

Policies for RHNA Transfers Due to Annexations and Incorporations

The following policies will establish the conditions and process that SCAG will follow for handling the transfer of RHNA allocations resulting from annexations and incorporations. The Regional Council shall accept a mutual agreement on a RHNA transfer signed by both a county and city within the SCAG region or make the final decision on a RHNA transfer when there is a written request for SCAG to intervene by either a county or city within the SCAG region, based upon the recommendation of the CEHD Policy Committee. After making a determination in response to a written request, SCAG will report its determination to HCD as well as the respective parties in the matter.

Nine RHNA Transfer Policies

1. In cases of annexation or incorporation of a new city and where a city and county may reach a mutually acceptable agreement for transfer of a portion of the county's RHNA allocation to the city, SCAG shall accept such an agreement and the transfer shall be effective immediately upon receipt by SCAG. The transfer shall not reduce the total regional housing needs and can only occur between a county and a city within that county.
2. SCAG will accept a transfer agreement or make a determination, if necessary, on a RHNA transfer related to an annexation or new city only after an annexation or incorporation has occurred per the requirements contained in Government Code 65584.07(c) and (d).
3. SCAG encourages cities and counties to engage in negotiations over RHNA transfers during the annexation or incorporation process to reach a mutually acceptable agreement and SCAG is willing to help facilitate those discussions.
4. A city or county can request for SCAG to facilitate meetings between both parties in order to reach a mutual agreement during the RHNA transfer process. SCAG will facilitate an initial meeting between the city and county within thirty (30) days of a written request for information or meeting facilitation by either party. SCAG may also provide information to the city and county to guide the negotiation process. This information will be consistent with the current adopted RHNA methodology. But in no case shall SCAG make any determination before the respective incorporation or annexation is completed in accordance with Government Code 65584.07, subsections (c) and (d).
5. SCAG will not “approve” a single county or city methodology for purposes of RHNA transfers in the case of annexation or incorporation. Since the RHNA allocation is not adopted below the city and county level per Government Code 65584(b), SCAG must reserve its authority to consider all reasonable approaches for disaggregating the county’s RHNA allocation as part of the annexation or incorporation process. The current adopted RHNA methodology will be used to guide the process.
6. In evaluating RHNA transfer calculations and disputes, SCAG shall apply the following methodology: (1) Determine the transfer units based on household

- growth assigned in the Spheres of Influence (SOI) areas through Integrated Growth Forecasting; (2) For annexations occurring in areas not covered by the SOI, determine the transfer units based on General Plan designations and small area household figures at the Tier 2 Transportation Analysis Zone (TAZ) level used for corresponding modeling analysis of RTP/SCS, and distribute them based on proportion of developable land based on general plan designations of the county, if necessary; (3) Adjust above household figures with healthy market vacancy allowance and replacement needs, if any; and (4) SCAG shall ensure that its determination is consistent with adopted RHNA allocation methodology used to distribute the share of regional housing need in accordance with Government Code Section 65584.04.
7. In evaluating RHNA affordable housing requirements by income category, SCAG shall disaggregate the transfer of units by income level of the annexed areas using the income distribution of the unincorporated county. SCAG's final determination in response to a written transfer request will include an income breakdown of the total number of units transferred. Final transfer determinations will be reviewed and approved by the SCAG Community, Economic & Human Development Committee and Regional Council.
 8. If the annexed or incorporated land is subject to a development agreement authorized under subdivision (b) of Government Code Section 65865 that was entered into by a city or county and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement, per Government Code Section 65584.07(d).
 9. In regards to the 4th RHNA cycle, spheres of influence were not included as part of the Integrated Growth Forecast used to determine each jurisdiction's RHNA allocation. Therefore, with respect to annexations related to the 4th RHNA cycle, SCAG will determine the transfer units based on consideration of General Plan designations and small area household figures at the appropriate TAZ level used for corresponding modeling analysis of the RTP and distribute them based on proportion of developable land, if necessary.

Summary Table of the Process Regarding RHNA Transfers after an Annexation or Incorporation

RHNA Transfers for Incorporations – Portion of county’s allocation shall be transferred to new city			
	Submittal	Submittal Deadline	Effective
Mutually agreed upon RHNA transfer by city and county	Mutually agreed upon transfer agreement <ul style="list-style-type: none"> • Specifies agreed upon RHNA transfer, by income category 	Within 90 days after incorporation; can be extended by SCAG if appropriate	Upon SCAG’s receipt of RHNA transfer agreement SCAG sends copy of transfer agreement to HCD
SCAG-determined RHNA transfer	Written request by city or county for SCAG to determine RHNA transfer <ul style="list-style-type: none"> • Both parties present facts, data and methodologies • SCAG determines transfer, by income category, and based on SCAG’s adopted RHNA allocation methodology • Copy of written request to SCAG is submitted to HCD 	Within 90 days after incorporation; can be extended by SCAG if appropriate	180 days after SCAG’s receipt of written request for SCAG to determine RHNA transfer SCAG notifies all parties and HCD of its final determination
RHNA Transfers for Annexations – Portion of county’s allocation maybe transferred to annexing city			
	Submittal	Submittal Deadline	Effective
Mutually agreed upon RHNA transfer by city and county	Mutually agreed upon transfer agreement <ul style="list-style-type: none"> • Specifies agreed upon RHNA transfer, by income category 	Within 90 days after annexation; can be extended by SCAG if appropriate	Upon SCAG’s receipt of RHNA transfer agreement SCAG sends copy of transfer agreement to HCD
SCAG-determined RHNA transfer	Written request by city or county for SCAG to determine RHNA transfer <ul style="list-style-type: none"> • Both parties present facts, data and methodologies • SCAG determines transfer, by income category, and based on SCAG’s adopted RHNA allocation methodology • Copy of written request to SCAG is submitted to HCD 	Within 90 days after annexation; can be extended by SCAG if appropriate	180 days after SCAG’s receipt of written request for SCAG to determine RHNA transfer SCAG notifies all parties and HCD of its final determination

