

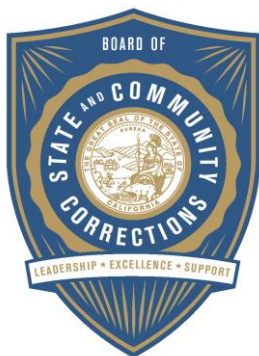
SB 1022 – REQUEST FOR PROPOSALS

CONSTRUCTION OF ADULT LOCAL CRIMINAL JUSTICE FACILITIES

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Issued: July 23, 2013

Proposals Due: October 24, 2013



BOARD OF STATE AND COMMUNITY CORRECTIONS

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**SB 1022
CONSTRUCTION OF ADULT LOCAL CRIMINAL JUSTICE FACILITIES
REQUEST FOR PROPOSALS**

Table of Contents

Board of State and Community Corrections Members	4
Executive Steering Committee Members	5
Purpose of the Request for Proposals and Board of State and Community Corrections Contact Information	6
Timeline of Key Events	7
Bidders' Conference Registration	8
Detail and Background	9
Summary	9
Executive Steering Committee/Board of State and Community Corrections Board ...	12
Eligible Projects	12
Two Types of Project Proposals.....	13
Limit on Number of Projects and Financing Requests	14
Set-Asides	14
Number of Projects.....	14
Project Caps	14
Maximum State Financing	15
Funding Preference..	15
Adequate County Contribution Funds.....	16
Real Estate Due Diligence.....	17
CEQA Compliance.....	18
Authorization of Project Documents.....	18
Project Costs, State Reimbursement and County Contribution (Match)	19
Total Project Costs...	19
State Reimbursement	19
County Contribution (Match) Requirements	20
Cash (Hard) Contribution	21
In-Kind (Soft) Contribution	21
Timing and Nature of State Financing and County Contribution/Match	22
County Fund Source Review	23
Proposal Due Date and Submittal Requirements.....	23
Technical Requirements Review of Draft Proposal..	25
General Considerations	25
Build-to-Suit.....	25
Needs Assessment Study/Letter of Intent	25
Site Assurance for Adult Local Criminal Justice Facilities	26
Real Estate Due Diligence	26
Environmental Requirements	26
Commitment to Staff and Operate the Facility	27
Regional Facilities	27
Certification – Leasing of Beds.....	28

Pilot Projects	28
Proposal Evaluation Factors	29
General Overview of Process After Notification of Conditional Award for	
Financing	30
BSCC Staff	30
SFM Fees.....	30
Pre-Design Meeting	31
Architectural Plan Submittals and Acceptance	31
Project Bids	33
State/County Relationship Regarding Construction	33
Payment and Performance Bonding and Cost Scheduling	33
Payment of Eligible State Share	33
Accounting and Audit Requirements	34
State Capital Outlay/Board of State and Community Corrections Process Details	
and Timing Requirements	35
Project Scope	35
Project Timeline	36
Project Timeline – Design-Bid-Build (table).....	37
Project Timeline – Design-Build (table).....	39
Agreements	40
Project Delivery and Construction Agreement	41
BSCC Agreement	41
Ground Lease	42
Right of Entry for Construction and Operation	43
Site Lease	43
Facility Lease	44
Facility Sublease	45
General Definitions	47
Proposal Form (separate document)	
Section 1: Project Information	
Section 2: Budget Summary	
Section 3: Project Timetable	
Section 4: Fact Sheet	
Section 5: Narrative	
Section 6: Board of Supervisors' Resolution	

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

**STATE OF CALIFORNIA
BOARD OF STATE AND COMMUNITY CORRECTIONS**

BOARD MEMBERS

- Secretary, Department of Corrections and Rehabilitation **Jeffrey A. Beard**
Chair

- Director, Division of Adult Parole Operations **Daniel Stone**
Department of Corrections and Rehabilitation

- County Sheriff in charge of a local detention facility **Dean Growdon**
which has a jail rated capacity of 200 or less inmates Lassen County

