNMENT

The next regular meeting of the Regional Housing Needs Assessment and Housing Element Reform Subcommittee will be determined at the May 29, 2014 meeting.

REGIONAL HOUSING NEEDS ASSESSMENT AND HOUSING ELEMENT REFORM
SUBCOMMITTEE, MEETING NO. 3
OF THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
THURSDAY, MARCH 13, 2014

MINUTES

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE REGIONAL HOUSING NEEDS ASSESSMENT AND HOUSING ELEMENT REFORM SUBCOMMITTEE. A DIGITAL RECORDING OF THE ACTUAL MEETING IS AVAILABLE FOR LISTENING IN SCAG'S OFFICE.

A meeting of the Regional Housing Needs Assessment & Housing Element Reform Subcommittee was held at SCAG's office in downtown Los Angeles. The meeting was called to order by the Hon. Bill Jahn, Chair. There was quorum.

Members Present:

Hon. Bill Jahn (Chair)	San Bernardino County, Big Bear Lake, District 11 (Alternate)
Hon. Margaret Finlay	Los Angeles County, Duarte, District 35 (Primary)
Hon. Debbie Franklin	Riverside County, Banning, WRCOG (Alternate)
Hon. Steven Hofbauer	Palmdale, District 43 (Alternate)
Hon. Randon Lane	Riverside County, Murrieta, WRCOG (Primary)
Hon. Larry McCallon	San Bernardino County, Highland, District 7 (Primary)
Hon. Carl Morehouse	Ventura County, San Buenaventura, District 47 (Primary)
Hon. Cheryl Viegas-Walker	Imperial County, El Centro, District 1 (Primary)
Hon. Kathryn McCullough	Orange County, Lake Forest, OCCOG (Alternate)

Members Not Present:

Hon. Ron Garcia	Orange County, Brea, OCCOG (Primary)
Hon. Linda Parks	Ventura County, County of Ventura (Alternate)
Hon. Jack Terrazas	Imperial County (Alternate)

CALL TO ORDER

Hon. Bill Jahn, Chair, called the meeting to order at 1:03 p.m. Hon. Larry McCallon, San Bernardino County, led the RHNA and Housing Element Reform Subcommittee in the Pledge of Allegiance.

PUBLIC COMMENT PERIOD - None

CONSENT CALENDAR

Receive and File

1. Minutes of the January 23, 2014 RHNA and Housing Element Reform Subcommittee Meeting
2. RHNA and Housing Element Reform Topic Outlook and Matrix

A MOTION was made (Finlay) and SECONDED (Morehouse) to approve the Consent Calendar. A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Finlay, McCullough, Franklin, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

INFORMATION ITEMS

3. RHNA and Housing Element Reform Status Update from the California Department of Housing and Community Development (HCD)

Jonathan Nadler, SCAG Staff, stated that there is potential for a technical amendment to State law regarding Matrix Topic No. 4B relative to applying the three (3) percent allowable difference between the Council of Governments (COG) regional projection forecast and Department of Finance (DOF) projection to total population rather than growth. Mr. Nadler introduced Glen Campora, Assistant Deputy Director, California Department of Housing (HCD), who provided a status update on HCD's efforts related to this item.

Mr. Campora stated that HCD has notified State legislative staff of the potential for this matter to be resolved by the inclusion in a forthcoming Omnibus Bill during the current legislative session. An Omnibus Bill is something the State legislature does every year to amend the law on noncontroversial provisions. HCD believes that the technical amendment is a non-controversial item. Next steps involve HCD briefing other stakeholders and then discussing the State legislative staff proposed amendment language to the applicable housing law. The cutoff date to insert provisions into the Omnibus Bill is June 2014.

ACTION ITEMS

4. Issues and Recommendations Relating to RHNA and Housing Element Reform

Jonathan Nadler, SCAG, stated that there five (5) recommend actions in agenda Item #4. Each item in the attached matrix has a recommendation for Subcommittee consideration. There are 5 topics. Staff suggests that for each topic, the subcommittee takes action on the recommendation once topic discussion is completed.

(1) Preliminary Draft of RHNA Allocation (Matrix Item A7)

Jonathan Nadler, SCAG, stated it had been suggested that SCAG provide the RHNA allocation earlier in the process. The 5th cycle local input review process occurred between 2009 and 2011. SCAG has a very comprehensive local input review process where prior to releasing the RHNA allocation, SCAG staff provided preliminary information to all jurisdictions to review. From that initial set of information and other relevant data, SCAG staff provided information to the jurisdictions in May 2011. Additionally, prior to the formal distribution of the draft RHNA allocation in February 2012 SCAG staff published preliminary assessments of the household allocation, placement needs, vacancy, and other factors for jurisdictions to review. The ensuing discussion reaffirmed that SCAG's existing local input process provides for early review of preliminary RHNA allocation related data.

A MOTION was made (Morehouse) and seconded (Viegas-Walker) to approve staff's recommendation regarding RHNA and Housing Element Matrix Item A7, SCAG will continue to follow the comprehensive communication protocols established in the current local review and input process and work with the RHNA Subcommittee, Community Economic Housing Development (CEHD), and Regional Council (RC) to facilitate full participation in the process. A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Finlay, McCullough, Lane, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

(2) Local Input on Growth Forecast (Matrix Item A1, A8, and B9)

Jonathan Nadler stated there were three (3) comments that were incorporated into Local Input on Growth Forecast topic:

A1 - It has been suggested there be procedures to develop overarching principles regarding local input process.

This item is the follow up to the Board's request to consider the concern raised during and after the 5th cycle RHNA - and again by one jurisdiction in writing as part of today's meeting - regarding the reasonableness of local input. Some jurisdictions indicated that local opportunities and constraints such as open space, jobs-housing balance, high land costs, and proximity to transit should affect the RHNA allocation assigned to them. Some jurisdictions had concern that local input from other jurisdictions was "too low." Those jurisdictions felt that SCAG should have a formula or mechanism to ensure consistency with their own RHNA allocation. The Subcommittee determined that establishing overarching principles to verify local input relative to future RHNA cycles is not necessary since we already have a long-established Regional Council approved process for accepting local input "as is" for the

development of the RTP/SCS. The Subcommittee acknowledged that the local input for RHNA and the RTP/SCS are one and the same.

A8 – SCAG should assign technical staff to work with local jurisdictions to develop accurate land use maps and forecasting models and when necessary meet with local agencies

Per the direction of the RHNA and Housing Element Reform Subcommittee at the January 23, 2014 meeting, SCAG staff will also work with the jurisdiction-designated contact in developing local input and encourage jurisdictions to alert SCAG staff when there is a change to the designated contact.

B9 – Inclusionary zoning ordinances

The RHNA allocation represents planning for future housing need while an inclusionary zoning ordinance is a requirement on the construction of housing units. Applying credit during the development of RHNA allocation would introduce a high level of uncertainty since the application of inclusionary zoning is linked to specified zoning, development, and construction. Staff considers the current practice of applying credit in a jurisdiction’s housing element appropriate.

A MOTION was made (Finlay) and SECONDED (McCallon) regarding RHNA and Housing Element Matrix Item A1, the Subcommittee finds that establishing overarching principles for the 6th RHNA cycle is not necessary. Staff is directed to include the history of practice of accepting local input as part of the final report from the Subcommittee. Regarding RHNA and Housing Element Matrix Item B9, the Subcommittee recommended that staff continue to facilitate discussions with HCD to ensure that inclusionary zoning ordinances can be used in housing elements to meet assigned RHNA allocation. Regarding RHNA and Housing Element Matrix Item A8, the Subcommittee recommended that SCAG continue to conduct extensive outreach with all jurisdictions for bottom-up review and local input process for the purpose of developing accurate land use maps and resolving potential discrepancies in the projected growth of population, household, and employment.

