

## STAFF REPORT

**SUBJECT:** Regional Housing Needs Assessment (RHNA)

**MEETING DATE:** June 7, 2007

**AGENDA ITEM:** 5

**RECOMMENDATION:**

- A. Review options to address RHNA legislative mandate
- B. Recommend course of action to SBCAG Board to address legislative mandate
- C. Review allocation factors in RHNA and discuss availability of data to address factors

**STAFF CONTACT:** Brian Bresolin, Michael Powers

**DISCUSSION:**

Introduction

State law requires SBCAG (Government Code, Section 65584) to determine the housing needs for households of all major income groups. SBCAG is also required to determine each local jurisdictions share of the region's future need. The Regional Housing Needs Assessment (RHNA) produces regional, sub-regional and local targets for the amount and type of housing needed over the seven and a half year period. It takes into account unmet housing needs and anticipated housing demand generated by employment growth and population increase. State law requires SBCAG to follow a set of guidelines in preparing its regional housing need determination. Guidelines come from two primary sources: (1) HCD who sets a housing need planning target for the region, and (2) State law, which provides guidelines on how to allocate the region's housing need among jurisdictions (Government Code, Sections 65584).

**Member Agencies**

Buellton ■ Carpinteria ■ Goleta ■ Guadalupe ■ Lompoc ■ Santa Barbara ■ Santa Maria ■ Solvang ■ Santa Barbara County

The regional housing allocations are intended for use by jurisdictions when updating their housing elements. They are the basis for assuring that adequate sites and zoning are available to accommodate at least the number of units allocated. The need to prepare a RHNA for the next housing element update cycle is approaching.

As part of the discussion of the SBCAG FY 2007-08 Overall Work Program in April the board members requested that staff outline some of the issues in addressing the obligation to update the Regional Housing Needs Assessment. Supervisor Gray and other board members requested that this item be brought back for further consideration. According to the schedule in the current state Housing Element Law SBCAG must prepare a new Regional Housing Needs Assessment to enable local agencies to adopt revised housing elements by December 2009. Working backwards, this requires that SBCAG provide local agencies with their regional allocation by August 31 2008 and therefore must initiate this planning process in the summer of 2007.

This report examines the various options for consideration in addressing the legislative mandate. Assuming the recommendation is to proceed, SBCAG needs to know what basic information on the allocation criteria exist in order to allocate regional need to each jurisdiction. The report identifies this information and assesses its general availability.

### RHNA Options

As you may recall, the RHNA has proven to be a significant challenge in years past and will likely be a source of debate as the region addresses planning for affordable housing. The state did not provide reimbursement funding for the update of the plan in the last cycle. It is unlikely that funding will be provided by the state in the next RHNA cycle. The Commission on State Mandates has determined that COG's like SBCAG are not eligible for reimbursement, in part, because COG's have the ability to charge member jurisdictions fees to pay for RHNA related work. In addition, some local agencies have either just completed, or are in the final period of HCD certification of their new local housing elements. Initiating a new RHNA process, while some agencies have yet to complete their housing element updates (or have just completed updates) from the last RHNA cycle will be a challenge and a questionable use of agency resources. Will local agencies be stuck in a continual loop of allocating resources for planning for housing vs. assisting in the implementation of housing programs? Nevertheless, SBCAG's role in the RHNA process is defined in statute.

There are four general options for SBCAG to consider in addressing this requirement?

1. **Proceed** Prepare the RHNA in FY 2007-08
  - A. Obtain full or partial reimbursement from local agency fees
  - B. Absorb costs using SBCAG general fund revenues
2. **Defer** Request postponement for one year based on preparation of new growth forecast and update of Regional Transportation Plan
3. **Decline** Object to requirement; therefore the responsibility for preparing the RHNA falls to State Department of Housing and Community Development.
4. **Legislative Relief**, e.g., self certification of local housing elements.

**Proceed**

The SBCAG board may direct its staff to comply with the statute and proceed with preparing the RHNA. Staff expects that we would receive our statewide estimate of housing need from the State Department of Housing and Community Development in August. Staff has already initiated discussions with TPAC and plans to involve the local planning officials in the preparation of the RHNA if the board gives the go-ahead.

Staff has estimated the costs of preparing the RHNA Plan at approximately \$100,000. As indicated above, funding this effort is problematic. Preparation of the RHNA is an unfunded state mandate for regional agencies. As SBCAG counsel discussed in April our ability to obtain reimbursement from the state changed in 2004 because regional agencies are now precluded from receiving reimbursement because the regional agency (SBCAG) is not a local agency. So SBCAG must absorb these costs from its local general fund budget or SBCAG can bill local agencies for full or partial reimbursement. Table 1 estimates the cost per agency if SBCAG were to bill local agencies for the full cost of RHNA preparation and the prorated cost was distributed to every agency based on current Department of Finance based population or housing unit estimates for 2006. If SBCAG can bill local agencies, since the Housing Element is a local mandate, perhaps the local agencies can in turn bill the state and recoup these costs. Staff will work with your planning departments to assess the viability of this option.

