

Housing Methodology Committee

Bay Conservation and Development Commission (BCDC)
50 California Street, 26th Floor
San Francisco, CA

Meeting –September 28, 2006
10:00 a.m. - 12:00 noon

	<u>Time (approx.)</u>
1. CALL TO ORDER/INTRODUCTIONS	
2. DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT (HCD) A staff member of HCD will describe HCD's role and functions in the RHNA and Housing Element process and respond to questions previously posed by the committee.*	75 minutes
3. Discussion of Revisions, Appeals and Subregions* Staff presentation on how the initial and draft RHNA allocations can be affected by requests for revisions, appeals and the (possible) need to allocate for a subregion. Committee discussion of the process and staff recommendations on substantive criteria for evaluating revisions and appeals and for allocating subregional shares.	40 Minutes
4. Public Comment	5 Minutes
5. Adjournment	
Post - Meeting Lunch:	Noon – 12:45 p. m.

* Posted to web site

MEMO

TO: HOUSING METHODOLOGY COMMITTEE
FROM: ABAG RHNA TEAM
DATE: SEPTEMBER 27, 2006
RE: REVISIONS AND APPEALS

SUMMARY

The Committee will be considering allocation methodologies at its October meetings. The methodology is mainly used to allocate the regional housing need among local jurisdictions. It will also be used at the two points in the RHNA process where local jurisdictions can request changes to the allocation. This memorandum outlines the main features of these two points in the process, suggests some ways of thinking about the process and requests that the Committee provide staff with feedback on these concepts.

BACKGROUND

The current RHNA statute provides for two reviews of the proposed allocation. The first is called the revision period which begins in June 2007 and concludes by October 2007.¹ The second is called the appeals period which begins in November 2007 and concludes by April 2008.² In each instance, local jurisdictions may ask for a change to their allocations. However, the regional housing need has to be fully allocated within the region. Therefore, if ABAG changes one local jurisdiction's allocation, it must reallocate the difference to one or more jurisdictions in the region.

After the revision period, ABAG may issue a "reallocation" based on the decisions made in response to requests for review from local jurisdictions. This reallocation is then subject to the appeals process. After the appeals period, ABAG may issue another "reallocation" based on the decisions made in response to appeals by local jurisdictions. In the revision process, if ABAG "reallocates" it will use the regional allocation methodology. In the appeal process, the RHNA statute provides a formula for a "reallocation" if one is needed, but leaves some discretion to ABAG.³

ANALYSIS AND SUGGESTIONS

The committee may wish to consider including in the methodology sets of criteria that guide how ABAG responds to requests for revisions or appeals and how to make any necessary reallocations.

¹ The request for a revision "shall be based on comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation" [Section 65584.05(b)]. Further, the requested revision must be "in accordance with the [RHNA] factors [described in Section 65884.04(d)]."

² The appeal may be based on one or both of the following: (1) ABAG failed to adequately consider the information about a RHNA factor, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction or (2) ABAG failed to determine the jurisdiction's share of the regional housing need in accordance with the RHNA factors or the methodology.

³ The statute requires that appealed allocations be distributed "proportionally to all local governments" if the appealed allocations total seven per cent (7%) or less of the regional need. In the event the appealed allocations total more than seven per cent (7%), ABAG "shall develop a methodology to distribute the amount greater than the 7 percent to local governments."

There may be opportunities to use reallocations to accommodate local conditions while also advancing the RHNA objectives.⁴

A. Boundary Issues

One way of thinking about the revision process is as an added technical tool for “fine-tuning” the initial draft allocation. One example is the allocation of the share associated with land within a city’s sphere of influence. It seems probable that the methodology will not address the situations of all cities and counties.

The Committee could recommend criteria for handling requests for revision based on unique sphere of influence issues. Thus, the methodology could include a statement that when a request for revision is to reallocate units associated with a city’s sphere of influence, the request will be decided in a manner that:

- ❑ is consistent with any pre-existing written agreement between the city and county allocating such units or,
- ❑ in the absence of a written agreement, allocates the units to the jurisdiction that has permitting authority over future development in the sphere of influence.

These criteria resolve the local issues and advance the statutory RHNA objectives. In this particular example, there is the added benefit of avoiding reallocation to parties not directly involved in the request for revision.

B. Voluntary Transfers of RHNA Units

Another way of thinking about the revision process is as an opportunity for local jurisdictions to transfer a portion of their allocation to a willing partner that can better plan for, or provide, the necessary housing choices. In *A Place to Call Home* (2006), ABAG documented the region’s progress since the last RHNA revision. One prevalent theme is that there are differences in local conditions that affect how much of their RHNA goals local jurisdictions can achieve. Some struggled to permit any housing units – particularly affordable units – while others permitted significant increases in, and diversification of, the housing stock.⁵

An effective set of transfer criteria can condition transfers of RHNA units between two willing jurisdictions that directs housing growth and diversification of housing choices in a way that furthers RHNA objectives and regional planning goals. The Committee may wish to give some thoughts to the following issues for further discussion during the October meetings.

- ♦ Requests for revisions and appeals must identify jurisdictions willing to transfer and willing to accept the RHNA units.
- ♦ Special conditions on transfer of below-market units.
- ♦ Transfers must improve the likelihood that there will be an increase (over what would otherwise occur) in housing choices in the jurisdiction which accepts the units.