A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Finlay, McCullough, Lane, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

(3) Facilitation for Trade and Transfers (Matrix Item A2)

Ma’Ayn Johnson, SCAG staff, stated it had been requested that SCAG should encourage and facilitate “appropriate” trade and transfer during the RHNA process. A trade and transfer is between two or more jurisdictions that agree to an alternate distribution and is required to be consistent with State housing law. SCAG would incorporate such agreements into the final

RHNA allocation. No trade and transfer agreements were received for the 4th or 5th cycles. Due to the low level of interest in this option, SCAG staff had not previously developed a template agreement for a trade and transfer agreement. Based on the request provided as part of this Subcommittee process, SCAG staff will develop a sample agreement template during the 6th cycle RHNA.

A MOTION was made (Lane) and SECONDED (Hofbauer) regarding RHNA and Housing Element Matrix Item A2 that SCAG continue to encourage and facilitate the trade and transfer process and develop a sample agreement template during the 6th cycle RHNA.

A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Hofbauer, McCullough, Lane, McCallon, Morehouse, Viegas-Walker
NOES: None
ABSTAIN: None

(4) Consideration of General Plan Development and Implementation (Matrix Item B5)

Ms. Johnson stated that it has been suggested SCAG should consider General Plan updates that are in progress during the local input process to SCAG as well as in the final RHNA determination. She noted that the Integrated Growth Forecast process is heavily dependent on local input and that surveys are also sent out so General Plans that are in progress are noted. However, there needs to be a cutoff date for accepting local input so that SCAG can adopt a methodology. Additionally not all jurisdictions develop their General Plan at the same time and they can be staggered.

Ms. Johnson stated that staff can coordinate in the future to make sure that jurisdictions are aware of the cutoff dates for these deadlines. For the 5th cycle, input was received up until August 2011 at which point SCAG had to have a cutoff date to be able to develop and adopt the final RHNA methodology. Staff recommends that SCAG continue to make jurisdictions aware of the cutoff date so any internal timeline a jurisdiction may have can be resolved by the time SCAG adopts the methodology.

A MOTION was made (Lane) and SECONDED (McCallon) regarding RHNA and Housing Element Matrix Item B5, for SCAG to ensure that jurisdictions are aware of date submission timelines during the development of the 6th cycle RHNA so that circumstances such as General Plan updates are incorporated into local input as appropriate.

A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Hofbauer, McCullough, Lane, McCallon, Morehouse, Viegas-Walker
NOES: None
ABSTAIN: None

(5) RHNA Methodology Issues (Matrix Items A11, A12 and C8)

Ms. Johnson stated that Item #5 had been separated into two issues: a) social equity adjustment and b) application of vacancy credit.

b) Social Equity Adjustment (Matrix Items A11 and C8)

Social equity has to do with what staff refers to as the “110%” methodology.” State law requires that the final RHNA allocation to not overburden communities that are impacted compared to the rest of their respective counties. Ms. Johnson provided examples of how methodologies using different percentages could affect a jurisdiction’s existing and projected percentage of affordable housing. A social equity methodology can be developed that uses lower or higher percentages, different formulas, or local planning factors to address social equity. Ms. Johnson also provided an overview of methodology examples from other COGs.

a) Vacancy Credit Application (Matrix Item A12)

Ms. Johnson explained the three main components for RHNA: the projected household growth, the healthy market vacancy need, and a replacement need. For the 5th cycle only, HCD provided a regional excess vacancy credit of 75,391 units due to market conditions at the time. The methodology used the U.S. Census and was adopted to give credit to jurisdictions that had an excess vacancy above the healthy market vacancy rate. Not all cities and jurisdictions received a credit, but a large number of them did. At this time, it is premature to say whether or not HCD will grant a regional excess vacancy based on future market conditions. Relevant data will become available as part of the 6th cycle regional determination process, which SCAG does not anticipate to receive until 2019.

A MOTION was made (McCallon) and SECONDED (Hofbauer) regarding RHNA and Housing Element Matrix Item A11 and C8, that SCAG review different formulas and factors to determine the appropriate methodology to address the projected distribution of very low and low income housing for overburdened communities during the development of the 6th cycle RHNA, beginning 2018. Regarding RHNA and Housing Element Matrix Item A12, this matter is to be addressed during the 6th cycle RHNA update, beginning in 2018.

A roll call vote was taken per county and the motion was UNANIMOUSLY APPROVED as follows:

AYES: Hofbauer, McCullough, Lane, McCallon, Morehouse, Viegas-Walker

NOES: None

ABSTAIN: None

CHAIR’S REPORT

No report.

STAFF REPORT

Ma' Ayn Johnson informed the Subcommittee that the next meeting would be sometime in May as determined by polling the members of the Subcommittee.

ADJOURNMENT

The meeting adjourned at 2:37 p.m. The next meeting of the RHNA & Housing Element Reform Subcommittee will be held on May 29, 2014. The meeting will be held at the SCAG Los Angeles office.



Huasha Liu
Director, Land Use and Environmental Planning

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RHNA and Housing Element Reform Topic Outlook

Meeting 1 (Date: October 23, 2013): Charter and Outlook

- Subcommittee charter
- Topic outlook

Meeting 2 (Date: January 23, 2013): SCAG-related administrative issues pertaining to the RHNA process; RHNA regional determination process

- Teleconferencing (A5)
- Communication with planning directors (A10)
- Funding for RHNA delegation (A3)
- Growth on Tribal lands (B3)
- Margin between SCAG and Department of Finance projections (B4)

Meeting 3 (Date: March 13, 2014): RHNA allocation development for local jurisdictions.

- Preliminary draft of RHNA allocation (A7)
- Local input on growth forecast (A1, A8, B9)
- Facilitation of trade and transfers (A2)
- Consideration of general plan development and implementation (B5)
- RHNA Methodology Issues (A11, A12, C8)

Meeting 4 (Date: May 29, 2014): Revision request and appeals processes

- Neutral third party hearing board (A4)
- Sample template of appeals (A9)
- Posting to SCAG staff responses to filed revision requests and appeals (A6)
- Revision request and appeals processes timeline (C1)
- Definition of change in circumstances (B6)

Meeting 5 (Proposed Date: July 2014): Housing element development and review; Funding and incentives

- Smaller city exceptions (C4)
- Credit for inclusionary zoning (B9)
- Default density ranges and mixed use designations (B1, B10, C5)
- Transitional and Supportive Housing Requirements (B11)
- Existing housing needs statistics preparation, usage, and review (B2)
- Housing element preparation and implementation timeline (B8, C2)
- Housing element compatibility with community design (C6)
- Funding for RHNA and housing element preparation (B7)
- Incentives for housing element compliance and affordable housing building activity (D1, D2)
- CEQA exemptions for housing elements (C7)

Meeting 6 (Proposed Date: August 2014): Summary of discussion and approval of recommended action(s) to be presented to CEHD, Regional Council, and LCMC, as appropriate.

Regional Housing Needs Assessment (RHNA) and Housing Element Reform Topic Outlook Matrix

The following identifies matters that were raised as part of the 5th cycle RHNA process, including suggested ideas for potential RHNA or Housing Element reform and SCAG staff’s initial response and/or recommendation with respect to the specific matter. The matrix is separated into three categories: (A) topics that involve a possible “SCAG process refinement”; (B) topics that involve possible “HCD Administrative changes” and (C) topics that involve possible “Legislative changes.” A final category, section D, has been added to identify topics related to RHNA and housing element reform but involve programs and policies outside of state housing law. Some of the recommendations noted below will require further action beyond the SCAG Regional Council, including discussion and possible action by other stakeholders, such as the State Department of Housing and Community Development (HCD), other Council of Governments (COGs), housing advocates, and the California League of Cities, as appropriate. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to the continuing collaboration with HCD staff.