Table 1, RHNA Cost Estimates,

AGENCY	DEPARTMENT OF FINANCE 2007	
	HOUSING BASED ESTIMATED COST	POPULATION BASED ESTIMATED COST
Buellton	\$ 1,194	\$ 1,099
Carpinteria	\$ 3,593	\$ 3,328
Goleta	\$ 7,474	\$ 7,108
Guadalupe	\$ 1,083	\$ 1,507
Lompoc	\$ 9,156	\$ 9,899
Santa Barbara City	\$ 24,443	\$ 21,077
Santa Barbara County	\$ 33,856	\$ 33,404
Santa Maria	\$ 17,683	\$ 21,284
Solvang	\$ 1,518	\$ 1,295
Totals	\$ 100,000	\$ 100,000

**Defer**

SBCAG can petition to request postponement of the RHNA obligation for one year based on preparation of new growth forecast and update of Regional Transportation Plan. HCD has allowed regional agencies (e.g., Association of Bay Area Governments) to postpone update of the RHNA by one year because the regional agency was updating their long range forecast and plan. The revised draft Regional Growth Forecast has been released for public comment and is scheduled for adoption by the board in August. This revised forecast could be used in the

update of the current Transportation Plan that is only valid until 2008 and is in the process of being updated.

### **Decline**

SBCAG may object to the requirement and decline the obligation to prepare the RHNA. This is un-chartered territory. To our knowledge no regional agency has refused to participate and prepare an RHNA (although there are many local agencies around the state who have not completed HCD-approved local housing elements). Local agencies would be unable to complete their housing elements without the RHNA allocation.

### **Legislation to permit self-certified housing elements**

A related but different option is legislation to permit self-certification. The Housing Element Self Certification Pilot Program required special legislation and is only available to San Diego Association of Governments (SANDAG) jurisdictions. The self certification requires fulfilling the RHNA housing production goals. The self certified Housing Element does not meet the requirements for all potential housing funds. Some funding sources require a HCD certified element so some jurisdictions had to submit to HCD for certification anyway. SANDAG is proposing legislation to extend this pilot program for another housing element cycle and remedy the issue of self certified vs. HCD certification funding requirements. See Attachment I for more detail.

TPAC members should assess these options and consider recommending a course of action to the SBCAG board.

The County of Santa Barbara is supporting legislation (SB 1497 Niello) that would exempt certain lands unsuitable for additional housing (e.g., federal lands, Williamson Act lands). Is there interest in determining if this bill could be amended to defer the RHNA deadlines for SB County or allow our region to self-certify.

### **Regional Housing Needs Allocation Criteria**

SBCAG must assess which local agencies have data that will be needed in the allocation of the regional housing needs to the local jurisdiction. Only with the same data being available for every jurisdiction can SBCAG allocate regional need based on a fair allocation.

SBCAG is required to take into account planning factors when housing needs are allocated among jurisdictions. State law does not specifically define each planning factor, but allows the COG to address each issue in the regional housing needs plan in a manner appropriate for their effort.

The following factors need to be considered:

- Market demand for housing
- Type and tenure of housing
- Employment opportunities

- Suitable sites and public facilities
- Commuting patterns
- Loss of assisted multifamily units
- Reduction of impaction
- Special housing needs

**Market Demand:** Anticipated employment and population growth are major determinants of housing need in the region. These factors, together with demographic measures that predict household formation, are considered as part of the estimation of market demand contributing to the RHNA. This consideration is accomplished primarily through the growth forecasting process, which measures demographic and economic trends that create new jobs and population, and consequently housing need. The SBCAG Regional Growth Forecast 2007 uses an employment, population, and land use forecast model to determine growth over the RHNA time period.

**Type and Tenure:** In order to fulfill the region's housing need, type and tenure (owner or renter occupied households) must be considered. Varying segments of the population such as single persons, families with children, and retirees, require different housing types. Housing tenure such as rental and owner, and a variety of housing types such as single family and multi-family, are all required for a healthy housing market. The housing need allocation by income category, in general, encourages the development of a variety of housing types: high density for lower income, senior housing etc. This level of detail is best addressed in housing elements, reflecting needs of the local housing market more accurately than could be done on a regional basis.

