Drs. Julian and Raye Richardson Apartments, San Francisco
Photo: Bruce Damonte

Chapter 1:
Legislative and Business Planning Overview

BAHFA's business planning process has proceeded in conformance to its:

- Enabling legislation, the San Francisco Bay Area Regional Housing Finance Act (Government Code Section 64500, *et seq.*) ("the Act");
- Requirements of additional state legislation, such as the California Constitution's rules regarding general obligation bond debt;
- Governance by the BAHFA Board, which is comprised of the same members as the Metropolitan Transportation Commission (MTC), and the Association of Bay Area Governments' (ABAG) Executive Board, acting as the executive board to BAHFA (Executive Board); and
- Commitment to public engagement and collaboration with Bay Area residents and local jurisdictions, including each of the nine Bay Area counties and 101 cities.

2.1 Powers of BAHFA

REVENUE RAISING

The Act provides that the purpose of BAHFA is to help meet "3P" needs: the production of new affordable housing; the preservation of existing affordable housing; and the protection of vulnerable tenants from displacement and homelessness. These central BAHFA objectives have their roots in years of outreach, organizing, convening and visioning efforts across the Bay Area.

The Act sets forth BAHFA's unique power to raise regional revenue through four means that all require voter approval:

- General obligation (GO) bonds secured by an *ad valorem* property tax
- Parcel tax
- Per employee "head tax"
- Commercial gross receipts tax

In addition, the BAHFA Board and the ABAG Executive Board may approve a commercial linkage fee – charging commercial developments for their anticipated increase in the demand for new housing – but only if voters first approve one of the property taxes listed above.

The Act codifies BAHFA's spending mandates:

- A significant portion of any revenue BAHFA raises returns to the counties, and, in some instances, is directly allocated to cities. In the case of general obligation bonds, 80% of funds raised will return to the county (or city) of origin according to assessed property values. In 2024, cities eligible for a direct allocation are San Jose, Oakland, Santa Rosa, and Napa.
- BAHFA, the counties and direct-allocation cities must create "expenditure plans," which detail how funds will be used across the 3Ps in ways that achieve the goals of the Act and engage stakeholders.
- BAHFA can also provide support and technical assistance to local governments to aid their affordable housing efforts; collecting data on housing production and the region's progress meeting state housing targets; and engaging the public.

The financing BAHFA provides can take the form of grants, loans, equity, interest rate subsidies, and other financing tools, subject to additional limitations that may apply to specific funding sources, such as California Constitutional restrictions on bond expenditures.

Among its other powers, BAHFA may own real property and form joint power authorities, or "JPAs" — governmental agencies in which at least two municipalities exercise common powers — with other qualifying governmental entities.

2.2 Permitted Use of Funds

This Plan discusses BAHFA's expenditure approach for the 20% of measure funding it administers pursuant to a successful GO bond ballot measure. Counties and cities will separately plan for the 80% of funding they administer. BAHFA is pursuing a GO bond in 2024 rather than one of the other revenue-raising options because of the scale of funding a GO bond can raise and the speed with which such resources can be raised; the more progressive nature of an *ad valorem* tax as opposed to a parcel tax; and the viability of passage, as supported by research and public and stakeholder outreach.

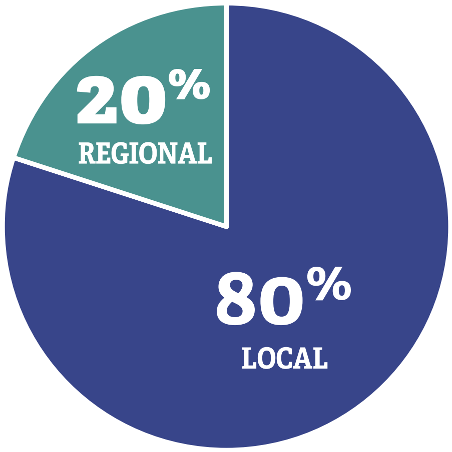
Figure 1. Distribution of General Obligation Bond Revenue

Regional Resources

- BAHFA planning for 20% of funds it will retain
- Complete by spring 2024

Local Resources

- Counties and direct allocation cities must plan for the 80% of funds that they will administer
- Complete by early 2025 (post-election)