Committee members should also bear in mind that these criteria must comply with all statutory constraints, further the RHNA objectives and be consistent with the overall RHNA methodology.

⁴ See the Southern California Association of Governments’ (SCAG) recent proposal for a “pilot project” (attached) at pages 7-8.

⁵ *A Place to Call Home* (2006), pages 13-18.

MEMO

TO: HOUSING METHODOLOGY COMMITTEE
FROM: ABAG RHNA TEAM
DATE: SEPTEMBER 27, 2006
RE: SUBREGIONAL ALLOCATIONS

The 2006-2014 RHNA authorizes local jurisdictions to form RHNA subregions. ABAG assigns a share of the regional need to the RHNA subregions “in a proportion consistent with the distribution of households” in *Projections 2007*.¹ This subregional share will likely be different than the share the subregion would receive under ABAG’s RHNA allocation methodology.

ABAG also delegates to the subregion the responsibility for allocating the subregional share among the members of the subregion. If the RHNA subregion does not complete the allocation or does not complete a statutory requirement for the allocation process, ABAG must allocate the subregional share among the members of the subregion.²

All RHNA subregions must:

- form by September 30, 2006
- articulate a draft methodology by December 31, 2006
- adopt a final methodology by February 28, 2007
- adopt an initial subregional allocation by June 30, 2007
- adopt a final subregional allocation by June 30, 2008³

If a subregion fails to complete one of these steps, ABAG is responsible for allocation of the subregional share among the members of the subregion. ABAG and the HMC must decide what methodology to use for reallocation in this event.

ABAG staff wishes to suggest the following approach and invite Committee feedback at the October meetings:

- If the RHNA subregion has adopted a “default allocation,” ABAG allocates using the default allocation. A “default allocation” is the allocation which members of a subregion agrees will be made if one or more members decline to accept the allocation made under the subregional methodology.
- If the subregion fails before ABAG has made any allocation, ABAG includes the subregional share in the regional allocation using ABAG’s RHNA methodology.
- If the subregion fails after ABAG has made the initial allocation to all jurisdictions not in the subregion, ABAG separately allocates the subregional share only among the members of the subregion. ABAG uses its methodology for completing this allocation.

¹ Section 65584.03(c)

² Section 65584.03(d)

³ The regulatory due dates for each of these steps match ABAG’s. The delegation agreement between ABAG and the subregions will create sufficient gaps between the ABAG due dates and the subregion’s dues dates to permit ABAG and the RHNA subregion to meet their statutory obligations.

M E M O

To: Housing Methodology Committee
From: ABAG Staff
Date: September 27, 2006
Re: Questions for Department of Housing and Community Development (HCD)

Summary

We have assembled a list of the questions that have been raised by members of the Housing Methodology Committee. HCD has been asked to address these questions at our meeting on the 28th. If time allows, we can have the committee members ask additional question. The questions have been grouped around four the major topics associated with the Regional Housing Needs process: determination of the regional need, allocation methodology, legislative/policy issues, and housing element implementation/certification.

While HCD has seen the questions, time did not permit us to work with HCD to have written answers in advance of the meeting. We will work with HCD to provide written answers once the meeting is completed.

Questions

Regional Need

- **How does the region's overall performance in the 1999-2006 RHNA period impact the regional allocation for the current RHNA?**
- **Will the statistical models used by the Department of Finance (DOF) and/or HCD take into account the recent economic downturn that severely impacted much of the Bay Area?**
- **Does HCD object to ABAG using headship rates that better reflect the Bay Area's demographics, i.e., one lower than the state average?**
- **Is there documentation available that describes the HCD/DOF forecasting methodology?**
- **How does HCD account for seasonal, migrant farmworker jobs in determining the regional need number?**

RHNA Methodology

- **What are the key parameters pertaining to Trades and Transfers of allocated units between jurisdictions?**
- **What are the parameters of state housing law and policies pertaining to RHNA-related Sphere of Influence/jurisdictional boundary issues?**

Legislative/Policy Issues

- **Why do RHNA-related statutes overlook local growth planning measures, agricultural preservation, water supply and open space policies recognized by other state statutes?**

Housing Element Implementation/Certification

- **How will the two-year RHNA-related extension granted by the State to ABAG impact how permitted housing units in the Bay Area are counted relative to the 3rd and 4th RHNA cycles?**
- **Given recent revisions to state statutes and HCD policies, how does HCD define housing units for certification purposes?**
- **What specific action causes a housing unit to be counted for reporting purposes? Obtaining a building permit, planning approval?**
- **Can affordable units be weighted by size for certification purposes? (e.g. a 3-bedroom unit would receive a higher count than a 1- or 2-bedroom unit)**
- **How are group quarters (including student housing, senior housing, and single room occupancy facilities) counted for certification purposes?**
- **Will HCD be providing additional funding in the current RHNA cycle to assist jurisdictions with the development of affordable housing?**
- **Can HCD provide a more prescriptive, predictable approach for jurisdictions relative to the Housing Element certification process?**
- **Will HCD be offering any technical assistance to jurisdictions relative to housing element updates?**

Housing Methodology Committee Meeting **- September 28, 2006 -**

Transcription of discussion with Linda Wheaton, Assistant Deputy Director, Department of Housing and Community Development

ABAG: Today, we will have a conversation with Linda Wheaton from the Department of Housing and Community Development. The way we have structured it is we will go through these questions of interest to the committee that have been written up and if there is any additional time, then we will go through some other issues.