**Suitable Sites and Public Facilities:** The SBCAG Regional Growth Forecast assesses the land use elements of General Plans to determine the capacity for additional residential development and is included in the RHNA allocation methodology. However, it is important to note that the California Attorney General (Opinion 87-206) suggests that the availability of suitable sites can also be based on the potential for increased residential development under alternative zoning and land use restrictions. State housing law prohibits the RHNA allocations from being based on growth control measures, or resource and infrastructure constraints such as water, schools or roads with the exception to preserve the public health and welfare.

**Employment Patterns:** The SBCAG Regional Growth Forecast 2007 considers existing and forecast regional employment patterns for the RHNA planning period.

**Commuting Patterns:** Commuting patterns of workers can also taken into consideration by using an employment input to the RHNA allocation process. Jurisdictions with a higher proportion of countywide jobs are allocated more of the RHNA housing. The ultimate goal is to help reduce the propensity for workers to live in areas far from their jobs by providing additional housing in employment rich areas.

**Loss of Assisted Units:** The RHNA determination should also take into consideration the loss of housing units in assisted developments that convert to non low-income use due to subsidy expiration or termination of use restrictions etc. Assisted developments include multifamily rental households that receive government assistance under an array of federal, state, and local programs. The Appendices include a countywide inventory of these units which shows a minimal number of units at risk.

**Avoidance of Further Impaction:** The RHNA allocation requires that jurisdictions with high concentrations of low-income households attempt to avoid further impaction. Therefore, the allocation of future lower income households is **decreased** in those jurisdictions that have a higher proportion of very low or low-income households than the countywide average. Conversely, the allocation of future lower income households is **increased** in those jurisdictions that have a lower proportion of very-low and low-income households than the countywide average. This assists in balancing the responsibility for addressing the housing needs of all economic segments of the community throughout low, middle, and higher income communities.

**Special Housing Needs:** The special housing needs of persons with unique housing situations, including farm workers, fixed income, and homeless and others should also be taken into consideration. Unfortunately, there is a data limitation in identifying the location and extent of persons with special needs such as farmworkers and they may best be addressed in the local housing elements.

Local jurisdictions should apprise SBCAG of what data may be available to address these factors.

Schedule

The following outlines a preliminary schedule for preparing and adopting the RHNA.

**Proposed Regional Housing Needs Assessment  
Work Plan Outline and Timeline**

Aug 2007	Sept	Oct	Nov	Dec	Jan 2008	Feb	Mar	April	May	June	July	Aug.2008
<b>1</b>	<b>2,3</b>	<b>3</b>										
		<b>4</b>										
			<b>5</b>	<b>5</b>	<b>5</b>							
					<b>6</b>			<b>7</b>				
									<b>8</b>	<b>8</b>		
										<b>9</b>		
												<b>10</b>
												<b>11</b>

**Step 1**-July–Aug\Sept 2007, Consultation between HCD and COG regarding draft allocation figures proposed by HCD.

**Step 2**-August–September, HCD issues determination to of regional need to COG.

**Step 3**-Representatives of technical group (TPAC) review allocation methodology and other elements of RHNP.

**Step 4**-SBCAG accepts HCD estimate of countywide housing need.

**Step 5**-Preliminary draft RHNA methodology circulated for comment among TPAC members.

**Step 6**-SBCAG authorizes release of draft plan for comment and forwards to HCD for review. HCD has 30 days and SBCAG local agencies have 90 days to review draft plan. Public input begins at this point with several workshops.

**Step 7**-End of 90-day comment period by local jurisdictions and public?.

**Step 8**-Review of all comments by SBCAG staff and TPAC.

**Step 9**-Revised final RHNA, responding to HCD and SBCAG jurisdictions comments, adopted by SBCAG. [Within 60 Days of step 6 (90-day appeal window is open), SBCAG acts on proposed revisions by members].

**Step 10**-Within 60 days SBCAG can hear any appeals on final RHNA (includes a 30 day notice to local agencies). Revisions adopted into final RHNA

**Step 11**-Final RHNA made available and forwarded to HCD August 2008.

**CONCLUSION:**

Staff is seeking TPAC input and concurrence on recommendations to present to the full SBCAG board. A range of options for dealing with the next RHNA cycle has been presented. Although RHNA and the local housing elements engender many challenges and much public controversy and foregoing this state requirement is tempting, this could result in less desirable outcomes (e.g., HCD determined local allocations; lawsuits by developers or affordable housing advocates). Are there other options to explore? Is additional information needed before TPAC can make a recommendation to the SBCAG board? If SBCAG proceeds with the required RHNA process, what data are available/appropriate for distributing housing need? Is the timeline proposed reasonable?

