

## Bay Area Housing Finance Authority Board

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May 22, 2024

Agenda Item 4.b.

### BAHFA's Regional Expenditure Plan

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#### Subject:

Discussion of a proposed resolution to approve the Bay Area Housing Finance Authority's Regional Expenditure Plan; direct the Executive Director or designee to bring forward a guideline to implement labor standards and to work with the California State Legislature to Amend the San Francisco Bay Area Regional Housing Finance Act to authority BAHFA to impose labor standards on direct recipients of bond proceeds; Anticipated CEQA Determination; Exempt Pursuant to Public Resources Code § 21065; Government Code § 64523

#### Background:

At its February 14, 2024 meeting, the ABAG Housing Committee and the BAHFA Oversight Committee ("Joint Housing Committees") approved a referral to the ABAG Executive Board as the Executive Board to BAHFA ("Executive Board") and to the Bay Area Housing Finance Authority ("BAHFA Board") – collectively referred to as "the Boards" – to adopt BAHFA's Regional Expenditure Plan, with the exception that Expenditure Plan labor standards should be further reviewed.

On April 10<sup>th</sup>, the Joint Housing Committees unanimously referred for approval to the Boards adoption of recommended labor standards for BAHFA's 20% Regional Housing Revenue ("RHR"), with amendments.

On April 18<sup>th</sup>, the Executive Board endorsed the Joint Housing Committees' recommendation, including amendments, as summarized below:

- Staff should work with the California State Legislature to amend the San Francisco Bay Area Regional Housing Finance Act ("Act") to create authority to impose strong labor standards for counties and cities receiving a direct allocation of bond proceeds ("Direct Recipients").
- Staff should keep the BAHFA Advisory Committee, the Joint Housing Committees, and the Boards informed of progress, and also report to the MTC/ABAG Legislation Committee.
- Staff should return to the Boards with an agenda item to adopt guidelines to implement the labor standards as articulated in the Regional Expenditure Plan for Regional Housing Revenue.
- Staff should return to the Boards to adopt guidelines implementing the extension of labor standards to Direct Recipients, as required or permitted by an amendment to the Act.
- Such agenda items regarding labor standards should be brought forward in a timely manner to allow for adoption of the guidelines prior to the actual expenditure of the bond proceeds from the first issuance.

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## Expenditure Plan Legal Framework

The Act gives BAHFA the authority to raise, administer, and allocate funding for affordable housing in the San Francisco Bay Area.

BAHFA's Regional Housing Revenue must be spent according to a Regional Expenditure Plan adopted by the Executive and BAHFA Boards, with consultation from the BAHFA Advisory Committee.

The Act requires the Regional Expenditure Plan to include very specific content, as follows:

- 1) The share of RHR and estimated funding values to be spent for each spending category defined in the Act:
  - a. Production
  - b. Preservation
  - c. Tenant Protections
  - d. Local Government Grant Program
- 2) The number of households served by income category.
- 3) The estimated number of homes expected to be produced and preserved with RHR.
- 4) Specific housing programs or projects, to the extent feasible.
- 5) Demonstration of how BAHFA will achieve specific spending requirements set forth in the Act for each spending category over a 5-year period (e.g., at least 52% of 2/3rds of RHR must be spent on production).

While this initial Regional Expenditure Plan is presented in concert with other documents related to the 2024 Ballot Measure, the Act requires BAHFA to submit a Regional Expenditure Plan on July 1<sup>st</sup> every year following. Subsequent Regional Expenditure Plans submitted shall include reporting on allocations and expenditures made and progress to date meeting the required minimum funding levels for each spending category.

## Regional Expenditure Plan Implementation

BAHFA's implementation strategies set forth in the Regional Expenditure Plan reflect the principals included in BAHFA's *Equity Framework* and *Funding Programs* and key spending decision points and recommendations previously approved by the BAHFA Advisory Committee and Boards.

## Regional Expenditure Plan Assumptions

- 1) This action requests the BAHFA Board to approve a general obligation housing bond measure of \$20 billion.

- 2) For a \$20 billion bond, BAHFA is assuming 7 separate issuances, though the actual number may vary, and counties and direct-allocation cities may request issuances at their own speed after the initial disbursement.
- 3) The initial Expenditure Plan covers the 5-year period of 2025-2030, and a total of two bond issuances.

The chart below shows relevant values for these assumptions:

Category / Activity	\$20 Billion Bond
BAHFA's Total Regional Housing Revenue (20%)	\$4 billion
<b>First Regional Expenditure Plan Value</b>	
<b>Assumes 2 issuances (approx. 30% of funds for a \$20B bond)</b>	
<i>All funds shown are net of 5% Administrative Fees</i>	
Production Spending, Minimum (61%)	\$671 million
Production Spending, Maximum (70%)	\$770 billion
Preservation Spending, Minimum (15%)	\$165 million
Preservation Spending, Maximum (24%)	\$264 million
Protections Spending, <i>if Constitutional</i> (5%)	\$55 million
Local Government Grants (10%)	\$110 million
Homes Produced or Preserved ( <i>assumes application of 5% Tenant Protections to Production or Preservation</i> )	Approx. 2,400
Percentage of Homes Produced Serving ELI/VLI Households	Approx. 44%
Percentage of Homes Produced Serving LI Households	Approx. 56%
<i>TOTAL Number of Homes Produced or Preserved with Full RHR Funding, including 5% Tenant Protection Funding</i>	<i>Approx. 7,200-7,800</i>

### Housing Bond Labor Standards

The Act provides that BAHFA may retain up to 20% of general obligation housing bond revenue raised and must disburse the remaining 80% of revenue to Direct Recipients based on a return-to-source formula (as calculated by assessed property values). BAHFA and the Direct Recipients must spend their funds according to an expenditure plan ("Plan"). In the case of BAHFA, the Regional Expenditure Plan must be approved by the Boards. Counties' Plans must

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be approved by the Board of Supervisors; city councils must approve Plans for direct-allocation cities.