As you can see, there are a variety of people here—a good representation of the region. The HMC has been getting together now 3 or 4 times to talk about some of the issues and we have been starting to make some headway. But, along the way, there have been a couple of different things that have come up. What staff has decided to do is to take questions that committee members have generated and to categorize them into some broad groups. The first is how we determine the Regional Housing Need. The second category is the RHNA Methodology. There is at least one question on Legislative Policy Issues and, finally, Housing Elements and Certifications. What we decided to do was just go through these questions now. What we will be doing after the meeting is putting together the written answers both from the tapes, post them on the web site and give them to the people.

HCD: I am very happy to be here today and very impressed. You do indeed have a very good representation.

We do appreciate that this is a very tough task—among the toughest of local planning tasks. Many of you are aware that there is a lot of legislative activity on a lot of different fronts—flood control, transportation, air quality—such that it is almost impossible to address planning for any length of time without having it impact residential development patterns. Residential development does, of course, take amongst the most significant portion of land in your communities and in your plans. And so, to some extent, increasingly it may be that housing element updates do prompt a more comprehensive update of general plans. Around the state, we are seeing a far higher incidence of general plan updates. Many of these are being taken in conjunction with other initiatives. There has been an effort at the state level to integrate other related efforts from transportation planning through regional transportation plans and, more importantly, through regional blueprint planning grants.

Many of you are involved in your FOCUS efforts. There has been a concerted recognition and effort for these efforts to reinforce each other and to recognize that the resources and the decisions made for transportation planning very much impact the housing decisions. A lot of the focus has been on smart growth and more compact development with higher densities. The decisions that you make in the context of your housing element update in many respects are where the rubber meets the road on those kinds of issues—and we know they are tough ones.

I think we have seen a lot of progress since the last housing element updates in being able to accommodate more in-fill development, more re-fill development. Such that a decade ago when a lot of folks would have said we can't accommodate such and such housing because we are built-out, today we are seeing development in areas where it might not have occurred before or been feasible for a number of reasons, but in part because the market is responding. We are seeing more variety in housing and building types. Second unit development, for example, has gone from being theoretical to being quite realistic. We have cities like Santa Cruz to the south that have made it a major push, for example.

We are certainly interested in supporting you in this effort and recognize that this has been a tough transition period. In the first 25 years, this process has been a reimbursable state mandate—so part of what we were dealing with is just the delay in trying to get support for funding for the process. We recognize that. Also, we are having schedule changes that we have had to deal with. And, we have folks on different cycles. We are definitely appreciative of the effort and recognize that you're at the forefront of implementing this law for the first time since the comprehensive reform of the housing element and the regional housing need by AB 2158 and 2348. You are making it happen and we are much appreciative of that.

I want to kind of go through your questions rather informally—so don't hesitate to break in. I want to help you to the extent that we can in addressing your concerns.

Questions:

Regional Need

1. How does the region's overall performance in the 1999-2006 RHNA period impact the regional allocation for the current RHNA?

HCD: The baseline for your existing housing stock will be determined in January 2007— the end of your planning period for the 1999-2006 RHNA. The higher the number of housing units constructed by that point, the smaller the gap between the projected housing need and projected population growth.

As you may or may not be aware, the Department of Finance (DOF) updates their population projections twice a decade. The next scheduled update of the population projections by the DOF will be next year. In effect, ABAG's figures will be some of the first ones that we will be using freshly updated population projections. Also, data that was not previously available will be released in October by the Census Bureau as part of the American Community Survey. This will include new types of local data that will probably be useful for housing element updates, in particular.

HMC: We are saying that as a region whatever we produce would affect the total regional need number. We are not saying that we will be considering production jurisdiction by jurisdiction.

HCD: At the individual jurisdictional level the so-called Jones bill, AB 1233 enacted last year did impose a new requirement relative to the prior RHNA. For the 1999-2006 RHNA period, if you had a program in your housing element to make adequate sites available that required rezoning or some other action that was not completed before your housing element was certified, there is a one year deadline from the due date of your housing element on June 30, 2009 to complete the required actions. So, any rezonings or other actions necessary to make sites available for your current RHNA must be taken by June 30, 2010. That is in addition to any actions that are necessary for your pending RHNA for 2007-2014. Previously, there was not a hard and fast deadline.

HMC: What's the consequence?

HCD: Well, you have clear legal vulnerability and someone can challenge you on the basis of what the statute says and it is not arguable.

2. Will the statistical models used by the Department of Finance (DOF) and/or HCD take into account the recent economic downturn that severely impacted much of the Bay Area?

HCD: The short answer is the projections don't because they are cyclical business cycles and the projections are not updated enough that they directly take those into account. Over the long term, they do. The basis of the DOF population projections are long term development patterns so implicitly economic downturns such as the one we recently experienced are incorporated into the projections.

3. Does HCD object to ABAG using headship rates that better reflect the Bay Area's demographics, i.e., one lower than the state average?

HMC: What's a headship rate?

