



Orange County Council of Governments

May 23, 2019

Honorable Peggy Huang, Chair
Community, Economic and Human Development Policy Committee
Regional Housing Needs Assessment Subcommittee
Southern California Association of Governments
900 Wilshire Boulevard, Suite 1700
Los Angeles, California 90017

Subject: Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and Proposed RHNA Methodology Components

Honorable Chair Huang and Honorable Committee Members:

The Orange County Council of Governments appreciates the opportunity to provide formal written comments on the Draft Regional Housing Needs Assessment (RHNA) Consultation Package to the California Department of Housing and Community Development (HCD) and proposed RHNA methodology components.

The Orange County Council of Governments (OCCOG) respectfully requests the following:

June 6, 2019 CEHD Agenda Item on HCD RHNA Consultation Package:

1. **The Southern California Association of Governments (SCAG) should propose a regional determination of 430,000 for the 6th RHNA cycle to HCD.** The eight-year regional projection includes input from local jurisdictions that already incorporates existing need and future projected need. The proposed original determination of 430,000 is consistent with the local input utilized in the draft Sustainable Communities Strategy (SCS).
 - a. **All numbers, tables, and discussion regarding existing need as a separate calculation should be removed from the HCD consultation package.** By adding a separate existing need, the proposed approach and RHNA methodology would result in double counting for jurisdictions.
 - b. Background:
 - i. Historically, RHNA legislation has included a provision for existing need.
 - ii. Jurisdictions provide existing need in their forecasted growth, for example, the Orange County jurisdictions do this through the Orange County Projections (OCP) process.
 - iii. SCAG's local input process for the 2020 RTP/SCS growth forecast has been the most comprehensive and successful to date, with outreach to and participation of all 197 jurisdictions. Those jurisdictions, counties, and COGs provide input on growth approved and planned, consistent with their general plans. These approved and planned projects are in response to existing needs and demands and also are in response to projected demand. It is private developers that are coming to these jurisdictions asking for approvals of projects to meet demand they foresee in the future and demand that exists currently. This is obvious because phasing of projects are accelerated or delaying routinely in response to current demand. These projects get approved by jurisdictions in response to both current demand and a good planning for the future. The results of the local input process this round reflects increasing demand shown in the aggregated local input growth forecast response that



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was higher than originally projected by SCAG. The SCAG growth forecast and input from local jurisdictions has always reflected existing demand, also known as existing need, and future projected need, which is anticipated, planned for, and approved to accommodate future demand.

- iv. Thus, any regional determination by HCD should be no higher than the 430,000 units identified by SCAG. If HCD were to attempt to apply any higher regional determination than the 430,000, it should only be in coordination with a per unit increase in funding for jurisdictions to provide subsidies for developers to supply additional housing units.
- v. Any discussion regarding existing need and the three factors described in the legislation: overcrowding, cost burden, and healthy vacancy rate, should only be considered for possible inclusion in the disaggregation of the regional total to the jurisdictional level.

Future RHNA-related CEHD Items for Consideration:

- 2. SCAG shall address the following question regarding SCAG's proposed approach to existing need as a separate calculation: "How does adding the additional existing need component comply with the local growth forecasts in the Regional Transportation Plan/Sustainable Communities Strategy and the Program Environmental Impact Report (RTP/SCS/PEIR)?"
 - a. Any RTP/SCS growth forecasts that are not consistent with the RTP/SCS local input growth forecast should be reevaluated. The SCAG region would be potentially planning for housing without the transportation network to support it and in contrary to fundamental land use planning principles if the RTP/SCS local input growth forecast is modified to match a higher-than-local-input RHNA regional determination by HCD.
- 3. No action should be taken by the CEHD or RHNA Subcommittee on the social equity adjustment component of the RHNA methodology until after HCD provides SCAG with the regional housing allocation. Jurisdictions are unable to analyze the true impact of the social equity adjustment until the regional allocation is confirmed.
- 4. SCAG should provide at least preliminary draft RHNA allocations and supporting information for all jurisdictions within the SCAG region for any proposed methodology.
 - a. For example, if SCAG wants to consider using HQTAs in the methodology, they should provide some level of draft data by jurisdiction to demonstrate how that will impact each jurisdiction.
- 5. Background:
 - a. Jurisdictions are obligated to have their Housing Elements approved by HCD, including their ability to demonstrate that they have enough sites available to accommodate their RHNA. There are cities with every parcel built on and have no vacant land available for additional growth.
 - i. There are other laws that impact a jurisdiction's ability to "count" sites towards RHNA. For example:
 - 1. AB 1397 specifies that housing elements can only list land as a potential site to accommodate new housing if that land has a realistic capacity for housing development. Therefore, basing existing need solely on the jurisdiction's share of population will place numerous jurisdictions in a position where their housing elements cannot comply with state housing element law. This also includes a limitation on carrying over vacant sites as housing sites if they have been included in two or more previous housing elements.



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2. SB 35 places a jurisdiction into a streamlining status for inability to construct pro-rata share of housing during the planning period even if properties are already zoned to allow for housing development.
3. SB 166 requires local jurisdictions to continually update their housing elements and General Plans, as new development permits are issued and land uses change, to ensure that their housing elements always identify enough sites for potential development to meet their assigned goals for housing of different income categories. This is also known as the "No Net Loss" provision of state housing law. Since local jurisdictions rely upon private housing developers to build housing (based on local market conditions), local jurisdictions cannot fully control how a property is built. For example, a city may zone a 10-acre property to allow for by-right development at a density of 30 units to the acre (resulting in a potential capacity of 300 units) and a developer may decide that what the market demands is 18 units to the acre (resulting in 180 housing units constructed). In this case, the city would need to demonstrate where the net difference in housing units between the land capacity and actual development (120 housing units) can be built. Local jurisdictions with limited land capacity and high RHNA allocations will find it nearly impossible to comply with state housing law unless developers built at the maximum density allowed on the site.

Data Requests:

6. The Orange County Council of Governments requests SCAG provide an Excel table that identifies the following variables for all the jurisdictions in the SCAG region no later than five days prior to presenting the HCD consultation package to the CEHD for approval.
 - a. Cost burden
 - b. Healthy vacancy rate
 - c. Overcrowding
 - d. Share of the region's population
 - e. Share of the region's population within the high quality transit area (HQTAs)

We appreciate your continued cooperation and consideration.

Sincerely,



Stacy Berry, OCCOG Chairman

CC:
CEHD Committee
RHNA Submommittee
Kome Ajise, Executive Director, SCAG