ALLOCATION REQUIREMENTS

Funding BAHFA receives directly (the 20% portion) from a GO bond can be spent anywhere in the nine-county Bay Area region, subject to the following allocation requirements provided in the Act:

- A minimum of 52% must be dedicated for the production of rental housing that will be deed restricted and affordable for households earning up to 80% of area median income (AMI) for at least 55 years (**Production**).[1]

52% PRODUCTION

- A minimum of 15% must be dedicated to the preservation of housing that will be deed restricted and affordable to households earning up to 120% AMI for at least 55 years (**Preservation**).[2]

15% PRESERVATION

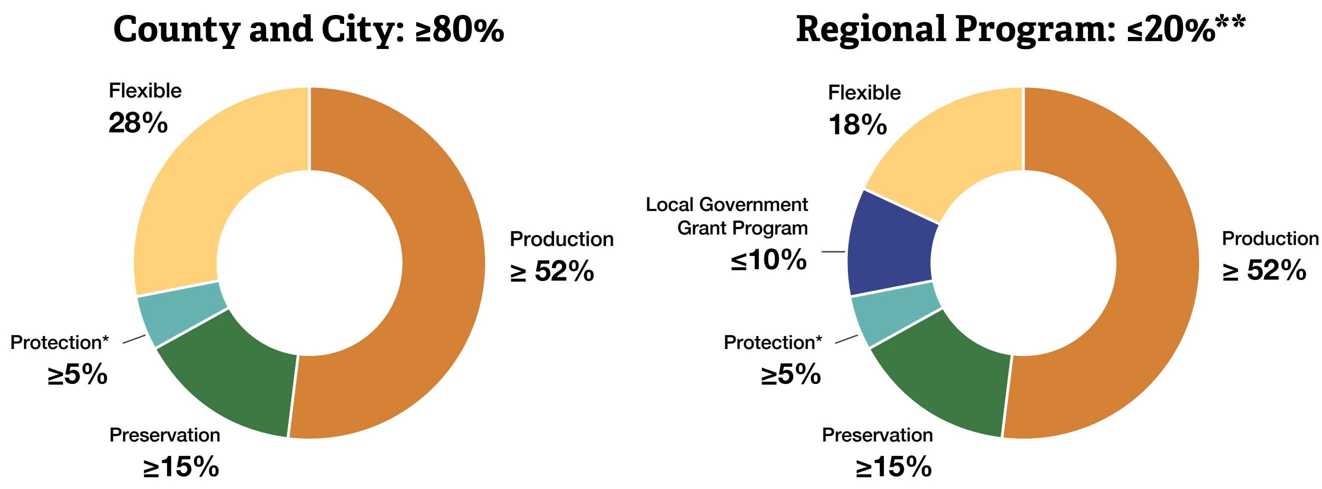
- A minimum of 5% must be dedicated to tenant protections for households earning up to 120% AMI (**Protection**).

5% PROTECTION

The balance of funds must be used in ways that reinforce the 3P housing objectives. Of this remaining 28%, up to 10% will be disbursed as local government grants that may be for housing or housing-related uses. The balance (18% of BAHFA funds) must be used for either Production, Preservation or Protection purposes. Up to 5% of the total bond proceeds may be used by BAHFA to pay for administrative expenses.

1. Section 64650(B)(a)(2)(I) of the Act states that a "minimum of two-thirds" of Regional Housing Revenue must be allocated to affordable housing Production and Preservation, with a minimum of 52% of two-thirds of the funds allocated to Production and a minimum of 15% of two-thirds allocated to Preservation. Language presented in the narrative above is modified for simplicity.
2. See previous note regarding the Act's percentage allocation requirements for Regional Housing Revenue and Production and Preservation funds.