HCD: A headship rate is the rate at which a given segment of the population forms households or occupies a housing unit at a historical point in time, and it is by age and ethnicity. For example, we know that the consumption of housing or the rates of household formation vary most significantly by the age cycle. Generally, we have higher rates of household formation with the "baby boomers" and there is also a correlation to some extent with income. If your projected population growth has higher concentrations of segments of the population that have high rates of household formation, you would have a higher projected housing need than a similar projected population that was much younger or had lower rates of household formation.

ABAG: What we are saying is that we start with population information in a lot of detail and then you figure out this headship rate. This kind of population data is used to calculate how many housing units are needed. You are not looking at the amount of land that's out there or something else in order to figure out the need. It's the need of housing for a population. Is that right?

HCD: Yes, for example, you look at the rate at which middle-aged, female heads of households formed households in census 2000. They look at the projected population in that same age group in the planning period we are talking about and apply those rates.

Ethnicity affects it less but it is a component because headship rates are factored by ethnicity. In general, if you have a higher concentration of younger Hispanic households, for example, they would tend to have lower rates of projected household formation than white, middle-aged households. That reflects household consumption patterns.

ABAG: For the forecasts that the DOF does, it's not racial, ethnic information or population growth for the state as a whole. HCD is starting with information that is very specific to the Bay Area, right?

HCD: It is specific to the county. It does not go below the county level. But it is population, age and ethnic data specific to each county in the region and then aggregated for the region. Your regional determination is a 9 county aggregation.

HMC: Before with low or moderate income housing, your allocations were based on what local jurisdictions had done in the past. There was a tendency with poorer communities to allocate higher rates for them. But those are the people least likely to be able to own their own homes or move up. It seems that the two are working at odds against each other.

HCD: I am speaking about a regional determination. This is not at the local level. The issues of distribution are separate from that.

HMC: When it gets down to the subregional level where the allocations are done on a county by county basis that's the way it has been done in the past which seems to fly in the face of what you are telling us.

HCD: Well, there are some other issues related to distribution on income and I think I will get to those a little bit later.

HMC: I had a comment. You said the Hispanic households tend to have lower rates of projected household formation, but that's the group that tends to have more children.

HCD: Children do not generate the need for a new house until they are at an age when they are expected to leave the household.

HMC: In your counting, you don't count under the age of 18.

HCD: Basically, the headship rates start where households are formed and the cut off is somewhere between 16 and 18 years old. In fact, that very factor accounts for the significant variability from decade to decade. For example, during the 1990s a higher proportion of the population was in children, in families; in contrast to what we are seeing now in many areas. That is one of things that accounts for significant variability.

4. Is there documentation available that describes the HCD/DOF forecasting methodology?

HCD: DOF's forecasting methodology documentation for their population projections and their estimates of housing which we use for a baseline are on their web site. If you go to the Demographic Research area of the DOF web site where they post the population projections and estimates—there are accompanying methodologies (<http://www.dof.ca.gov/HTML/DEMOGRAP/ReportsPapers/ReportsPapers.asp>). The methodology we use—the component method for projecting households that DOF does for us is not specifically on the web site. That documentation would be in the academic literature. Otherwise, we give you the assumptions, for example, that are used for income distribution from census 2000—the data table the income is taken from and that kind of information.

ABAG: I take it there isn't one big document that provides that information.

HCD: No.

HMC: Did you say that the DOF once [twice] a decade update of the population projections was coming out in 2007 - is that early 2007?

HCD: It is about mid 2007.

HMC: How does that dovetail or not with the ABAG projections?

ABAG: Our method is due the end of this calendar year. I think we are supposed to get a regional need number settled in about March of next year. Then, there is a period of time to do that calculation and to assign it to the jurisdictions—that might go on until June.

ABAG: Would it be in time for DOF's projections to be used in this?

HCD: That is our intent, yes. When you asked us to move that date back, we weren't scheduled to give you that until later. But, you asked us to move it to earlier in the schedule. Basically, we are prevailing upon DOF to work with us to do that.

HMC: Basically, my underlying question is that if we get the answer to this question and we understand the methodology—is that still going to be one of the building blocks of how the RHNA number turns out?

HCD: The methodology for the population projections does not change. It is the data that is changing not the methodology.

HMC: I understand. I guess what I want to know is that as important to this process as we were assuming or hoping that it was? I guess that's the answer to the question. If it is done in time to impact those numbers, then I guess the answer is yes.

HMC: Isn't that the way it is supposed to work—the methodology? We are supposed to generate a number. HCD and DOF generate a number. If they are far apart, then we have a negotiation. Are the DOF numbers critical to this? I would have thought they were essential to this process.

ABAG: I guess you are making reference to the idea that we are on the alternative schedule/alternative method for doing this process. As we understand it, we start with the ABAG projections information and come up with a number. There is an idea that it is compared to HCD's number and if they are pretty close we are good to go and if not

HCD: But, DOF specifically solicits input from MPOs and COGs like ABAG in the update of their population projections. DOF is not operating totally independently of input. They have a regular survey on the migration components and so forth. I would encourage you to talk to DOF.

ABAG: We will do that.

HCD: In the context of the discussion about that, it is important to get consistency of assumptions in the regional projections and obviously in the state projections.

HMC: After we go through this process, we won't know where you are with your number until sometime next year. Is that my understanding?

HCD: Yes.

HMC: So at that point, we may be just fine as you said. If we are far apart, then we have a serious issue to negotiate at some point.