**COMMITTEE REVIEW:**

None

Attachment 1 Overview of the SANDAG Pilot Self-Certification Process

Attachment 2 Government Code 65584 as it pertains to the RHNA

## Attachment I

### Overview of the SANDAG Pilot Self-Certification Process.

In 1995, AB 1715 (Goldsmith), sponsored by the San Diego Association of Governments (SANDAG), created a pilot program that allows jurisdictions in the San Diego region to self-certify their housing elements. Jurisdictions that choose the self-certification option are exempt from the HCD review requirement. The use of the self certification process is **available only** to SANDAG jurisdictions pursuant to Government Code Section 65585.1.

The San Diego region's pilot program was born out of earlier statewide discussions and legislative proposals to reform housing element law. The idea of allowing jurisdictions to self-certify their housing elements based on meeting some type of affordable housing performance goals was raised during these discussions, but consensus regarding how to set those goals could not be reached. The self-certification pilot program provides an incentive for actual production of affordable housing exempting local governments from state housing element review. This incentive was designed to help achieve the state's housing goals in a more cost effective manner.

Because SANDAG had developed such goals in the past, had experience with self-certification as a part of its regional growth management work, and had a Housing Element Advisory Committee in place, legislation for a pilot self-certification program was pursued. The San Diego region wanted to place the emphasis on results (actual production of housing, especially affordable housing) rather than plan preparation and processes.

San Diego jurisdictions view the housing element self-certification option as having three purposes:

1. to give jurisdictions more flexibility in how they meet affordable housing goals,
2. to focus on housing production rather than paper generation, and
3. to allow jurisdictions the option of self-certifying their housing elements, and therefore bypass HCD's review and "certification," based on the achievement of specific affordable housing goals.

In addition to preparing a housing element that meets the requirements of state law, a jurisdiction must show that it has met its affordable housing goals, which are defined in the law as the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved and the maximum number of units or households that can be provided with rental or ownership assistance to meet the needs of low, very low and extremely low income households during the preceding housing element cycle. Ten of the 19 jurisdictions in the region have self-certified their housing elements.

To self-certify the third housing element revision (due December 31, 1999) jurisdictions must have met their fair share of the regional housing needs during the 1991-99 housing element cycle, as determined by SANDAG. The fair share goals for each jurisdiction were set forth in SANDAG's 1990 Regional Housing Needs Statement.

For the housing element due in 2004 (the fourth revision), the bill stated that jurisdictions must meet an affordable housing goal, which is based on available financial resources and regulatory measures. The work of the Housing Element Advisory Committee centered on the development of this goal. In developing the affordable housing goals, the Committee, working with a

consultant, took a number of factors into consideration including: the size of the jurisdiction, its financial resources (e.g. availability of redevelopment funds) both past and future, and past and future potential use of regulatory measures such as inclusionary housing programs. The goals set for the 1999-2004 housing element cycle are distributed into three income categories: low, very low, and extremely low as required by the law. Both SANDAG and HCD were required to agree on the methodology for setting the affordable housing goals that, if met, would allow jurisdictions to self-certify their 2004-09 housing elements. HCD Director Richard Mallory testified in support of the methodology and program at the time of adoption by the SANDAG Board in June 1998.

In addition to preparing a housing element and meeting its affordable housing goal, jurisdictions must provide a statement with additional information on low-income housing dispersion; for example, they must document that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist. Finally, to be eligible for self-certification, no local government actions or policies may prevent the development of the sites jurisdictions have identified as available to meet future housing needs.

To complete the self-certification process, a jurisdiction is required to:

1. hold a public hearing;
2. make findings, based on substantial evidence, that it has met the relevant criteria for housing element self-certification (contained in Section 65585.1 of the Government Code);
3. adopt the updated housing element; and
4. submit a self-certification letter of compliance to the Department of Housing and Community Development along with its adopted housing element, for HCD's information, not approval.

Not long after SANDAG adopted the self-certification implementation program in June 1998, an issue arose that undermined and seriously threatened the viability of the self-certification pilot program. At the beginning of 2000, SANDAG became aware that eligibility for certain state programs was contingent upon having a housing element found in compliance with state law by HCD. SANDAG brought this issue to the attention of HCD via a letter to Director Julie Bornstein. After meeting with SANDAG staff and Housing Element Advisory Committee members, HCD took the position that a self-certified housing element **is not equivalent to an element reviewed and found in compliance with state law** by HCD staff. A number of funding sources for affordable housing and smart growth, including some administered by HCD, require applicants to have a housing element that has been found in compliance by HCD, or give priority to cities whose housing elements have been found in compliance by HCD.