SCAG staff has prepared this topic matrix to provide a concise summary as a starting point for more detailed discussions (topics not listed in priority order).

A) SCAG Process Refinement

The following are topics that may involve possible changes to the current SCAG RHNA process. It should also be noted that many of these topics are best addressed as part of the 6th cycle RHNA process though SCAG staff recognizes the importance of identifying these issues at this time.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
A1	RHNA	Procedures to develop overarching principles regarding the local input process should be established. Some suggested reforms include a formula or method to manage local input. The process should be simplified as well. (SCAG Staff; Ojai; Sierra Madre; Calabasas, Oxnard; County of Ventura)	During the 5 th RHNA cycle, local input was accepted by SCAG and used as the basis to develop projected household growth.	Develop a procedure to establish overarching principles and guidelines on how to incorporate local input in the RHNA allocation methodology. The exact principles and guidelines, for example, how to incorporate local input and AB 2158 factors (including, but not limited to jobs-housing balance, proximity to transit, and open space), should be discussed during the 6 th cycle RHNA process by the appointed RHNA Subcommittee. Recommend to be revisited and implemented before 6 th cycle RHNA process beginning in 2018. For continual education for the Regional Council, SCAG will provide regular updates on the RHNA process in between cycles.
A2	RHNA	SCAG should encourage and facilitate “appropriate” trade and transfer. Make facilitation services available to jurisdictions that elect to conduct a Trade and Transfer process and provide a sample agreement template. (County of Ventura; Brea)	“Trade and transfer” is allowed by state housing law and SCAG has developed appropriate guidelines (see Trade and Transfer Guidelines).	SCAG staff will engage the Subcommittee on further discussion of this process and will continue to encourage and facilitate the trade and transfer process. SCAG staff is also open to development a sample agreement template for the 6 th cycle RHNA process.
A3	RHNA	Identify adequate funding sources for counties to distribute RHNA numbers internally rather than rely on SCAG to conduct that process. (County of Ventura)	Funding sources were available during the RHNA process from the SCAG General Fund to jurisdictions choosing to accept RHNA delegation.	Based on available resources and policy discussions of the Subcommittee and Regional Council, SCAG will continue to make funding available for jurisdictions that accept RHNA delegation.
A4	RHNA	A neutral third party should hear RHNA revision request and appeals. (Ojai; Calabasas)	Revision requests and appeals were reviewed and decided by the RHNA Subcommittee/RHNA Appeals Board,	The pros and cons with each approach will be described in a staff report to the Subcommittee for discussion. Recommend to be revisited and

			which was comprised of SCAG Regional Council and Policy Committee members.	implemented during 6 th cycle RHNA process beginning in 2018.
A5	RHNA	Utilize teleconference technology to allow for participation from all counties in SCAG to allow for participation of non-Subcommittee members. (County of Ventura)	The RHNA Subcommittee/Appeals Board charter did not make teleconferencing available to the general public for meetings. Videoconferencing was available for most meetings.	There are pros and cons with each approach as well as Brown Act and technology limitations and costs, and will be described in a staff report to the Subcommittee. Recommend to be revisited and implemented during 6 th cycle RHNA process beginning in 2018.
A6	RHNA	Distribute staff responses to a revision request or appeal at least one week prior to the hearing so that adequate time is available to review staff comments. (County of Ventura)	Staff responses to revision requests and appeals were provided prior to the public hearings pursuant to Brown Act (i.e., at least 72 hours prior to hearing).	Staff will continue to meet the legal requirements for public review and will also provide as much additional time as possible accounting for number of responses and staff resources. This applies to both the revision request and appeals processes.
A7	RHNA	Identify a preliminary draft RHNA distribution earlier in the process, and provide a formal comment and response system to ensure potential issues with a proposed RHNA distribution are identified and resolved early in the process. (County of Ventura)	The opportunity to provide input to the growth projections was made available to all jurisdictions prior to the distribution of the Draft RHNA. Comments provided to staff were responded to and logged in an internal system.	SCAG staff has provided such preliminary information timely to all jurisdictions in the SCAG region. SCAG will continue to do so for the 6 th cycle RHNA process and encourages the participation of all jurisdictions.
A8	RHNA	Prior to the next RHNA process, assign technical staff to work with local jurisdictions to develop accurate land use data maps and forecasting models. When necessary, arrange a meeting between local agencies and SCAG managers to resolve issues. (County of Ventura)	SCAG forecast and data staff surveyed local input from all jurisdictions and met with individual jurisdictions on projected household growth and to gather information on local land use. SCAG staff conducted further outreach to jurisdictions that did not provide an initial response to surveys. The iterative process was conducted over the course of two years.	SCAG staff conducted extensive outreach with all jurisdictions and met with them to survey for local input not only for the purpose of development accurate land use maps but also to resolve potential challenges. SCAG will continue to do so for the 6 th cycle RHNA process and encourages the participation of all jurisdictions.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
A9	RHNA	Provide a template for submittals and/or examples of submittals that meet SCAG expectations. (County of Ventura)	Although general guidelines were available, specific templates or examples were not published for the revision request or appeals processes. An appeal application that resulted in a granted appeal was provided to a jurisdiction on request.	SCAG staff will provide a sample packet as a guideline for revisions requests and appeals and will provide examples of past applications that resulted in a granted appeal during the preparation of the 6 th cycle RHNA.
A10	RHNA	Direct communications to the Planning Department (or equivalent) or more specifically to the Planning Director or assigned point-of-contact for the RHNA process. (County of Ventura)	Public notices and other mass correspondence were provided via email or mail to Planning Directors, in addition to City Managers/County Administrators and other stakeholders.	SCAG has and will continue to address public notices and other mass correspondence via email or mail to Planning Directors, in addition to City Managers/County Administrators and other stakeholders.
A11	RHNA	Remove the “110% adjustment” component of the RHNA methodology, which will eventually result in a result in a realignment of affordable housing concentrations across the SCAG region and fails to comport with real estate market realities. (Calabasas)	Government Code Section 65584 (d)(4) states that the objectives of the RHNA is to allocate a lower proportion of housing need by income category to disproportionately affected communities, but does not specify a particular methodology to address the issue. The 110% adjustment toward the county distribution was adopted by the SCAG Regional Council as part of both the 4 th and 5 th cycle methodologies to address the state law requiring the allocation of a lower proportion of housing need by income category to disproportionately affected communities. For jurisdictions with a high concentration of low income households, a 110% adjustment toward the county distribution would result in a lower percentage of low income households compared to the county	Because the RHNA process allows for a COG to develop and adopt its own methodology to address disproportionately affected jurisdictions, staff recommends that this issue be revisited during the development of the 6th RHNA cycle beginning in 2018. An overall approach should be folded into the future discussion of overarching principles for the 6 th cycle RHNA Plan. SCAG can survey adjustment methodologies from other COGs during the development of the 6 th RHNA cycle methodology to further inform the discussion.

			percentage. For jurisdictions with a low concentration of low income households, a 110% adjustment would result in a higher percentage of low income households compared to the county percentage.	
A12	RHNA	Ensure accuracy of the vacancy credit application. (Calabasas; Colton)	HCD granted a vacancy credit adjustment to its regional housing need determination to address the economic downturn. SCAG applied a vacancy credit to a number of jurisdictions based on its adopted 5 th cycle RHNA methodology and data from the 2010 U.S. Census.	SCAG staff recommends that this issue be revisited during the development of the 6 th RHNA cycle beginning in 2018 if the credit is granted by HCD again for the 6 th RHNA cycle. Any particular vacancy credit is dependent on market conditions at the time.