ABAG: One clarification that I thought I heard that may help the group is that DOF is not going to release its twice-a-decade update number until mid-2007. But when we begin the discussion about what the regional need number is, DOF and HCD likely will have access to preliminary data and will be in the process of reviewing internally the data it intends to release in June 2007. That's the data you will be using to work with ABAG to determine the regional housing need number.

HCD: It is our expectation that DOF will be working with data that it is in the process of updating for their population projections. The statutory comparison is to population not to household projections.

HMC: Would ABAG revise its numbers if the DOF numbers were different?

ABAG: We would not revise our numbers because we expect ours to be finished by the end of this calendar year. It would be too late to do that – to change the Projections forecasts.

ABAG: Historically, have our numbers been that different from DOF's number?

ABAG: As an aggregate for the region, probably not too different. We would have to decide what different means. We should go back and make some comparisons and see what it is compared to the sustained DOF forecast.

ABAG: Typically, there can be some substantial changes in the forecast over time as different information comes in.

HCD: The issue of your projected population is between the COG and DOF. HCD is not involved.

HMC: DOF generates the population projection and HCD generates a household number out of that projection?

HCD: No. DOF projects population and from their projected population they also project household growth.

HMC: Household growth which is equivalent to demand as far as we are concerned.

HCD: The regional housing need is composed of a household growth component, which is the largest share, with a vacancy allowance and a replacement housing allowance.

HMC: The major portion of that is going to be household growth?

HCD: Yes.

HMC: What is the process for resolving differences in household growth between ABAG's projections and DOF's forecast?

HCD: DOF uses that "household growth" term to determine the need. Then, we use our household growth to allocate the need. That's the big distinction.

ABAG: I think what Dan is referring to this alternative process. We start with our information and we come up with what we think the need might be. We get back to HCD to discuss that—and if there is a difference there is a mechanism in the law - it seems for discussing and reconciling that difference.

HMC: That was my committee question. What is that mechanism?

HMC: Before you get to the mechanism, the real question is how does HCD generate its household growth numbers versus how ABAG generates them? Is HCD's process different from your process?

ABAG: It is—for one thing, DOF's has a lot more detail. We don't do forecasts by all these racial/ethnic groups, by county, etc. The other thing is that our numbers are expectations of what we think is actually going to occur on the ground. It is sort of market-based. HCD's need number has something more to do with regional housing goals.

HCD: The regional housing need represents a projected housing need for the projected population. To the extent that it is based upon recent historical patterns, there is certainly similarity with a forecast of what is

most likely to occur. Reasons for why they may differ are things we would consider and examine. However, the projected housing need is independent of constraints on household growth or projected housing demand. The premise of state law is that the projected population is to be housed and the local plans are to accommodate that population. Basically, if they are different, look at the bases for what the difference would be. If the difference is due in part to a variation in assumptions about the composition of the population, then DOF's judging to the extent those are plausible bases for variation.

HMC: Housing costs don't relate to that at all.

HCD: Indirectly, it does because the historical rates of household consumption have essentially incorporated that reality.

5. How does HCD account for seasonal, migrant farmworker jobs in determining the regional need number?

HCD: Any segment of the population including the farmworker population is a component of the total projected population. This is really more an income distribution issue. Technically, most often the migrant population falls within the lower income housing need. There is not a discrete, separate issue in the regional determination per se. It is one of the bases, as you are probably aware, for the factors to be considered in your methodology. There is county-level data on the incidence of farmworkers, including migrant farmworkers, from the census of agriculture. In general, to the extent that you have counties with high incidences of farmworker populations most of the jurisdictions in that county are going to be impacted by the need to serve them and the housing element recognizes that in requiring and accommodating programs for the farmworker population.

HMC: I think one of the issues we have had in the past was that we had several public farmworker housing camps in Napa County specifically targeted at seasonal migrants—and that is probably the key phrase here. Due to various regulations—mainly that they have one communal bathroom and one communal kitchen—they don't count as 60 units or 60 beds for example but rather as one unit since it is a dormitory. What we have been told in the past in response to that concern was that we don't really count the jobs for the seasonal migrant population anyway. So, it's a wash. From what you have just said, I am not sure that's still the case.

HCD: DOF's projected households are demographically based. It does not count jobs. It's not on the basis of jobs. And, let me jump to the issue of housing units vs. group quarters population and what constitutes a housing unit. There seems to be persistent misunderstandings. When the regional housing need is projected, it is projected on the basis of projected household population. The population is essentially zoned to live in either housing units or what are generically called "group quarters." Group quarters are everything from institutions, military barracks, dormitories, etc. Therefore, in the housing element, you don't get credit for something that is not a housing unit that would be considered a group quarters bed or space, such as farmworker barracks or where there are just individual beds.

There are some areas that vary—one of the issues that people frequently ask about is assisted living. There are increased incidences of continual care for the elderly where you have situations all the way from individual condominium units to skilled nursing beds. What is used here is the census definition of a housing unit. It has to be designed as separate living quarters that otherwise meet the definition of a housing unit with a separate entry, hallway, etc. In the case of these continual care units, DOF has checked and there's generally a distinction made between the nursing beds, which are considered group quarters. Otherwise they are housing. If there is uncertainty, we turn to DOF for interpretation of how they would treat it in their annual updates of the estimates of the housing stock. Generally if a local

government in reporting its permit activities reported that development as group quarters, then it can't be counted as a housing unit in its housing element.