Such requirements put cities that choose to self-certify their housing elements at a disadvantage for funds compared to those not self-certifying, and reduce their ability to produce affordable housing. The Department of Housing and Community Development's (HCD) position that self-certified housing elements are not equivalent to housing elements that are found in compliance with state law damaged the viability of the pilot program. Six of the 10 jurisdictions that self-certified their housing elements submitted their self-certified elements to HCD for a finding of compliance to preserve their eligibility for state funds. In some cases these reviews took several months to complete, resulted in only minor changes to the housing elements, and required additional environmental review and public hearings.

In view of the issues surrounding the self-certification pilot program, SANDAG is pursuing two

changes to state law regarding the housing element self-certification program: a) an extension of the sunset date to allow jurisdictions to self-certify their 2009-14 housing elements (an option that does not exist under the current law), and b) granting full eligibility for all state funds and programs to jurisdictions that self-certify their housing elements. SANDAG and the Regional Housing Task Force believe that the pilot program should be allowed to operate for another housing element cycle in order to allow a more thorough and complete evaluation of its effectiveness and success.

**Attachment 2**  
**Government Code 65584 as it pertains to the RHNA**

65584. (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most

recent decennial United States census.

(e) For purposes of this section, "household income levels" are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by Section 50105 of the Health and Safety Code.

(2) Lower incomes, as defined by Section 50079.5 of the Health and Safety Code.

(3) Moderate incomes, as defined by Section 50093 of the Health and Safety Code.

(4) Above moderate incomes are those exceeding the moderate-income level of Section 50093 of the Health and Safety Code.

(f) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08 are exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

65584.02. (a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section

65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. For a housing element update due date pursuant to Section 65588 that is prior to January 2007, the department may approve a request that is submitted prior to December 31, 2004, notwithstanding the deadline in this paragraph. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

The council of governments may include a request to extend the housing element deadline pursuant to Section 65588 to a date not to exceed two years, for the purpose of coordination with the scheduled update of a regional transportation plan pursuant to federal law.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

65584.03. (a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of

establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least 28 months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least 25 months prior to the scheduled revision, the council of governments shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments shall hold at least one public hearing, and may consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) Each delegate subregion shall fully allocate its share of the regional housing need to local governments within its subregion. If a delegate subregion fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this article and with the delegation agreement between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments.

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its

member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions

of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing costs burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

65584.05. (a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 60 days following receipt of the draft allocation, a local government may request from the council of governments or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments or delegate subregion, as applicable, does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting party, the local government, may appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments or delegate subregion, as applicable, failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04.

(e) The council of governments or delegate subregion, as applicable, shall conduct public hearings to hear all appeals within 60 days of the date established to file appeals. The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days from the date of the notification. Before taking action on an appeal, the council of governments or delegate subregion, as applicable, shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The final action of the council of governments or

delegate subregion, as applicable, on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The final action on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days of the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03. Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 45 days of the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. Within 60 days of adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(i) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing

program.

65584.06. (a) For cities and counties without a council of governments, the department shall determine and distribute the existing and projected housing need, in accordance with Section 65584 and this section. If the department determines that a county or counties, supported by a resolution adopted by the board or boards of supervisors, and a majority of cities within the county or counties representing a majority of the population of the county or counties, possess the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the distribution of the regional housing need, the department shall delegate this responsibility to the cities and county or counties.

(b) The distribution of regional housing need shall, based upon available data and in consultation with the cities and counties, take into consideration market demand for housing, the distribution of household growth within the county assumed in the regional transportation plan where applicable, employment opportunities and commuting patterns, the availability of suitable sites and public facilities, agreements between a county and cities in a county to direct growth toward incorporated areas of the county, or other considerations as may be requested by the affected cities or counties and agreed to by the department. As part of the allocation of the regional housing need, the department shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but shall include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(c) Within 90 days following the department's determination of a draft distribution of the regional housing need to the cities and the county, a city or county may propose to revise the determination of its share of the regional housing need in accordance with criteria set forth in the draft distribution. The proposed revised share shall be based upon comparable data available for all affected jurisdictions, and accepted planning methodology, and shall be supported by adequate documentation.

(d) (1) Within 60 days after the end of the 90-day time period for the revision by the cities or county, the department shall accept the proposed revision, modify its earlier determination, or indicate why the proposed revision is inconsistent with the regional housing need.

(2) If the department does not accept the proposed revision, then, within 30 days, the city or county may request a public hearing to review the determination.

(3) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(4) The date of the hearing shall be at least 10 but not more than 15 days from the date of the notification.

(5) Before making its final determination, the department shall consider all comments received and shall include a written response to each request for revision received from a city or county.