- County Sheriff in charge of a local detention facility **Leroy Baca**
which has a jail rated capacity of over 200 inmates Los Angeles County

- County Supervisor or County Administrative Officer **Susan Mauriello**
Santa Cruz County

- Chief Probation Officer from a county with a population **Linda Penner**
over 200,000 Fresno County

- Chief Probation Officer from a county with a population **Adele Arnold**
under 200,000 Tuolumne County

- Judge **William R. Ponders**
Los Angeles County (retired)

- Chief of Police..... **David L. Maggard, Jr.**
Irvine Police Department

- Community provider of rehabilitative treatment or services **David Steinhart**
for adult offenders Commonweal - Juvenile Justice Program

- Community provider or advocate with expertise in effective **Vacant**
programs, policies, and treatment of at-risk youth and juvenile offenders

- Public Member..... **Mimi H. Silbert**
Delancey Street Foundation

EXECUTIVE STAFF

Curtis J. Hill, Executive Officer (A)
Scott B. Frizzie, Chief Deputy Director

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

**EXECUTIVE STEERING COMMITTEE MEMBERS
ADULT LOCAL CRIMINAL JUSTICE FACILITIES
CONSTRUCTION FINANCING PROGRAM**

Robert Doyle, Sheriff (Chair)
Marin County Sheriff's Office

Darren Thompson, Sheriff (Co-Chair)
San Benito County Sheriff's Office

William D. Gore, Sheriff
San Diego County Sheriff's Department

Federal Glover, County Supervisor
District 5, Contra Costa County

Terri Daly, Chief Administrative Officer
El Dorado County Administrative Office

Larry Spikes, County Administrative Officer
Kings County Administration Office

Scott MacDonald, Chief Probation Officer
Santa Cruz County Probation Department

Stephanie James, Chief Probation Officer
San Joaquin County Probation Department

Dr. Don Kingdon, Deputy Director
California Mental Health Directors' Assoc.

BOARD OF STATE AND COMMUNITY CORRECTIONS CONSTRUCTION FINANCING PROGRAM

Purpose of the Request for Proposals

The purpose of this Request for Proposals (RFP) is to establish conditional awardees and allocate financing¹ as authorized by Senate Bill (SB) 1022 for the construction of adult local criminal justice facilities. This legislation provides up to \$500,000,000 in state lease-revenue bond financing authority for acquisition, design and construction, including expansion or renovation, of adult local criminal justice facilities in California.

Board of State and Community Corrections Contacts and Web Information

Prior to developing and submitting a proposal, interested counties should carefully review the entire RFP package. Applicants are encouraged to access the Board of State and Community Corrections' (BSCC) construction program web pages (see links below) for helpful information related to this RFP, correctional trends and programming, Frequently Asked Questions, standards and construction issues. Questions regarding the RFP may be directed to BSCC staff.

Robert Oates, Project Director III
Robert.Oates@bscc.ca.gov
(916) 445-9435

Sebastian Cosentino, Project Director II
Sebastian.Cosentino@bscc.ca.gov
(916) 445-6027

Lenard LaChappell, Project Director II
Lenard.LaChappell@bscc.ca.gov
(916) 445-6023

Michael Scott, Project Director II
Michael.Scott@bscc.ca.gov
(916) 341-7327

Gary Wion, Deputy Director
Gary.Wion@bscc.ca.gov
(916) 324-1641

BSCC's SB 1022 webpage:

<http://www.bscc.ca.gov/programs-and-services/fso/services>

Additional SB 1022 resources webpage:

<http://www.bscc.ca.gov/programs-and-services/fso/resources>

¹ A COUNTY'S RECEIPT OF A CONDITIONAL AWARD FOR STATE FINANCING, AS DESCRIBED HEREIN, DOES NOT GUARANTEE THE AWARDED COUNTY WILL RECEIVE ANY REIMBURSEMENT, THE STATE WILL OBTAIN INTERIM FINANCING, OR THAT BONDS WILL BE ISSUED. THE CONDITIONAL AWARD IS MERELY AN EXPRESSION THAT THE COUNTY IS QUALIFIED, AT THIS POINT, TO MOVE FORWARD IN THE PROCESS. THE SB 1022 ADULT LOCAL CRIMINAL JUSTICE FACILITIES CONSTRUCTION FINANCING PROGRAM IS NOT A GRANT PROGRAM.