B) HCD Administrative Changes

The following are topics that may involve possible administrative changes by HCD and therefore, will require HCD’s approval for implementation. It is SCAG staff’s intent to coordinate and work with HCD staff on resolving these matters and have them participate in Subcommittee meetings when these topics are discussed. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to continuing collaboration with HCD staff.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B1	Housing Element	There should be a range of default densities established for jurisdictions to determine appropriate densities for affordable housing units. Circumstances such as mixed use projects should be considered. (Ontario; Ojai; Brea)	A jurisdiction can choose to use a default density instead of preparing its own analysis to determine unit affordability. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	<p>SCAG staff recommends that HCD consider a range for default density rather than a single number, which will provide flexibility for local jurisdictions.</p> <p>Staff also recommends working with HCD to establish a separate default density range for mixed-use projects.</p> <p>HCD Response: HCD is generally supportive but clarified that jurisdictions are not required to use the default density in housing elements and can instead provide an analysis of affordability. Potential change regarding optional default density would require legislative change.</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B2	Housing Element	HCD should formalize the streamlining review policy that was applied during the 5 th cycle regarding existing housing needs data. The streamline review allowed for local jurisdictions to meet the existing housing needs data requirement in its housing element if they used data provided by the COG which was based on the existing housing needs data listing as described in state housing law and pre-approved by HCD. (SCAG staff)	As part of the streamlining review process for the 5 th housing element cycle, HCD pre-approved the use of SCAG’s existing housing need data set, which meets existing housing need data requirements in the preparation of local housing element updates. SCAG voluntarily made this data available on-line for local jurisdictions in a user friendly and interactive format.	<p>HCD should consider formalizing the streamlining review policy for existing housing needs data used in the 5th cycle that allowed COGs such as SCAG to develop pre-approved data sets for use by jurisdictions in developing their local housing element update.</p> <p>HCD response: HCD is in support of providing more efficient element update and review methods. Stakeholder input will be sought in formalizing policy. Housing advocates have expressed some concerns with streamline reviews and shorter timeframes to comment to jurisdiction and HCD. More time is needed for HCD and stakeholders to evaluate streamline results and jurisdiction element implementation and compliance issues. Some discussions may get underway around mid-2014.</p>
B3	RHNA	Projected growth from Tribal lands should be excluded from jurisdictional RHNA allocation. (Coachella Valley Association of Governments)	The 4 th RHNA cycle regional allocation included growth on Indian Tribal lands; the 5 th RHNA cycle regional allocation excluded growth on Tribal lands, per determination by HCD.	<p>Tribal lands are sovereign nations and jurisdictions do not have land use authority over Tribal lands. Accommodation or exclusion of future housing need generated by Tribal lands is not currently specified in state housing law and is subject to HCD determination. A formal HCD policy specifying exclusion of projected growth on Tribal Lands is recommended.</p> <p>HCD response: HCD agreed with the assessment that Tribal lands are sovereign nations and that jurisdictions do not have land use authority over those lands. HCD expressed general agreement with the staff recommendation..</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B4	RHNA	The 3% allowable difference between the DOF and COG population projection during the HCD and COG consultation process should be applied to the total population rather than the growth. (SCAG staff)	State housing law does not define whether the 3% allowable difference between the COG regional projection forecast and DOF projection applies to growth or total.	<p>SCAG staff continues to apply the 3% allowable difference to the total population rather than to the growth.</p> <p>HCD response: HCD agreed with SCAG staff assessment that a single threshold would be adequate and noted that a technical amendment could potentially be included in 2014 legislation.</p>
B5	RHNA	General Plan updates in progress should be considered during the local input process to SCAG as well as in the final RHNA determination. (Oxnard)	SCAG continued to accept local input from jurisdictions on projected household growth until the adoption of the final RHNA Methodology. The 5 th cycle RHNA Methodology was adopted 11 months prior to the adoption of the Final RHNA allocation Plan.	A jurisdiction can coordinate a general plan update with the local input process for developing the SCAG RHNA projections, but the RHNA process must have a determined cutoff date for local input in order to consistently apply the final RHNA Methodology to the draft RHNA allocation for all jurisdictions. SCAG staff will facilitate a discussion by the Subcommittee regarding the timeline for submission of local data.
B6	RHNA	The term “change in circumstance” should be defined so as to better understand this as a basis for an appeal to the draft RHNA allocation. (SCAG staff)	State housing law does not provide a definition of what situation or challenge would qualify as a “change in circumstance.”	<p>SCAG staff proposes that affected jurisdictions work with COGs in a bottom-up process to develop proposed examples of the term “change in circumstance” and engage HCD in providing a clear definition and examples of the term.</p> <p>HCD response: HCD expressed interest in working with COGs and local jurisdictions in developing a survey to develop examples on what would constitute a change in circumstance and how housing demand could potentially be impacted.</p>

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B7	Housing Element	There should be state funding for the development of RHNA and housing elements since they are statewide mandates for jurisdictions. (Oxnard)	No specific state funding is available for jurisdictions to update local housing elements.	State law provides that SCAG can set fees for the development of the RHNA. SCAG charges its non-member jurisdictions to develop RHNA, but does not charge member jurisdictions given that SCAG's work on RHNA development is funded primarily through the SCAG General Fund which is comprised largely of SCAG member dues. For housing element related costs, SCAG recommends that direct funding to jurisdictions from the state be discussed by the Subcommittee.
B8	Housing Element	The housing element zoning implementation timeframe is unrealistic and there should be a hardship process for more time with demonstrated progress. (Oxnard)	Zoning changes corresponding to housing element updates must be completed in a specific time frame, (generally three years after a housing element is adopted).	Staff will relay individual concerns regarding the zoning implementation timeframe to HCD. HCD response: Changes regarding zoning implementation timeframes and extensions cannot be addressed administratively and would require legislative change.
B9	RHNA/Housing Element	Reflect the percentage requirements within an inclusionary ordinance as a credit to reduce the RHNA allocation for a jurisdiction or count them as units satisfying the RHNA, whether or not the units are built. (Brea; County of Ventura)	Currently SCAG does not apply a RHNA allocation credit to jurisdictions with inclusionary zoning ordinances. Jurisdictions may apply inclusionary zoning ordinances towards their RHNA allocation in their respective housing element by either an analysis of appropriate zoning or a site analyses for pending, approved, permitted or constructed development.	Jurisdictions may currently apply inclusionary zoning ordinances toward satisfying their RHNA need once a project is approved, permitted, or constructed. In regard to a RHNA allocation credit, the allocation represents planning for future housing need while an inclusionary zoning ordinance is a requirement on the construction of housing units. Applying the credit during the development of the RHNA allocation places a high level of uncertainty since the application of inclusionary zoning is linked to specified zoning, development, and construction.
B10	Housing Element	Parcels zoned as mixed-use should count toward accommodation of the RHNA allocation. (Calabasas)	Jurisdictions may count planned units designated in mixed-use areas toward their RHNA allocation provided that they provide an analysis of unit affordability for the appropriate income group.	SCAG will continue working with HCD to ensure that units designated in mixed-use areas can be counted in housing elements toward meeting a jurisdiction's RHNA allocation.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Staff Proposal for Discussion with HCD
B11	Housing Element	Currently during housing element review, transitional and supportive housing is treated as typical single-family or multi-family housing. Transitional and supportive housing should be treated under the same requirements as a residential care facility, group home, or boarding home, since transitional/supportive housing does not necessarily function in the same way as other traditional residential uses, for example when social services are being provided on-site(Consultant)	Government Code Section 65583(a)(5) requires that housing elements demonstrate that transitional housing and supportive housing are considered a residential use and subject to only those restrictions that apply to other residential dwellings of the same type in the same zone.	Transitional and supportive housing provide social and other services, often in institutional settings, similar to residential care facilities or boarding homes. Because they function differently from typical single- or multi-family housing units and often provide on-site social services, there may be justification for subjecting them to different requirements. SCAG staff will raise this topic with HCD.