(e) If the department accepts the proposed revision or modifies

its earlier determination, the city or county shall use that share. If the department grants a revised allocation pursuant to subdivision (d), the department shall ensure that the total regional housing need is maintained. The department's final determination shall be in writing and shall include information explaining how its action is consistent with this section. If the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the department. The department, within its final determination, may adjust the allocation of a city or county that was not the subject of a request for revision of the draft distribution.

(f) The department shall issue a final regional housing need allocation for all cities and counties within 45 days of the completion of the local review period.

65584.07. (a) During the period between adoption of a final regional housing needs allocation until the due date of the housing element update pursuant to Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) The county and cities which have executed transfers of regional housing need pursuant to this section shall amend their housing elements and submit them to the department for review pursuant to Section 65585.

All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.

(c) In the event an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under this section, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with

no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

The revised determination shall be made within one year of the incorporation of the new city based upon the methodology described in subdivision (a) and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

65584.09. (a) For housing elements due pursuant to Section 65588 on or after January 1, 2006, if a city or county in the prior planning period failed to identify or make available adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.

(b) The requirements under subdivision (a) shall be in addition to any zoning or rezoning required to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584 for the new planning period.

(c) Nothing in this section shall be construed to diminish the requirement of a city or county to accommodate its share of the regional housing need for each income level during the planning period set forth in Section 65588, including the obligations to (1) implement programs included pursuant to Section 65583 to achieve the goals and objectives, including programs to zone or rezone land, and (2) timely adopt a housing element with an inventory described in paragraph (3) of subdivision (a) of Section 65583 and a program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583, which can accommodate the jurisdiction's share of the regional housing need.

65584.1. Councils of government may charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing regional housing needs pursuant to this article. Any fee shall not exceed the estimated amount required to implement its obligations pursuant to Sections 65584, 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city, county, or city and county may charge a fee, not to exceed the amount charged in the aggregate to the city, county, or city and county by the council of governments, to reimburse it for the cost of the fee charged by the council of government to cover the council's actual costs in distributing regional housing needs. The legislative body of the city, county, or city and county shall impose the fee pursuant to Section 66016, except that if the fee creates revenue in excess of actual costs, those revenues shall be refunded to the payers of the fee.

65584.2. A local government may, but is not required to, conduct a review or appeal regarding allocation data provided by the department or the council of governments pertaining the locality's share of the regional housing need or the submittal of data or information for a proposed allocation, as permitted by this article.

65584.5. (a) A city or county may transfer a percentage of its share of the regional housing needs to another city or county, if all of the following requirements are met:

(1) Both the receiving city or county and the transferring city or county comply with all of the conditions specified in subdivision (b).

(2) The council of governments or the department reviews the findings made pursuant to paragraph (2) of subdivision (c).

(3) The transfer does not occur more than once in a five-year housing element interval pursuant to subdivision (b) of Section 65588.

(4) The procedures specified in subdivision (c) are met.

(b) (1) Except as provided in paragraph (5) of subdivision (c) of Section 65584, a city or county transferring a share of its regional housing needs shall first have met, in the current or previous housing element cycle, at least 15 percent of its existing share of the region's affordable housing needs, as defined in Section 65584, in the very low and lower income category of income groups defined in Section 50052.5 of the Health and Safety Code if it proposes to transfer not more than 15 percent. In no event, however, shall the city or county transfer more than 500 dwelling units in a housing element cycle.

(2) A city or county shall transfer its regional housing needs in the same proportion by income group as the jurisdiction has met its regional housing needs.

(3) The transfer shall be only between jurisdictions that are contiguously situated or between a receiving city or county that is within 10 miles of the territory of the community of the donor city or county. If both the donor community and receiving community are counties, the donor county shall be adjacent to, in the same council of governments region as, and in the same housing market as, the receiving county. The sites on which any transferred housing units will be constructed shall be in the receiving city or county, and within the same housing market area as the jurisdiction of the donor city or county.

(4) The transferring and receiving city or county shall have adopted, and shall be implementing, a housing element in substantial compliance with Section 65583.

(5) The transferring city or county and the receiving city or county shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(c) (1) The donor city or county and the receiving city or county shall, at least 45 days prior to the transfer, hold a public hearing, after providing notice pursuant to Section 6062, to solicit public comments on the draft contract, including its terms, conditions, and determinations.

(2) The transferring and the receiving city or county shall do all of the following:

(A) Adopt a finding, based on substantial evidence on the record,

that the transfer of the regional housing need pursuant to the terms of the agreement will not cause or exacerbate racial, ethnic, or economic segregation and will not create a detrimental financial impact upon the receiving city or county.