Figure 2. How Funds May Be Spent



*Currently, state law does not allow bond proceeds to be spent on service-related costs

**BAHFA's Funding: Targeted investments in jurisdictions as additive financing to further local goals

While counties and cities must adhere to similar percentage allocations for their funding, the rules of the Act applicable to their expenditures are more flexible than BAHFA's, recognizing the diversity of Bay Area counties. For example, while BAHFA's Production funds may only be used for new rental housing, the county and city funds may be used for either rental or homeownership housing. Additionally, while 18% of BAHFA's "flexible funds" can only be used for 3P investments, the counties and cities have greater flexibility and may use 28% of their funds for housing or housing-related uses according to their local needs.

Fifth Street Housing, Berkeley
Photo: Karl Nielsen

BAHFA RULES

- **At least 52% of funds must be used for the construction of new rental housing,** with affordability limited to 80% of area median income and requiring a 55-year deed restriction.
- **At least 15% of funds must be used for affordable housing preservation.** This may be rental or ownership, with affordability capped at 120% of area median income and subject to a 55-year deed restriction.
- **At least 5% of funds** must be allocated to **tenant protections,** including:
  - Pre-eviction and eviction legal services, counseling, training and renter education
  - Emergency rental assistance
  - Relocation assistance
  - Displacement tracking and data collection
- **A maximum of 10%** of funds may be spent for **local government grants.** These may include homelessness interventions, homeownership programs and infrastructure that supports housing.
- **18% of remaining funds** must be spent on either **production or preservation.**

COUNTY/CITY RULES

- **At least 52% of funds must be used for new affordable housing** that prioritizes projects that will help meet the jurisdiction's extremely low-, very low- and low-income RHNA housing targets. This may be rental or ownership, permanent supportive housing, low-income housing or workforce housing, so long as it's deed-restricted and affordable to households earning up to 120% of the area median income.
- **At least 15% of funds** must be used for deed-restricted, **affordable housing preservation.**
- **At least 5% of funds** must be used for **tenant-protection** programs.
- **28% of funds** may be spent on **housing and housing-related uses,** like infrastructure and neighborhood amenities, so long as it complies with these general terms:
  - Conformance with the adopted county expenditure plan
  - A cap on affordability at 120% of area median income
  - Imposition of a deed restriction on the affordable housing

CALIFORNIA CONSTITUTIONAL RESTRICTIONS

Article XIII(A)(1) of the California Constitution restricts the use of bonded indebtedness in the state to the "acquisition or improvement of real property," and requires approval by two-thirds of voters. This restriction, unless amended, means that revenue raised by BAHFA may not be used for Protection purposes as they are defined in the Act, including, for example, legal services to prevent eviction, emergency rental assistance, and homelessness prevention services.

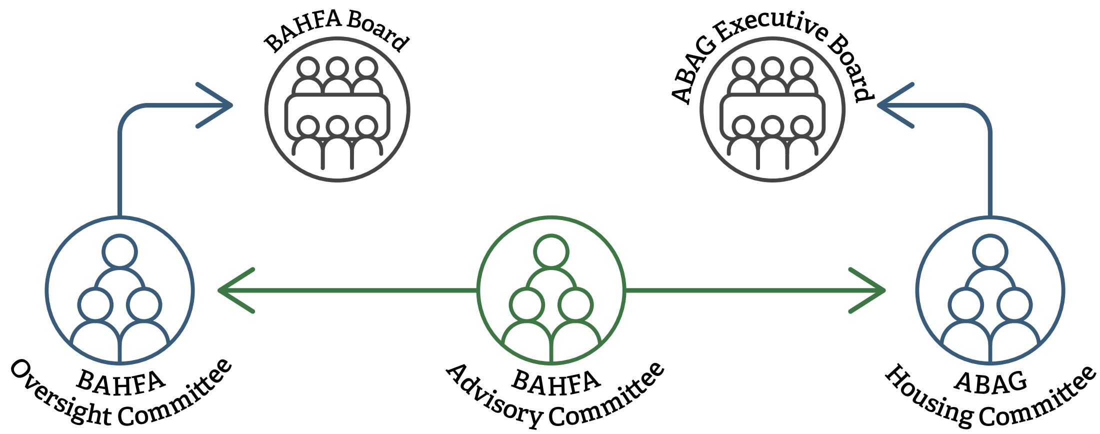
There is currently a statewide effort underway to amend this provision of the constitution in November 2024. If successful, the amendment (Assembly Constitutional Amendment 1; ACA 1) would lower the voter approval threshold for affordable housing bond measures from two-thirds to 55%. It may also modestly expand the eligible uses of GO bonds from "bricks and sticks" only (i.e., real property acquisition and improvement) to include capitalized operating reserves. Depending on the final version of ACA 1 presented to voters in November 2024, it is possible the proposed expansion of GO bond eligible uses could serve unhoused and/or extremely low-income households by allowing bond funds to be used, in effect, as a form of rental subsidy that is baked into an apartment's financing plan.

