



MEMO

Date: August 17, 2012
To: Congestion Management Agencies and Affected Jurisdictions
From: ABAG/MTC
Subject: HCD Certification Requirement for OBAG—Appeal Process

Background

As a condition for funding the OneBayArea Grant (OBAG) Program requires that jurisdictions have their housing elements certified by the California Department of Housing and Community Development (HCD) by January 31, 2013. If a jurisdiction proposes a project within the boundaries of another, such as a county sponsored project in a city, the jurisdiction where the project is located must have an HCD certified housing element to receive OBAG funds.

Currently, 23 jurisdictions are out of compliance with HCD (Appendix A). These jurisdictions can be grouped by date as follows:

- HCD certification in progress with estimated completion in 2012 (11 jurisdictions);
- HCD certification in progress but likely delayed until 2013 (four jurisdictions);
- No estimate for HCD certification due to resource constraints, pending lawsuit, or other (eight jurisdictions).

Appeal Process

As a result we are providing an appeal process for those jurisdictions that need additional time to adopt an HCD certified housing element. HCD certification however, remains a condition for receiving OBAG funds.

- For jurisdictions that expect to remain out of compliance with HCD by January 31, 2013, but anticipate completion prior to January 31, 2014, we will approve a one-year extension.
- Jurisdictions may also meet the HCD compliance rule through advance certification of the new 2014-22 RHNA series by the same date, January 31, 2014, or roughly 10 months early.

Jurisdictions granted an extension will not be able to access OBAG funds until they achieve full HCD certification. Furthermore:

- Jurisdictions are not allowed to receive OBAG funds in the TIP until certification is completed.

- Only after the jurisdiction has received HCD certification may a CMA request that MTC program OBAG funding to a jurisdiction through a Transportation Improvement Plan (TIP) amendment.
- If a jurisdiction fails to meet these deadlines, a CMA will remove funding held in reserve and move it to another project that meets OBAG policies and regional delivery deadlines.

Next Steps

- By November 1, 2012, jurisdictions need to request an extension and state which approach they will follow along with a preliminary schedule to ABAG/MTC staff. The extension must be requested by the City Manager, City Council, County Administrator or board action. A jurisdiction is to submit its request and/or resolution to its county congestion management agency and to ABAG staff, Johnny Jaramillo.
- For the December 2012 joint ABAG/MTC planning meeting, staff will prepare a status report for all non-compliant jurisdictions and request that extensions be provided through a global action.
- By June 30, 2013, along with OBAG documentation and the project list, the CMA is to indicate if any funding is to be held in reserve for a project in a jurisdiction out of compliance and provide a board resolution adopted by the jurisdiction regarding its housing element. This resolution will commit resources to a housing element update including the approach and timely schedule for meeting the extended deadline.

For further information, please contact Johnny Jaramillo, ABAG Staff, at (510) 464-7983.

Appendix A**Housing Elements Not in Compliance with HCD**

Estimated HCD Compliance Date	County	City
2012	Contra Costa	Brentwood
2012	Contra Costa	Orinda
2012	Contra Costa	Richmond
2012	Marin	Fairfax
2012	Marin	San Anselmo
2012	Marin	Sausalito
2012	San Mateo	Pacifica
2012	San Mateo	Colma
2012	San Mateo	Daly City
2012	Santa Clara	Palo Alto
2012	Santa Clara	Santa Clara
2013	Marin	Marin County
2013	Marin	Mill Valley
2013	Marin	Novato
2013	San Mateo	Menlo Park
No estimate	Alameda	Pleasanton
No estimate	Alameda	Albany
No estimate	Contra Costa	Hercules
No estimate	Napa County	Napa County
No estimate	Santa Clara	Gilroy
No estimate	Santa Clara	Los Gatos
No estimate	Solano	Benicia
No estimate	Sonoma	Sonoma