(B) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need will result in the construction of a greater number of similar type dwelling units than if the transfer does not occur.

(3) (A) The transferring city or county and the receiving city or county shall enter into an agreement to transfer units eligible under subdivision (b). A copy of this agreement shall be sent to the council of governments and the department to be kept on file for public examination.

(B) The agreement shall include a plan and schedule for timely construction of dwelling units, including, in addition to site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if the units need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(4) At least 60 days prior to the transfer, the receiving city or county planning agency and the transferring city or county planning agency shall submit to the department a draft amendment to reflect the identified transferred units. A transferring agency may reduce its housing needs only to the extent that it had not previously reduced its housing needs pursuant to paragraph (2) of subdivision (b) of Section 65583. A county planning agency that has its share of the regional housing need reduced pursuant to paragraph (5) of subdivision (c) of Section 65584 shall comply with this section. A receiving city or county shall, in addition to any other provisions of the article, identify in its housing element sufficient sites to meet its initial low- and moderate-income housing needs and sufficient sites to meet all transferred housing needs.

(5) The department shall review the draft amendment and report its written findings to the planning agency within 45 days of its receipt.

(6) The department's review shall follow the same procedure, requirements, and responsibilities of Sections 65583, 65585, 65587, and 65589.3. The court shall consider any written findings submitted by the department.

(d) No transfer made pursuant to this section shall affect the plans for a development that have been submitted to a city or county for approval 45 days prior to the adoption of the amendment to the housing element.

(e) No transfer made pursuant to this section shall be counted toward any ordinance or policy of a locality that specifically limits the number of units that may be constructed.

(f) The Attorney General or any other interested person shall have authority to enforce the terms of the agreement and the provisions of this section.

(g) For a period of five years after the transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer contract, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements in place for these units.

(h) (1) At least 60 days prior to the proposed transfer, the donor city or county shall submit the proposed agreement to the council of

governments, or to the department if there is no council of governments that serves the city or county, for review. The governing board of the council or the director shall determine whether there is substantial evidence to support the terms, conditions, and determinations of the agreement and whether the agreement complies with the substantive and procedural requirements of this section. If the council or the director finds that there is substantial evidence to support the terms, conditions, and determinations of the agreement, and that the agreement complies with the substantive and procedural requirements of this section, the participating jurisdictions may proceed with the agreement. If the governing board or the director finds that there is not substantial evidence to support the terms, conditions, and findings of the agreement, or that the agreement does not comply with the substantive and procedural requirements of this section, the board or the director may make recommendations for revising or terminating the agreement. The participating jurisdictions shall then include those revisions, if any, or terminate the agreement.

(2) The council or the director may convene a committee to advise the council or the director in conducting this review. The donor city or county and the receiving community shall pay the council's or the department's costs associated with the committee. Neither the donor city or county, nor the receiving city or county, may expend moneys in its Low and Moderate Income Housing Fund of its redevelopment agency for costs associated with the committee.

(3) Membership of the committee appointed pursuant to paragraph (2) shall include all of the following:

(A) One representative appointed by the director.

(B) One representative appointed by the donor agency.

(C) One representative appointed by the receiving community.

(D) Two low- and moderate-income housing advocates, appointed by the director, who represent those persons in that region.

(i) (1) The receiving city or county shall construct the housing units within three years of the date that the transfer contract is entered into pursuant to this section. This requirement shall be met by documenting that a building permit has been issued and all fees have been paid.

(2) Any portion of a regional share allocation that is transferred to another jurisdiction, and that is not constructed within the three-year deadline set forth in paragraph (1), shall be reallocated by the council of governments to the transferring city or county, and the transferring city or county shall modify its zoning ordinance, if necessary, and amend its housing element to reflect the reallocated units.

(3) If, at the end of the five-year housing element planning period, any portion of a regional share allocation that is transferred to another jurisdiction is not yet constructed, the council of governments shall add the unbuilt units to the normal regional fair share allocation and reallocate that amount to either of the following:

(A) The receiving city, if the three-year deadline for construction has not yet occurred; or

(B) The transferring city, if the three-year deadline for construction has occurred.

(4) If the transferred units are not constructed within three years, the nonperforming jurisdictions participating in the transfer of regional share allocations shall be precluded from transferring

their regional shares, pursuant to this section, for the planning period of the next periodic update of the housing element.

(j) On or after January 1, 2000, no transferring city or county shall enter into an agreement pursuant to this section unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

(k) If Article XXXIV of the California Constitution is applicable, the receiving city or county shall certify that it has sufficient authority under Article XXXIV of the California Constitution to allow development of units transferred pursuant to this section.