All Plans must comply with specified requirements of the Act, and any other applicable state law. BAHFA's authority over the Direct Recipients' expenditures may not extend beyond the powers granted to it by the Act. As currently written, the Act does not allow BAHFA to require that Direct Recipients implement any labor standards for their bond investments (the 80%). BAHFA may adopt labor standards only for Regional Housing Revenue expenditures (the 20%). Accordingly, the labor standards provided below, as approved by the Joint Housing Committees and Executive Board, apply to BAHFA's Expenditure Plan. Further discussion regarding setting BAHFA's standard as a regional "baseline" labor standard, should the Act be amended to allow such a provision, follows.

Expenditure Plan Labor Standards: Regional Housing Revenue (the 20%)

Recommended labor standards for BAHFA's 20% Regional Housing Revenue are summarized below and included in Section 5 of the Regional Expenditure Plan, attached as **Attachment B**.

- 1) Prevailing Wage. For all new construction developments over 10 units, construction workers employed shall be paid at least the general prevailing rate of per diem wages; apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
  - a. Contractors and subcontractors must maintain and verify payroll records and make them available for inspection and copying.
    - i. Construction contractors shall submit monthly payroll records directly to BAHFA and, if required by law, to the Labor Commissioner, and the reports shall be considered public records, open to public inspection, with certain redactions to protect the personal identifiable information of individuals as allowed by the Labor Code.
  - b. Enforcement of prevailing wage standards for contractors and subcontractors may be enforced by:
    - i. The Labor Commissioner through the issuance of a civil wage and penalty assessment to the extent allowed by law.
    - ii. An underpaid worker through civil action or an administrative complaint to the extent allowed by law.
    - iii. Liquidated damages will apply if a civil wage and penalty assessment is issued by the Labor Commissioner to the extent allowed by law.
    - iv. BAHFA may seek either legal or equitable remedies as appropriate.
- 2) Training and Healthcare. New construction developments of 50 or more housing units shall require in contracts with construction contractors who employ craft employees or will let subcontracts for at least 1,000 hours, the following additional provisions:
  - a. Participation in an apprenticeship program approved by the State of California Division of Apprenticeship Standards.

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- b. A requirement to provide health care payments for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum level plan for two 40-year-old adults and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. Qualifying expenditures shall be credited toward compliance with prevailing wage payment requirements.
  - c. Provisions 2(a) and 2(b) above are deemed satisfied for contractors signatory to a valid collective bargaining agreement that requires utilization of registered apprentices and expenditures on health care for employees and dependents.
- 3) Preservation Projects. In acknowledgement of the degree of difficulty inherent in occupied building rehabilitation projects, the lack of available state and federal funds to finance rehabilitation projects, and the smaller-scale, community focus of affordable housing developers and community-based organizations that undertake Preservation Projects for the purpose of preventing displacement of community members, the labor standards provided above in Part 5.1-2 shall only apply to large Preservation projects with substantial rehabilitation scopes. For smaller Preservation projects, prevailing wage will be paid as required by state law. Preservation standards shall be further refined in funding guidelines submitted to the Boards for approval, including defining what constitutes a large and small Preservation project.

#### Expenditure Plan Labor Standards: Direct Recipients Housing Revenue (the 80%)

Though the existing terms of the Act prohibit BAHFA from imposing labor standards on the 80% of funds administered by Direct Recipients, the ABAG Executive Board has directed staff to work with state legislators to amend the Act to enable the imposition of strong labor standards to Direct Recipients.

As directed by the Executive Board, staff will keep BAHFA Committees, the ABAG Housing Committee, the Boards, and the MTC/ABAG Legislation Committee informed of its work with the state legislature to amend the Act to provide strong labor standards for implementation of BAHFA housing bond funds. Staff will return to the Boards with agenda items implementing such standards and guidelines.

#### Next Steps

The final action item approving BAHFA's Expenditure Plan by the BAHFA Board is scheduled for June 26, 2024.

#### Issues:

None

**Informational Item:**

The recommendations provided above are for discussion purposes. Future actions will include adoption of the proposed resolution for the following actions:

- 1) Approving the BAHFA Regional Expenditure Plan.
- 2) Directing the Executive Director or designee to return to the BAHFA Board with an agenda item to adopt a guideline to implement the labor standards as articulated in the Regional Expenditure Plan for Regional Housing Revenue, and if state law is amended to allow BAFHA to impose labor standards for counties and cities receiving a direct allocation of bond proceeds and the Ballot Measure passes, then the guideline brought forward also should extend the labor standards to projects funded with the County Housing Revenue portion of the bond proceeds. Such agenda item should be brought forward in a timely manner to allow for adoption of the guideline prior to the actual expenditure of the bond proceeds from the first issuance.
- 3) The BAHFA Board directs the Executive Director or designee to work with the California State Legislature to amend the San Francisco Bay Area Regional Housing Finance Act to enable BAHFA to have the authority to impose strong labor standards for counties and cities receiving a direct allocation of bond proceeds and to keep the BAHFA Advisory Committee, the ABAG Housing Committee, and the BAHFA Oversight Committee informed of such progress.

**Attachments:**

- A. Presentation
- B. Draft Bay Area Housing Finance Authority Regional Expenditure Plan
- C. Regional Expenditure Plan Approval BAHFA Board Resolution



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