ABAG: So, it would seem as if the folks who are living in the places mentioned in Napa would not be part of a household population so they wouldn't be counted for Napa's household population and would not generate housing need. At the same time, those facilities would not be counted as something that helps to meet the housing need.

HMC: For a city like Berkeley that has 15,000 students between 18 and 26, how would that be calculated in terms of household formation? Because demographically that's potential household formation, and yet none of them are going to be forming households except in dorms.

HCD: DOF also does projections of the student population. The populations in university communities are generally different, and DOF has a way of taking that into consideration. Because it is a student population at a large university that's going to be living on campus in campus dorms it does not necessarily generate housing in the same way that a non-student population would.

HMC: DOF accounts for that when it does regional demands. Our issue is how we account for it as you distribute demand down to the local level and to the degree that we are doing that right it should work out.

HMC: I do want to clarify assisted living. I was in the HCD offices several months ago and asked about this and was told that we couldn't count assisted living units unless they had a kitchen.

HCD: The incidence of a kitchen is not in the definition.

ABAG: We think that the definition changed between the 1990 and the 2000 census.

HCD: There is a possibility that it changed early in the 1990s. They did expressly make a change in it because of the growing incidences of congregant senior dining facilities and so forth.

HMC: If a unit was separate quarters, I would think a dorm room would count because the only difference between that and another unit down the hall that has a kitchen is that you are eating somewhere else. When we had dorm rooms built on our campus at the American University, we required kitchens be included so that we could count them as units and with assisted living the same thing. HCD staff referred us back to the building code. The building code requires a unit to have a certain amount (36 inches) of kitchen space. So, in our assisted living units, we require they put in that much kitchen, which adds to the cost of building that kind of separate living quarters. What is it that a developer has to put in so we can get those living facilities counted as a unit against our regional housing need?

HCD: It is not just the definition of a housing unit—it also has to be designed as separate living quarters. So, dormitories are by definition designed as group living quarters.

RHNA Methodology

1. What are the key parameters pertaining to Trades and Transfers of allocated units between jurisdictions?

HCD: I would recommend that you do everything possible during the development of your initial allocation and in your draft revision—working with your neighbors or anyone else so that these kinds of issues are worked out in a distribution. Negotiating transfers is not an easy process and it can be very expensive.

What happened is that with AB2158, the transfer option was restricted and some of what used to be in the statute has since sunset [ABAG believes that the “sunsetting” provisions cited by HCD is Govt Code Sec. 65584.5]. The transfer options are now between a city and a county and must occur in the one-year window between adoption of the regional housing need allocation and the due date of the housing element [ABAG believes HCD is referring to Govt Code Sec. 65584.07]. That’s new – that limitation did not used to be there. It was the housing advocates in particular who wanted the limitation so that local jurisdictions have sufficient time to take the necessary actions to make those sites available within the planning period. The parameters are limited relative to income distribution. There is the proportionate transfer relative to lower income and the other income categories.

HMC: Aside from the one year window, were there any other significant restrictions per AB2158 that didn’t exist before? For example the Napa County reallocation – is that the big one?

HCD: Yes, that’s the big one.

2. What are the parameters of state housing law and policies pertaining to RHNA-related Sphere of Influence/jurisdictional boundary issues?

HCD: There are no official policies per se in RHNA other than the expectation that you take into account many of the factors that LAFCOs consider in updating spheres of influence and updating municipal service reviews. Both of which, you may be aware, the LAFCOs are responsible for doing by 2008. Since 2000, LAFCOs have also been required to consider, among the 15 factors they consider at the time of a boundary change, the effect on accommodating the RHNA. With your 9 different LAFCOs, I can’t underscore enough the importance of involving and engaging each of your LAFCOs.

HMC: This is a problem for many of us in Contra Costa County because our county is the one that does the development. Walnut Creek for example wants to annex the Pleasant Hill BART station. During the previous RHNA, the city was responsible for 75% of what was built in the county, but we can’t count it [against Walnut Creeks’ allocation]. So, that seems odd. Secondly, we have different development standards. If they are developing, in our opinion, to lesser standards than we would require within the city, it creates a problem for us. We shouldn’t be stuck with it. We have spheres of influence within our city limits; there are county pockets. We have no control – we have no say in these areas. This is a dilemma for at least some counties.

ABAG: We have a meeting scheduled with all of the LAFCO people at ABAG at the end of October.

HMC: This may be a naïve question but when DOF does their population estimates do they include spheres of influence for each jurisdiction? How does that work? I know when we have done them for ABAG, ABAG includes the sphere of influence in the city’s assignment of regional housing need. My question I guess is population-wise – who gets credit for that - the county or the city? In our area, where

there is no growth boundary, nobody gets to develop that area. Spheres of influence are really a moot issue in much of Contra Costa County because of an urban growth boundary that stops everything before you get to the sphere of influence – it's a city boundary. And, we are being charged for hundreds of acres that are outside the city boundary that we have no control over – who takes the burden?

HMC: Cities are the ones who establish the spheres of influence. The problem is it was done 30 to 40 years ago when they divided up the whole county into spheres of influence without any basis. It is starting to change but...

HMC: But how do you resolve that now? Do we cancel all spheres of influence and move them to the urban growth boundary?