(l) The receiving city or county shall not, within three years of the date of the transfer agreement entered into pursuant to this section, or until transferred units are constructed, whichever is longer, enter into a contract to transfer units outside the territorial jurisdiction of the agency pursuant to this section.

(m) Communities that have transferred a portion of their share of the regional housing need to another city or county pursuant to this section shall comply with all other provisions of law for purposes of meeting the remaining regional housing need not transferred, including compliance with the provisions of Section 65589.5.

(n) As used in this section, "housing market area" means the area determined by a council of governments or the department pursuant to Section 65584, and based upon market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns.

(o) This section shall not be construed to interfere with the right of counties to transfer shares of regional housing needs pursuant to paragraph (5) of subdivision (c) of Section 65584.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT

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May 24, 2007

Mr. Jim Kemp, Executive Director  
Santa Barbara County Association of Governments  
260 North San Antonio Road, Suite B  
Santa Barbara CA 93110

Dear Mr. Kemp:

**RE: Regional Housing Need Determination and Housing Element Update Schedule**

As you may know, the regional housing need determination (RHND) for the housing element update schedule applicable to jurisdictions within your council of governments (COG) is approaching. Pursuant to Government Code Section 65588, June 30, 2009 is the scheduled due date for jurisdictions to revise their housing elements; Section 65584.04 specifies that at least two years prior to this date, each COG shall develop a proposed methodology for distributing regional housing need to each city and county. Attached is a brief outline of RHND tasks and timeframes.

For your information, the State's population projections are still in the process of being updated by the Department of Finance. Consequently, the Department is extending, by 60 days, the due date for: (1) the Department's determination of the COG's regional housing need and (2) the scheduled due date for local governments to update their housing elements. The new due date for the COG's jurisdictions to update their housing elements is August 31, 2009. This 60-day extension is authorized by Government Code Section 65584(c).

The Department will soon contact you to schedule meetings in July and August to consult with you in determining, and finalizing by August 31, 2007, the COG's regional housing need. If you have any questions, please contact Glen Campora, Senior Policy Advisor, at (916) 327-2640.

Sincerely,

Handwritten signature of Cathy E. Creswell in cursive script.

Cathy E. Creswell  
Deputy Director

Attachment

## COG Tasks in Regional Housing Need Allocation Process

Tasks	Timeframes
<p><b><u>COG Task 1: Initial Activities &amp; Outreach</u></b>            Task 1.1: Establish methodology committee            Task 1.2: Consult w/ HCD about regional Allocation            Task 1.3: Outreach to local governments</p> <p><i>(optional subregional tasks may or may not apply depending on COG)</i>  <b><u>(Optional Subregional Allocation)</u></b>  <i>(Task 1: Creation of subregional entities)</i>  <i>(Task 2: Allocation of housing need to subregions)</i>  <i>(Task 3: Public hearing on subregional allocations)</i>  <i>(Task 4: Compliance review of draft RHNA's)</i>  <i>(Task 5: Distribution of any subregional deficits)</i></p>	
<p><b><u>COG Task 2: Preparation of Methodology</u></b>            Task 2.1: Methodology Committee meetings &amp; public participation            Task 2.2: Request/obtain data from local jurisdictions            Task 2.3: Analyze data/<u>revised</u> "factors" [GC 65584.04(d)]            Task 2.4: Develop methodology alternatives            Task 2.5: Outreach &amp; technical discussions            Task 2.6: COG issues proposed methodology</p>	
<p><b><u>COG Task 3: Review of Methodology</u></b>            Task 3.1: Public comment period            Task 3.2: Outreach to local governments            Task 3.3: Public hearing about methodology            Task 3.4: COG responds to public comments            Task 3.5: COG adopts final methodology</p>	60 days
<p><b><u>COG Task 4: Preparation &amp; Review of Draft RHNA</u></b>            Task 4.1: Develop RHNA allocation model            Task 4.2: Technical discussions &amp; documentation            Task 4.3: COG issues draft allocations            Task 4.4: Local jurisdictions may request revisions            Task 4.5: COG responds to revision requests</p>	18 mos before housing element due date 60 days 60 days
<p><b><u>COG Task 5: Appeals Process</u></b>            Task 5.1: Jurisdictions may appeal draft RHNA            Task 5.2: Complete public hearing about appeals            Task 5.3: COG decides appeals and proposes final allocation</p>	Date determined by COG 60 days 45 days
<p><b><u>COG Task 6: Preparation &amp; Adoption of Final RHNA</u></b>            Task 6.1 COG issues final draft of RHNA            Task 6.2: Public hearing to adopt final RHNA            Task 6.3 Submit adopted RHNA Plan to HCD for review/approval</p>	45 days 60 days