C) Legislative Changes

The following are topics that may involve possible legislative proposals which, by their nature, will require input from various parties beyond HCD. Stakeholders include SCAG’s Legislative, Communications and Membership Committee (LCMC), HCD and other interested parties such as the League of California Cities, housing advocates, and other COGs/MPOs, as appropriate. Legislative changes require LCMC review before Regional Council action and require legislation sponsorship. It is SCAG staff’s intent to coordinate and work with HCD staff on resolving the following topics and have them participate in Subcommittee meetings when these matters are discussed. SCAG appreciates that HCD is committed to working with SCAG to maximize opportunities for RHNA and housing element administrative changes, and we look forward to the continuing collaboration with HCD staff in this regard. Legislative changes are the last resort if the identified challenges cannot be addressed through HCD administrative changes.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C1	RHNA	Consolidate the revision and appeal processes into one process. (Association of California Cities – Orange County)	The revision and appeal process timelines are described in state housing law as two separate processes.	Since the separate revision request and appeals processes allow a jurisdiction multiple avenues to request for a review of their respective draft RHNA allocation, it is likely in the best interests of local jurisdictions to keep as separate the revision request and appeals processes.
C2	Housing Element	The housing element development timeframe is unrealistic and there should be a hardship process for more time with demonstrated progress. (Oxnard; County of Riverside)	Housing element updates must be completed in a specific time frame, as outlined in state housing law (generally, 12 months after the COG’s adoption of the Final RHNA plan).	Regarding the housing element update timeframe, with the most recent streamlined review process made available by HCD, SCAG staff believes that the 12 month housing element update timeframe is workable.
C4	Housing Element	Cities with less than 25,000 should have more flexibility for the application of default densities in their housing elements than larger cities. (Ojai)	Cities with a population of less than 25,000 have lower default densities than larger cities. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	SCAG staff will facilitate a discussion with HCD to allow for a default density range when determining appropriate densities for accommodating low and very low income households. In addition, staff will seek for clarification regarding AB 745, which would allow local jurisdictions to request that council of governments adjust the default densities under state law if they are not consistent with local jurisdiction’s existing density.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C5	Housing Element	Allow cities with a population of under 100,000 within the Counties of San Bernardino and Riverside to be considered “suburban” for purposes of default density. (Colton)	Cities with a population of less than 25,000 have lower default densities than larger cities. Most jurisdictions in the SCAG region have a default density of 30 units per acre. Jurisdictions with less than 25,000 population or defined as “suburban” in state housing law have a default density of 20 units per acre.	SCAG staff will facilitate a discussion with HCD for potential legislative change to specify a default density range when determining appropriate densities for accommodating low and very low income households.
C6	Housing Element	When reviewing the housing element of smaller jurisdictions, HCD should consider compatibility of the proposed zoning and planning with community design regarding building height, view protection, and development density unique to smaller jurisdictions. Affordable overlays and inclusionary programs should be the preference of HCD. (Ojai; Oxnard)	State housing law does not take into account housing compatibility in a housing element with community design regarding building height, view protection, and development intensity.	Legislative change would be necessary to specify a range of default densities for different types of uses and other considerations indicated in a housing element regarding compatibility with surrounding uses. A discussion could occur between HCD and the Subcommittee regarding community design in housing element review. HCD allows affordable housing overlays to be developed. State law requires analysis of all development standards for potential constraints to residential development regardless of density.

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
C7	Housing Element	California Environmental Quality Act (CEQA) exemptions should be granted for infill projects that are designated to meet housing need in the housing element (San Clemente).	State law requires that projects not categorically exempt from CEQA must go through the CEQA review process. However, Senate Bill (SB) 226 (signed by the Governor October 2011) and SB 743 (September 2013) provide opportunities for CEQA exemption and streamlining. The purpose of SB 226 is to streamline the environmental review process for eligible infill projects, and is implemented through State CEQA Guideline Section 15183.3 (Streamlining for Infill Projects). SB 743 provides opportunities for CEQA exemption and streamlining for projects meeting certain criteria relating to specific plans, infill and transit-oriented development. The State Office of Planning and Research (OPR) is currently working on implementation of SB 743.	<p>Local jurisdictions can currently avail themselves of CEQA streamlining provisions set forth through SB 226 (CEQA Guideline Section 15183.3). See http://opr.ca.gov/s_sb226.php</p> <p>Implementation of SB 743 by the State OPR is expected in 2014. For more information, see http://www.opr.ca.gov/s_transitorienteddevelopmentsb743.php</p> <p>SCAG staff has provided information on CEQA streamlining to our policy committees (of which the RHNA subcommittee are also members) and stakeholders, and will continue to do so as additional information becomes available.</p> <p>SCAG staff suggests that this topic continue to be discussed with SCAG committees and subcommittees as part of on-going CEQA modernization efforts.</p>
C8	RHNA	Clarify state housing law to specifically address how housing needs should be allocated to jurisdictions with a disproportionately high share of households in the low income categories (Colton)	Government Code Section 65584 (d)(4) states that the objectives of the RHNA is to allocate a lower proportion of housing need by income category to disproportionately affected communities, but does not specify a particular methodology to address the issue. The RHNA process allows a COG such as SCAG to adopt its own methodology,	Because SCAG can develop its own methodology to address disproportionately affected jurisdictions, staff recommends that this issue be revisited during the development of the 6 th RHNA cycle in 2018. (See also Item No. A11).

			including how to address disproportionately affected communities. For the 5 th RHNA cycle, SCAG applied a “110% adjustment” to address this issue.	
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Local Sustainable Development and Looking Ahead

The following are topics that are related to RHNA and housing element reform but involve programs and policies outside of state housing law. These topics are included as part of the matrix so that they may be integrated into the overall discussion by the Subcommittee.

- Suggestions from the RHNA and Housing Element Reform Subcommittee
- Current SCAG Projects
 - Sustainability Grant Program/Call for Proposals
- CEQA Streamlining/SB226
- Legislation monitoring
 - CEQA Reform
- Grants
 - HCD NOFA notification
 - SCG

Item No.	RHNA or Housing Element Topic	Suggested Reform (by Third Party or SCAG staff)	Existing Policy/Procedure	Initial Staff Response/Recommendation
D1	Housing Element	Funding opportunities and other preferences should be available to jurisdictions with compliant housing elements. (Ojai)	Jurisdictions with compliant 4 th cycle housing elements have access to 5 th cycle streamlined review and are prioritized for various available grants and funding.	SCAG will coordinate with HCD in an effort to ensure that jurisdictions with compliant housing element will continue to receive streamlined review and funding opportunities as available.
D2	Housing Element	Provide funding opportunities for all new very low and low income units built with affordable housing covenants, similar to the Parks-related housing grants provided under Proposition 1A. (Brea)	HCD currently provides funding for parks-related programs to jurisdictions that build very low and income units. No grants are currently available relating to affordable housing covenants.	SCAG will encourage the State to develop and identify more funding opportunities for jurisdictions that build and preserve affordable housing.