Note that while a BAHFA GO bond measure could take advantage of the lower voter approval threshold posed by ACA 1, this Business Plan does not assume an expansion of eligible uses of GO bonds given the tentative nature of such a change at the time of this writing. If such expanded uses are included within the final version of ACA 1, BAHFA will adjust the Business Plan accordingly and as necessary.

2.3 Timing of Fund Availability

Should a GO bond measure be approved by voters in 2024, funding likely would become available to BAHFA and local jurisdictions as soon as 2025. Funding would be disbursed through multiple bond issuances, or "tranches," the number, size, and spacing of which would be subject to the regional pace of bond-supported expenditures. This Plan anticipates that GO bond proceeds would be disbursed by BAHFA and its local partners over a period of 10 to 15 years.

2.4 Governance



The ABAG Executive Board and BAHFA Board must work together to approve most revenue-related actions. For example, before the BAHFA Board proposes a revenue measure that requires voter approval, the Executive Board must first approve the proposal. Both the Executive Board and BAHFA Board also must approve BAHFA's Expenditure Plan for its 20% share of funds. This structure ensures broad representation from around the Bay Area and a truly regional governance focus: local elected officials such as city council members, mayors, and county supervisors comprise a majority of the 21 BAHFA Board members and the Executive Board.

Both the BAHFA Board and the Executive Board have established subcommittees focused on housing. The BAHFA Oversight Committee is an 11-member committee of BAHFA Board members that meets jointly with the ABAG Housing Committee, a 12-member committee of Executive Board members. Both committees meet in advance of board meetings to review and discuss matters that will require board approval.

The Executive and BAHFA Boards are further assisted by an Advisory Committee composed of representatives with knowledge and experience in the areas of affordable housing finance, construction workforce and development, tenant protections, and housing preservation. The Act tasks the BAHFA Advisory Committee with providing consultation to the Executive Board and BAHFA Board and assisting in the development of funding guidelines and the overall implementation of BAHFA's programs.

All committee and Board meetings are subject to California's Brown Act open meetings requirements. Over the last two years, BAHFA staff have kept a steady pace of presenting information and seeking committee and board feedback and guidance to inform this Business Plan. Specifically, BAHFA requested detailed feedback on its:

- Equity Framework
- Funding Programs
- Key decision points and recommendations for the BAHFA Expenditure Plan
- Other policies and practices, such as the development of a rental subsidy program and Preservation Pilot

2.5 Public Engagement Process

BAHFA's governance structure — in which feedback and recommendations are taken from various committees and then presented to the Boards for approval — is designed to maximize accountability and provide ample opportunity for the public to provide feedback and direction. Consistent with Brown Act requirements and MTC/ABAG practices, specific time within meetings is set aside for public comment, and all meeting materials — such as agendas, report drafts, and presentations — are made available to the public in advance. All votes are held in public.

In addition to public meetings, BAHFA's business planning process included interviews, public listening sessions, virtual "town hall" public workshops, and establishment of an Equity Working Group, as further described in Chapter 2. BAHFA also gave presentations regarding its work and the proposed bond measure to nearly 100 groups and agencies, including public bodies, civic organizations and housing stakeholders such as affordable housing developers, disability rights organizations, transit-oriented development advocates, and planning collaboratives. BAHFA intends to continue stakeholder and community engagement to refine its existing programs and develop new programs over time. Critical to this outreach will be gaining an understanding of how easy to use BAHFA's programs are for different stakeholders and borrowers and ways in which BAHFA can improve its programming to expand accessibility.

Engagement board detail, Sonoma County
Photo: FlorHaus