ABAG: We were considering that we might have a different rule for the inclusion of units in the unincorporated sphere in different counties because some of the counties' rules are essentially new growth is annexed, while in other counties that is not the case. So, as opposed to having one rule region-wide, we thought—we are not going to be able to do this city-by-city—but we could do it on a county-by-county basis. Is that something that will work for HCD?

HCD: Absolutely. You can do whatever you want. You know where it says factors and methodology – other factors – whatever works.

Legislative/Policy Issues

1. Why do RHNA-related statutes overlook local growth planning measures, agricultural preservation, water supply and open space policies recognized by other state statutes?

HCD: Well, I wouldn't say that it overlooks them per se. But it just points out that housing is an issue of statewide concern. That means that meeting the state housing objectives is a priority policy which must be integrated with balancing other policies, obviously. There is certainly an interest in and recognition that local government probably does the most important job of reconciling competing policies in your local planning process. At the same time, the state's population is not going to be constrained by what may be the cumulative effect of local policy constraints that wouldn't necessarily accommodate the projected population growth.

HMC: I don't know what the new government code section is, but going back to the legislative impetus, AB857 clearly identified 3 statewide priorities: 1) agricultural preservation, 2) infill thereby avoiding sprawl, and 3) infrastructure. All three are constraints that are state generated constraints in some ways but locally imposed if you will. You have LAFCO on sprawl/anti-sprawl as an approach. You've got water, which obviously is a state-wide issue, and agricultural preservation. It just seems that the housing element has its own lofty place in general plan law—even though the law says that all elements are created equal. It seems that housing has taken a step above these stated state-wide priorities and the balance doesn't seem to be there. That's my particular concern.

HCD: Well, in fact, AB2158 integrated those directly. Section 65584(d)(1) reads, "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." I think Pete will remind you that during the working group that was an expressed consideration to

incorporate those principles. It is the 4 principles and objectives of the regional housing needs plan as allocated—those are there.

HMC: I think that is a big part of the reason that this committee exists - that's great within the confines of the 9 county, ABAG region. But, I think that my concern and some other people's concern is that if it doesn't translate back into the state-wide process in some kind of quantifiable way, then we have some sort of zero sum game where we are all at odds with each other instead of that being factored in either regionally or state-wide.

HMC: I think we've only gotten part way there in terms of the factors that are in AB2158. It is still the regional housing number that we need to allocate using those factors and that process is still unconstrained by those factors. We have an unconstrained large number that we then have to try to apply constraints to.

HMC: In addition to that, there seems to be a hammer for the housing need allocation and no one seems to care if you go out and set down a subdivision in the middle of prime farmland. There is no penalty for that action. For some cities, it is just easier to sprawl and there are no penalties. But, there are penalties for not meeting your housing allocation and that's where the inequity occurs. But, you can't do anything about that.

HCD: Well, I think in regard to part of your point – alternately, the state's population growth is going to be driven by factors and not constrained by these particular items per se. There is a sanction even if it isn't in the statute. There is a sanction for inefficient development patterns. We all pay the costs in terms of additional commute times, air quality impacts, environmental degradation and housing development costs. So, it is incumbent upon us to try and make planning work across functions.

Housing Element Implementation/Certification

1. How will the two-year RHNA-related extension granted by the State to ABAG impact how permitted housing units in the Bay Area are counted relative to the 3rd and 4th RHNA cycles?

HCD: Well, essentially you have an extended planning period; a bye, a significant gift if you will in terms of the length of your planning period for accommodating your existing housing need. For each planning period, we start fresh. The projected need is calculated from the baseline in 2007. When you update your housing elements for 2009, you get to credit development that has finished its entitlement to the point where permits could be pulled subsequent from that baseline.

ABAG: Where the permits have been pulled or are available to be pulled prior to January 2007 that's in the 3rd RHNA cycle.

HCD: Yes.

ABAG: And then everything after that's in the 4th RHNA cycle.

HCD: Yes.

2. Given recent revisions to state statutes and HCD policies, how does HCD define housing units for certification purposes?

ABAG: This question has already been answered in the question related to how farmworkers are accounted for in RHNA.

3. What specific action causes a housing unit to be counted for reporting purposes? Obtaining a building permit, planning approval?

HCD: I'm not sure when they say reporting purposes what—is that distinguishing between the accreditation and the housing element?

ABAG: That's the question. Yes, the annual housing reports are the same definition.

HCD: Okay. The annual housing and progress reports will be coming out with revised regulations probably in about a month or so. The proposal is for a uniform basis of counting the issuance of building permits as being the most standard measure across jurisdictions. Since a primary objective of that reporting process is consistency of data that was the data item that's most uniformly available.

4. Can affordable units be weighted by size for certification purposes? (e.g. a 3-bedroom unit would receive a higher count than a 1- or 2-bedroom unit)

HCD: No. The count of the state's housing supply is not done on the basis of bedrooms. It is done on the basis of housing units. However, we know that you can be rewarded in the workforce housing program for affordable housing units on the basis of bedroom size. They have a higher level of awards for say 3 bedroom units versus 1 bedroom unit for affordable housing.

HMC: It is my understanding that workforce housing work will end this year.

HCD: We will be making another round of awards in 2007 for production this year, 2006.

5. How are group quarters (including student housing, senior housing, and single room occupancy facilities) counted for certification purposes?