REPORT

DATE: May 29, 2014

TO: RHNA and Housing Element Reform Subcommittee

FROM: Huasha Liu, Director, Land Use and Environmental Planning, 213-236-1838,
liu@scag.ca.gov

SUBJECT: Issues and Recommendations Relating to RHNA and Housing Element Reform



EXECUTIVE DIRECTOR'S APPROVAL:

RECOMMENDED ACTION:

Review and recommend the following actions regarding RHNA and housing element reform for further review and approval by the Community, Economic and Human Development (CEHD) Committee:

1. Regarding RHNA and Housing Element Matrix Item A4, SCAG staff recommends that the 6th cycle RHNA Subcommittee charter continue to include the option for the appointment of ex-officio external stakeholders to the 6th Cycle RHNA Subcommittee.
2. Regarding RHNA and Housing Element Matrix Item A9, in preparation of the 6th cycle RHNA beginning in 2018, SCAG staff will provide a sample packet as a guideline for revision requests and appeals along with examples of past applications that resulted in a granted appeal during the 5th cycle RHNA update.
3. Regarding RHNA and Housing Element Matrix Item A6, SCAG staff will continue to meet the legal requirements in conducting the revision and appeal processes for public notice, and providing as much time as possible for local jurisdictions to prepare, file and have adequate lead time to gather information and prepare presentations, accounting for the number of revision request and appeal submissions received and staff resources available.
4. Regarding RHNA and Housing Element Matrix Item C1, SCAG staff will continue to follow the current revision request and appeal processes outlined in the state housing law.
5. Regarding RHNA and Housing Element Matrix Item B6, SCAG staff will survey jurisdictions prior to the adoption of the 6th RHNA cycle Appeals Procedures on possible definitions or scenarios constituting a “significant and unforeseen change in circumstances” affecting a jurisdiction’s draft RHNA allocation. SCAG staff will share the survey information with the State Department of Housing and Community Development (HCD) and other MPOs so that HCD may in turn develop possible guidance on the matter.

Note, all the recommendations will be presented in a final report to the CEHD Committee after the conclusion of the Subcommittee’s work (anticipated to be Fall 2014).

EXECUTIVE SUMMARY:

During the 5th cycle RHNA process, RHNA stakeholders raised a number of concerns pertaining to the RHNA process. These concerns included having a neutral third party hearing board, providing a sample

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template of appeals, posting SCAG staff responses to revision requests and appeals, reviewing the revision request and appeals processes timeline, and defining a change in circumstances.

STRATEGIC PLAN:

This item supports SCAG’s Strategic Plan; Goal 1: Improve Regional Decision Making by Providing Leadership and Consensus Building on Key Plans and Policies; Objective a: Create and facilitate a collaborative and cooperative environment to produce forward thinking regional plans.

BACKGROUND:

At its first three meetings, held on October 23, 2013, January 23, 2014, and March 13, 2014, respectively, the RHNA and Housing Element Reform Subcommittee (“Subcommittee”) reviewed a matrix of topics for discussion and possible action for RHNA and housing element reform. The purpose of the Subcommittee is to discuss concerns raised during the 5th RHNA cycle process and provide guidance to SCAG staff on these issues. The concerns were raised by a variety of stakeholders, including Subcommittee members, local jurisdictions, other interested groups, as well as SCAG staff who also identified a few items for discussion.

To allow for focused discussions and meeting efficiency, the Subcommittee approved its meeting schedule by topic area. The focus of the fourth meeting of the Subcommittee is on the following topics pertaining to the RHNA process.

1. Neutral third party hearing board (Matrix Item A4);
2. Template or samples of successful revisions and appeals request (A9);
3. Posting of SCAG staff responses to filed revision requests and appeals (A6);
4. Revision request and appeals processes timeline (C1); and
5. Definition of change in circumstances (B6).

Differences between a Revision Request and Appeal

Government Code Section 65584.05 and the RHNA Procedures for Revision Requests, Appeals and Trade & Transfers (“Procedures”), which was adopted by the SCAG Regional Council in February 2012, provided the statutory requirements and guidelines, respectively, for the revision request and appeals process for the 5th RHNA cycle. Jurisdictions seeking to reduce their assigned draft RHNA allocation could do so through a revision request and/or appeal, which comprise two separate processes outlined in State law with different filing and determination deadlines. In the case of SCAG, both revision requests and appeals were reviewed and determined by the RHNA Appeals Board.

In regard to filing bases, a revision request can be filed by a local jurisdiction based upon the planning factors listed in Government Code Section 65584.04 (d). These factors include external water constraints, county policies to preserve agricultural land, high housing costs, and other factors adopted by SCAG serving as the “Council of Governments” (COG) under the RHNA law. After a revision request has been submitted, it can be granted, modified or denied by SCAG.

If a revision request is denied or not modified to the satisfaction of the requesting local jurisdiction, the jurisdiction may file an appeal. The bases for an appeal are wider. Specifically, an appeal can be brought based upon (1) the COG’s failure to adequately consider the planning factors listed in the aforementioned Government Code, (2) the COG’s failure to determine the jurisdiction’s draft allocation in accordance with

the adopted corresponding RHNA methodology, and (3) that a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision.

It is noted that for the 5th RHNA cycle, fourteen (14) revision requests and thirteen (13) appeals were submitted. Of the 7,378 total units submitted as part of the revision request process, 149 were granted and deducted from the regional total. None of the 4,287 units submitted under the appeals process were granted by the RHNA Appeals Board.

(1) Neutral Third Party Hearing Board

RHNA and Housing Element Reform Matrix Item A4

It has been suggested that a neutral third party should hear RHNA revision requests and appeals, rather than an internal committee of SCAG.

Background:

Per Government Code Section 65584.05, a jurisdiction seeking to change their assigned draft RHNA allocation may file a revision request and/or an appeal. State housing law requires that the COG review revision requests and appeals and make its own determinations, but does not specify who the reviewing body should be. State law leaves it to the COG to develop its own individual process. In the case of SCAG, for both the 4th and 5th cycles, the Regional Council established the RHNA Subcommittee to review revisions requests and appeals. Specifically, the RHNA Subcommittee charter, which outlined the roles and responsibilities of the RHNA Subcommittee for the 5th RHNA cycle and was adopted by the SCAG Regional Council in June 2011, assigned the RHNA Subcommittee to make final decisions regarding revision requests and appeals submitted by jurisdictions. In that capacity, the Subcommittee was referred to as the “RHNA Appeals Board” and the charter affirmed that its final decisions were not reviewable by the CEHD Policy Committee or by the Regional Council.

For both the 4th and 5th RHNA cycles, per their respective charters, the RHNA Subcommittee was comprised of twelve (12) members of the Regional Council or CEHD Committee to represent the six (6) counties of the SCAG region. Each county was represented by a primary member and an alternate member, all of whom were appointed by the SCAG President with recommendations from the RHNA Subcommittee Chair. As stated in the adopted charters, membership of the RHNA Subcommittee could also include stakeholder representatives in a non-voting capacity if recommended by the RHNA Subcommittee and confirmed by the CEHD Committee and the Regional Council. However, this option was not exercised during the 4th or 5th cycles.

There are a number of ways to comprise a RHNA Appeals Board. Several possibilities mentioned in prior comments included a group of Regional Council members who not part of the RHNA Subcommittee, the entire Regional Council itself, and including external stakeholders in some capacity. Additionally, the revision request process could be reviewed and determined by a neutral third party while the appeals process could be reviewed and determined by the RHNA Subcommittee, or the other way around.