Methodology for RHNA Transfers Due to Annexations or Incorporations

The SCAG proposed allocation methodology for the 5th RHNA cycle, which was approved by the Regional Council on November 3, 2011, provides two key policies for determining housing need at the sub- jurisdictional level for cases of incorporation and annexation. The two principles described are:

1. Potential RHNA transfers will assess future growth within spheres of influence (SOI) areas; and
2. For areas outside a sphere of influence, the proposed methodology recognizes the existence of the small area dataset used for the Regional Transportation Plan (RTP)/ Sustainable Communities Strategy (SCS) modeling as a framework to derive RHNA transfers in those specific areas.

The jurisdictional boundaries that serve as the starting point for analysis for the 5th RHNA cycle will be based on the dataset as of January 1, 2011 and any future relevant changes.

After the 5th cycle RHNA plan is adopted, either a county or city may request that SCAG make the determination as to the number of RHNA units to be transferred. SCAG staff proposes to apply the following steps, consistent with the 5th cycle proposed allocation methodology:

1. Determine the transfer units based on household growth assigned in the SOI areas through the Integrated Growth Forecast;
2. For annexations occurring in areas not covered by SOI, determine the transfer units based on consideration of General Plan designations and small area household figures at Tier 2 Transportation Analysis Zone (TAZ) level used for corresponding modeling analysis of RTP/SCS, and distribute those households based on proportion of developable land, if applicable;
3. Adjust above household figures with healthy market vacancy allowance and replacement needs, if any; and
4. Ensure that the transfer determination is consistent with the adopted RHNA methodology used to distribute the share of regional housing need pursuant to Government Code Section 65584.04.

Government Code Section 65584.07

Effective: January 1, 2009

→ § 65584.07. Reduction of county share of regional housing needs; conditions; amended housing elements; revision upon incorporation of new city; revision upon annexation

(a) During the period between adoption of a final regional housing needs allocation and the due date of the housing element update under [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)(1) The county and cities that have executed transfers of regional housing needs pursuant to subdivision (a) shall use the revised regional housing need allocation in their housing elements and shall adopt their housing elements by the deadlines set forth in [Section 65588](#).

(2) A city that has received a transfer of a regional housing need pursuant to subdivision (c) shall adopt or amend its housing element within 30 months of the effective date of incorporation.

(3) A county or city that has received a transfer of regional housing need pursuant to subdivision (d) shall amend its housing element within 180 days of the effective date of the transfer.

(4) A county or city is responsible for identifying sites to accommodate its revised regional housing need by the deadlines set forth in paragraphs (1), (2), and (3).

(5) 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)(1) If an incorporation of a new city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under [Section 65584.03](#), [65584.04](#), [65584.06](#), or [65584.08](#), a portion of the county's allocation shall be transferred to the new city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the new city.

(2) Within 90 days after the date of incorporation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, or to the department, whichever allocated the county's share. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. A copy of a written transfer request submitted to the council of governments shall be submitted to the department. The council of governments, subregional entity, or the department, whichever allocated the county's share, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to [Section 65584.04](#) or [65584.08](#). If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to [Section 65584.03](#). If the department allocated the county's share, the transfer shall be based on the considerations specified in [Section 65584.06](#). The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

(d)(1) If an annexation of unincorporated land to a city occurs after the council of governments, subregional entity, or the department for areas with no council of governments, has made its final allocation under [Section 65584.03](#), [65584.04](#), [65584.06](#), or [65584.08](#), a portion of the county's allocation may be transferred to the city. The city and county may reach a mutually acceptable agreement for transfer of a portion of the county's allocation to the city, which shall be accepted by the council of governments, subregional entity, or the department, whichever allocated the county's share. If the affected parties cannot reach a mutually acceptable agreement, then either party may submit a written request to the council of governments, subregional entity, or to the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and determine the number of units, by income category, that should be transferred from the county's allocation to the city.

(2)(A) Except as provided under subparagraph (B), within 90 days after the date of annexation, either the transfer, by income category, agreed upon by the city and county, or a written request for a transfer, shall be submitted to the council of governments, subregional entity, and to the department. A mutually acceptable transfer agreement shall be effective immediately upon receipt by the council of governments, the subregional entity, or the department. The council of governments, subregional entity, or the department for areas with no council of governments, shall make the transfer effective within 180 days after receipt of the written request. If the council of governments allocated the county's share, the transfer shall be based on the methodology adopted pursuant to [Section 65584.04](#) or [65584.08](#). If the subregional entity allocated the subregion's share, the transfer shall be based on the methodology adopted pursuant to [Section 65584.03](#). If the department allocated the county's share, the transfer shall be based on the considerations specified in [Section 65584.06](#). The transfer shall neither reduce the total regional housing needs nor change the regional housing needs allocated to other cities by the council of governments, subregional entity, or the department for areas with no council of governments. A copy of the transfer finalized by the council of governments or subregional entity shall be submitted to the department. The council of governments, the subregional entity, or the department, as appropriate, may extend the 90-day deadline if it determines an extension is consistent with the objectives of this article.

(B) If the annexed land is subject to a development agreement authorized under [subdivision \(b\) of Section 65865](#) that was entered into by a city and a landowner prior to January 1, 2008, the revised determination shall be based upon the number of units allowed by the development agreement.

(3) A transfer shall not be made when the council of governments or the department, as applicable, confirms that the annexed land was fully incorporated into the methodology used to allocate the city's share of the regional housing needs.