ABAG: This question was sufficiently covered in the discussion in the question related to how farmworkers are accounted for in RHNA.

6. Will HCD be providing additional funding in the current RHNA cycle to assist jurisdictions with the development of affordable housing?

HCD: We have been. I hope most of you are aware that we are going gangbusters on awards of Prop 46 funds. They've been in high demand and the proposed housing bond Prop 1C would reinstitute most of those programs or at least the mainstream ones. It's a \$2.3 billion bond. They are of course in conjunction with transportation funds. One of things we are working on at HCD that would be part of that, even if Prop 1C does not pass, is financing more transit oriented development. Right now, we are and will be meeting with the transit agencies to consider the kinds of options and criteria which they are using for incorporating housing in transit orient developments in their transit stations. We are doing everything we can to support more resources being made available.

7. Can HCD provide a more prescriptive, predictable approach for jurisdictions relative to the Housing Element certification process?

HCD: Essentially, AB2158 did make significant portions of the housing element more concrete, more specific in statute. For example, one of the contentious issues previously was the determination of adequate densities to support and accommodate lower income housing with the burden on the local government to justify the adequacy of densities. AB2158 instituted default densities that a local government may choose to, but is not required to, use without having to justify its densities if it meets those criteria. If you don't want to do that, you can continue as in the past to justify the densities that you have. We will be doing housing element workshops on the housing element process within your region. Right now, we don't yet have a schedule. We have other folks in the pipeline before you—so we don't have them scheduled yet. But, we are certainly interested in doing that. We welcome sponsors any place you would like us to come—workshops or review workshops for housing element. We are happy to plan to do so.

HMC: I have a question related to AB1233, mentioned earlier requiring rezoning to take place within a year after the RHNA period. How does that apply to HCD's practice of requiring agencies to rezone within an arbitrary period as part of the housing element? Then, decertifying the element if the rezoning is not done within the period that HCD determines appropriate.

HCD: Well, the period for a rezoning to occur within a housing element program is set by the local government. We will discuss it with the local government if it is not set at a point that is realistic enough to make the site available within the planning period. You are the determinant, providing you can actually meet the outcome in the timeframe for when that rezoning is to occur.

HMC: That is not always the case because HCD can step in and say—for us to certify your housing element you have to agree to rezone within this period which HCD determines.

HCD: Well, you have to tell us the time period in which you think you could make that site available. If you are able to demonstrate that the time you gave us is realistic, then we generally accept it. But, if the timetable you are proposing is not likely to make the site available for development within the planning period, then we would require a different time period that would be able to meet that.

HMC: But again how is that consistent with AB1233?

HCD: The existing conditions [in a certified housing element] remain in effect. There is no additional latitude granted by AB1233. There is an additional hammer, if you will.

HMC: AB1233 applies to your next housing element cycle. If you didn't meet the deadlines of your current housing element for rezoning sites, you have a year in your housing element cycle to finish it.

ABAG: ABAG IS trying to do something to address some of these concerns. We are happy to try to make some headway on it. This committee expressed an interest in continuing next year as we go through the process of actually getting the needs determination done of going beyond the methodology. If that is the case and there are some people around to do that, an additional issue we might consider is how we address some of these implementation matters as we go forward. That's really a concern for people and it's been expressed to us at ABAG not just at this meeting. Maybe we could help in trying to structure some of those workshops that HCD has offered to make available.

ABAG: That was the last question on our formal list of questions. Are there other questions that have come up or that weren't on this list?

HMC: Implicit or implied in the statute and in much of the discussions we have had is that there is going to be some dialogue [about the regional housing need]. I have heard some references to it between ABAG and HCD and possibly DOF regarding these numbers. Is that a public process? How can we participate in that? When will we know when these conversations occur? And wanting to know more about what is perceived as something that is going to happen – “perceived” is the operative word – behind closed doors. Would you elaborate on that please?

HCD: First of all, it is pretty technical and I have suggested and I would encourage again that you invite Mary Heim, the Chief of Demographic Research to a meeting. I think part of what you seem to want to know more about is their projections process. So, I suggest that it would be helpful to do that.

ABAG: At this point, we don't have any meetings scheduled for this consultation.

HCD: No.

ABAG: And certainly, one initial step would be once we set up some meetings to make people aware of when those are so we can at least inform them as things go along—if there's an opportunity to participate as we go through this. We can invite Mary to one of those meetings as well as get more information about demographics and how that's done.

HMC: In the September 29, 2005 HCD letter, there are references specifically that there will be meetings between ABAG and HCD. Can you be a little more specific? What about those meetings? Is that part of what has not been scheduled yet?

ABAG: Yes, that is part of what has not been scheduled yet. At this point, ABAG and HCD had a meeting several months ago when we actually did some consulting about this and got around to setting this revised schedule. Beyond that, we have mostly spoke on the phone and tried to exchange information about how this process worked. We had another meeting where we gave HCD the update on how we were going on the methodology process. Other than that, we really have not tried to consult about this. In some ways, it is just the crunch of time for HCD. They are also doing this in other regions.

HMC: I think HCD's presence here and willingness to answer these questions is very much appreciated. But this is perceived as a behind the scenes situation.

ABAG: What we need to do is to talk with HCD about setting up a schedule for that and getting a better description for people about what that process will be.