There are a number of benefits associated with having a neutral third party to review and determine revision requests and/or appeals. The RHNA Subcommittee, already having heard many issues raised by jurisdictions prior to the revision requests and appeals processes, might already have a working opinion on planning constraints affecting a draft RHNA allocation such as jobs-housing relationship, open space, or

high housing cost burdens. This could raise concerns regarding a possible bias during the discussion and determination of a revision request or appeal. Similarly, an Appeals Board solely comprised of elected officials serving on SCAG’s Regional Council might benefit from membership of stakeholders such as demographers, developers, or others who could provide external perspectives.

On the other hand, having the RHNA Subcommittee serve solely as the RHNA Appeals Board ensures the continuity of Subcommittee’s expertise on the RHNA process and the details associated with all jurisdictions. Familiarity with RHNA-related topics and issues allow for more thorough discussions and decisions. An Appeals Board comprised with individuals who are not as familiar with SCAG’s RHNA methodology and policy implications would require extensive training from SCAG staff to ensure that the decisions made will be fully informed and will require significant additional resources. Similarly, having the 86 member Regional Council review each revision request and appeal would require extensive training and take up an inordinate amount of the Regional Council’s time. Likewise, while an outside party of experts would not need training in RHNA, such a group would also necessitate a significant financial cost as well as staff resources.

Considering the pros and cons of having a third party to hear RHNA revision requests and appeals, SCAG staff recommends that the 6th RHNA Subcommittee charter continue to include the option of including ex-officio, non-voting members (i.e., stakeholders) to the 6th Cycle RHNA Subcommittee in an effort to bring external perspectives to the discussions. While ex-officio members would not have had voting capacity on the RHNA Subcommittee, appointing such members in the future could add a third party viewpoint to the overall Subcommittee and Appeals Board discussion.

Recommendation:

Regarding RHNA and Housing Element Matrix Item A4, SCAG staff recommends that the 6th cycle RHNA Subcommittee charter continue to include the option for the appointment of ex-officio external stakeholders to the 6th Cycle RHNA Subcommittee.

(2) Template or Samples of Successful Revision Requests and Appeals

RHNA and Housing Element Reform Matrix Item A9

A1: It has been suggested that SCAG staff should provide a template for submittals or samples of revision request or appeal submittals that have met SCAG expectations.

Background:

In February 2012, the SCAG Regional Council approved the RHNA Procedures for Revision Requests, Appeals and Trade & Transfers (“Procedures”), which outlined the process for handling revision requests and appeals relating to the 5th cycle RHNA. As part of the Guidelines, SCAG staff included an application form for jurisdictions interested in pursuing a revision request and/or appeal (attachment 1). The Guidelines were distributed to every jurisdiction after the Regional Council approval and were subsequently posted on the RHNA webpage. Although general guidelines were available as to what documentation to provide in a revision request and appeal, specific templates or examples were not published for the processes. An appeal application that resulted in a granted appeal from the 4th RHNA cycle, however, was provided to a jurisdiction on request.

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SCAG staff will provide a sample packet as a guideline for revision requests and appeals to assist jurisdictions seeking to revise or appeal their draft RHNA allocation. SCAG staff will also provide examples of past applications that resulted in a granted revision request of appeal during the preparation of the 6th cycle RHNA, beginning in 2018.

Recommendation:

Regarding RHNA and Housing Element Matrix Item A9, in preparation of the 6th cycle RHNA beginning in 2018, SCAG staff will provide a sample packet as a guideline for revision requests and appeals along with examples of past applications that resulted in a granted appeal during the 5th cycle RHNA update.

(3) Posting of SCAG Staff Reports regarding Filed Revision Requests and Appeals

RHNA and Housing Element Reform Matrix (Item A6):

It has been suggested that SCAG should distribute SCAG staff reports to a revision request or appeal at least one week prior to the hearing so that adequate time is available to review staff comments.

Background:

Per Government Code Section 65584.05, a jurisdiction seeking to change their assigned draft RHNA allocation may file a revision request and/or an appeal. After a jurisdiction has submitted a revision request or appeal, SCAG staff will review the submission and prepare a staff report to the RHNA Appeals Board in response to the submission with a recommendation to the RHNA Appeals Board to approve or deny the request or appeal. The staff reports were included in the corresponding revision request meeting and appeals hearings agenda packets and posted at least 72 hours prior to the RHNA Appeals Board meeting or hearing, per the requirements of the Ralph M. Brown Act.

SCAG staff will continue to meet the legal requirements for public review and will also provide as much additional time as possible accounting for the number of revision request and appeal submissions received and staff resources.

Recommendation:

Regarding RHNA and Housing Element Matrix Item A6, SCAG staff will continue to meet the legal requirements in conducting the revision and appeal processes for public notice, and providing as much time as possible for local jurisdictions to prepare, file and have adequate lead time to gather information and prepare presentations, accounting for the number of revision request and appeal submissions received and staff resources available.

(4) Revision Request and Appeals Processes Timeline

RHNA and Housing Element Reform Matrix (Item C1):

It has been suggested that the revision request and appeals processes be consolidated into one process.

Background:

Government Code Section 65584.05 describes the process and general timeline for the revision request and appeals processes. Jurisdictions seeking to file a revision request must do so within 60 days of the release of the draft RHNA allocation by the COG. Within 60 days after the request was submitted, the COG is required to determine whether or not it will accept, deny, or modify the request. A jurisdiction that does not

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accept the COG’s determination of its revision request may then file appeal within 120 days of the date established to file appeals. The jurisdiction must be notified by the COG within 10 days of at least one public hearing for its appeal and the hearing date must be between 30 and 35 days after the notification. For the 5th cycle RHNA, the revision request and appeals processes occurred between the adoption of the draft RHNA allocation (February 2012) and the RHNA Appeals Board’s adoption of its appeals determinations (July 2012) (see attachment 2).

Because the revision request and appeals processes are clearly indicated in State law as separate processes with different filing bases and timelines, consolidating the two processes would require a legislative change. While consolidating them might be considered as “streamlining” and would possibly provide more time for jurisdictions to work on housing elements, it would also eliminate an opportunity for jurisdictions seeking to adjust their draft RHNA allocation. As two separate processes, revision requests and appeals allows for two separate opportunities for jurisdictions to address their draft RHNA allocation. Jurisdictions not satisfied with the draft RHNA allocation might view such a “streamlined” process as a removal of proper due process.

Recommendation:

Regarding RHNA and Housing Element Matrix Item C1, SCAG staff will continue to follow the current revision request and appeal processes outlined in the state housing law.

(5) Definition of Change in Circumstances

RHNA and Housing Element Reform Matrix (Item B6):

It has been suggested that the term “change in circumstance” be defined so as to better understand this as a basis for an appeal to the draft RHNA allocation.

Background:

Out of the 13 appeals filed during the 5th RHNA cycle, six (6) of them included “change of circumstance” as a basis for appeal. The appeal filing form included as part of the approved Appeals Procedures allowed jurisdictions to check bases for the appeal filing, and it was up to the jurisdiction to provide its own rationale and documentation to support its appeal. Currently there is no clear definition in either State housing law or the Appeals Procedures of a “significant and unforeseen change in circumstances.” Government Code Section 65584.05(d)(1) states only that a jurisdiction may appeal its draft allocation on the grounds that “a significant and unforeseen change in circumstances” has occurred in the local jurisdiction that merits a revision of the information submitted by the jurisdiction during the development of the RHNA methodology.

Jurisdictions that filed an appeal under a change of circumstances for the 5th RHNA cycle used a variety of arguments in their respective appeals. The changed circumstances that were cited included: 1) updated household projected estimates; 2) the elimination of redevelopment funding; 3) general plan adoption; and 4) institutional facility closures. The RHNA Appeals Board did not find the arguments provided by jurisdictions compelling enough to grant the appeals requests based on change of circumstances or on other appeal basis factors.

Given that a change of circumstance must be significant and unforeseen and must occur between the adoption of the final RHNA methodology and the distribution of the draft RHNA allocation, examples are

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very limited. Possible scenarios include natural disasters or events that would affect a jurisdiction's population or existing housing stock.

At the October 23, 2013 RHNA and Housing Element Reform Subcommittee meeting, Mr. Glen Campora, Deputy Director at the California Department of Housing and Community Development (HCD), noted that a survey could be conducted to develop examples on what would constitute a change in circumstance and how housing demand could potentially be impacted. A survey might provide more scenarios where a change of circumstance could affect a draft RHNA allocation and could help guide the development of the 6th RHNA cycle Appeals Procedures for a definition or examples of a legitimate change of circumstances.

Recommendation:

Regarding RHNA and Housing Element Matrix Item B6, SCAG staff will survey jurisdictions prior to the adoption of the 6th RHNA cycle Appeals Procedures on possible definitions or scenarios constituting a "significant and unforeseen change in circumstances" affecting a jurisdiction's draft RHNA allocation. SCAG staff will share the survey information with the State Department of Housing and Community Development (HCD) and other MPOs so that HCD may in turn develop possible guidance on the matter.

FISCAL IMPACT:

Expenditures related to staff and legal support for the RHNA and Housing Element Reform Subcommittee along with additional related direct costs (e.g., stipends, meals, mileage and parking) are included as part of the FY 13-14 General Fund Budget and are included as part of the FY 14-15 General Fund Budget as well.

ATTACHMENTS:

1. 5th RHNA cycle revision request and appeals filing applications
2. 5th RHNA cycle timeline

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Fifth Regional Housing Needs Assessment (RHNA) Cycle Appeal Request

All appeal requests must be received by SCAG May 29, 2012, 5 p.m. Late submissions will not be accepted.

Date: _____

Jurisdiction: _____

County: _____

Subregion: _____

Contact: _____

Phone/Email: _____

APPEAL AUTHORIZED BY:

PLEASE CHECK BELOW:

Name: _____

- Mayor Chief Administrative Officer City Manager
- Chair of
County Board
of Supervisors Other: _____

BASES FOR APPEAL*

- RHNA Methodology
- AB 2158 Factors (See Government Code Section 65584.04(d))
 - Existing or projected jobs-housing balance
 - Sewer or water infrastructure constraints for additional development
 - Availability of land suitable for urban development or for conversion to residential use
 - Lands protected from urban development under existing federal or state programs
 - County policies to preserve prime agricultural land
 - Distribution of household growth assumed for purposes of comparable Regional Transportation Plans
 - Market demand for housing
 - County-city agreements to direct growth toward incorporated areas of County
 - Loss of units contained in assisted housing developments
 - High housing cost burdens
 - Housing needs of farmworkers
 - Housing needs generated by the presence of a university campus within a jurisdiction
- Changed Circumstances

Brief Description of Appeal Request and Desired Outcome:

List of Supporting Documentation, by Title and Number of Pages:

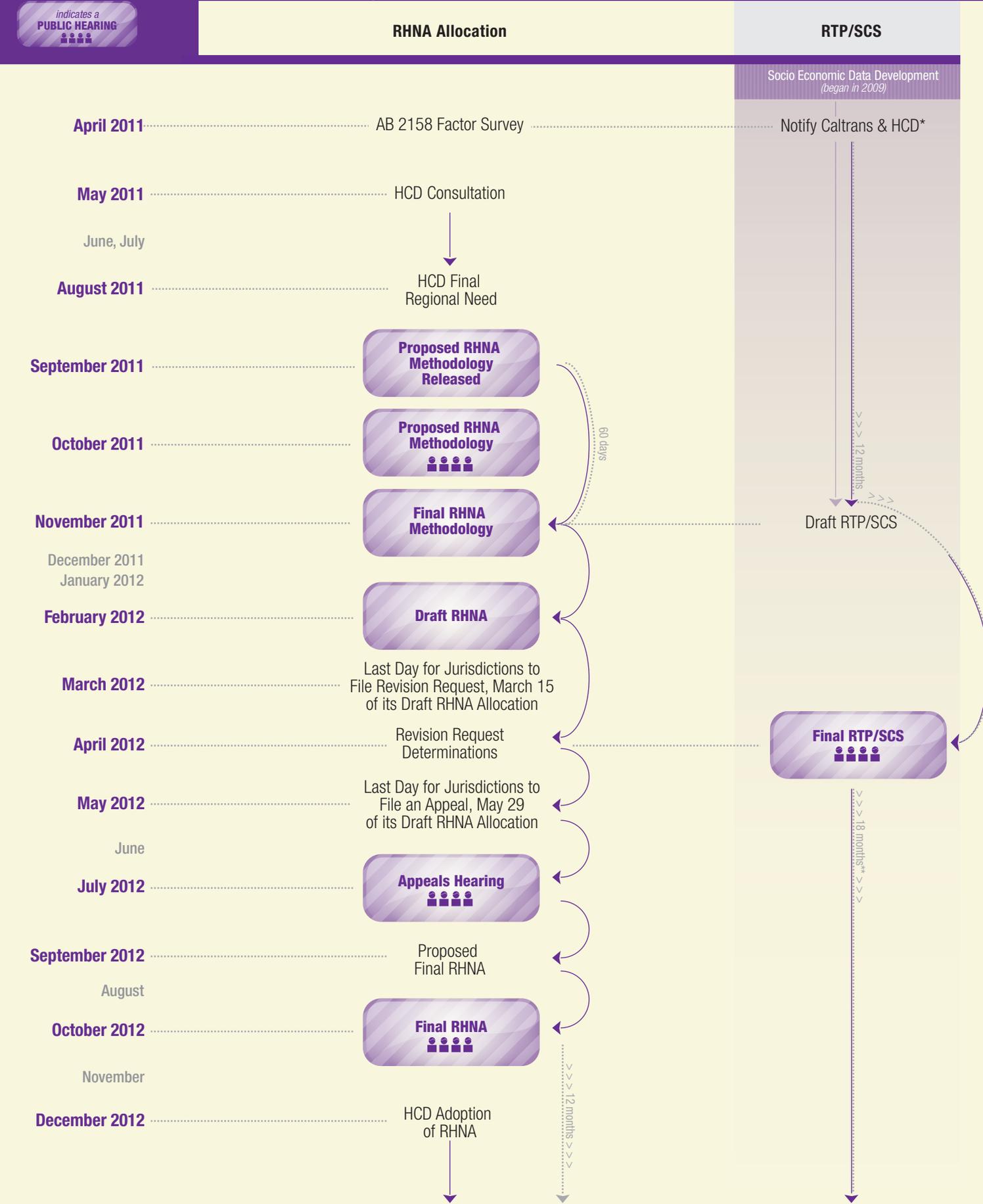
- 1.
- 2.
- 3.

*Per Government Code Section 65584.05(d), appeals to the draft RHNA Allocation Plan can only be made by jurisdictions that have previously filed a revision request and do not accept the revision request findings made by SCAG, except for appeals based on RHNA methodology and changed circumstances.

FOR STAFF USE ONLY:

Date _____ Hearing Date: _____ Planner: _____

Draft 2012 Integrated Plans/RHNA Flowchart *(working draft: 1/20/2012)*



* SCAG must notify Caltrans and HCD of the intended adoption date of the RTP.
 ** The Housing Element due date is determined as 18 months from the completion of the RTP.

Housing Element Due October 2013