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

**TIMELINE OF KEY EVENTS
SB 1022 REQUEST FOR PROPOSALS PROCESS**

March 18, 2013	Executive Steering Committee (ESC) meeting to develop elements of Request for Proposals (RFP) and proposal evaluation criteria.
July 22, 2013	Board of State and Community Corrections (BSCC) to take action on RFP at regularly scheduled board meeting.
July 23, 2013	BSCC issues final RFP.
August 12, 2013	Bidders' conference in Sacramento.
October 24, 2013	Proposals due to BSCC office by 5:00 PM.
October 25 – November 5, 2013	Staff completes technical requirements review of proposals. Counties are given opportunity to correct technical deficiencies.
November 6, 2013	Raters' training for ESC.
November 7 – December 3, 2013	ESC reviews the proposals and makes preliminary ratings.
December 4 – 6, 2013	Scheduled county presentations on proposals to ESC (Sacramento). ESC makes final rating and ranks proposals for funding recommendations.
December 9 – 11, 2013	Staff finalizes ESC recommendation package.
December 12, 2013	ESC recommendations mailed to counties and BSCC Board.
January 2014	ESC recommendations presented to BSCC for funding action/conditional awards at a scheduled board meeting.

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

**BIDDERS' CONFERENCE REGISTRATION
SB 1022
ADULT LOCAL CRIMINAL JUSTICE FACILITIES
CONSTRUCTION FINANCING**

A bidders' conference will be held in West Sacramento on August 12, 2013 from 1:00 pm to 3:30 pm (may end earlier). The intent of the bidders' conference is to provide counties and other interested parties the opportunity to ask questions regarding the RFP, and receive clarification on the RFP process. Attendance is optional. Following the conference, questions and answers from the session will be posted on the BSCC website at: <http://www.bscc.ca.gov/programs-and-services/fso/services>.

Bidders' Conference Location:

State Department of General Services
The Ziggurat Building
707 3rd Street
West Sacramento, CA 95605
(916) 375-4940

Pre-registration for the conference is requested. Please forward an email to the BSCC at the below address and advise of the county or other entity attending, and the number of anticipated attendees. There is no cutoff date for registration. Please include with the registration any questions related to the RFP. There will also be opportunity at the conference for public questions.

Submit registration information to BSCC at:
constructionprogram@bscc.ca.gov.

BOARD OF STATE AND COMMUNITY CORRECTIONS CONSTRUCTION FINANCING PROGRAM

REQUEST FOR PROPOSALS DETAIL AND BACKGROUND

SUMMARY

On June 27, 2012, SB 1022 (Chapter 42, Statutes of 2012) became law authorizing state lease-revenue bond financing for the acquisition, design and construction of adult local criminal justice facilities. **Up to \$500,000,000 in financing authority is conditionally available at this time.** This RFP is intended to solicit proposals to establish a rank-ordered list of projects, and to conditionally allocate this financing to projects for the design and construction, including expansion or renovation of criminal justice facilities.

This RFP for county criminal justice facility construction is being issued for the State of California by the Board of State and Community Corrections (BSCC). **Proposals must be completed and received at the BSCC office in Sacramento no later than 5:00 PM on October 24, 2013.** Proposals received after that date and time will not be considered.

As defined in law for purposes of this SB 1022 construction financing program, adult local criminal justice facilities may include any custodial housing, reentry, program, mental health, or treatment space necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code, under the jurisdiction of the sheriff or county department of corrections.

Consistent with the stated legislative intent, applicant counties are expected to judiciously consider programming needs to manage the offender population, and the range of alternatives to incarceration that may affect bed space needs, while employing the least restrictive options.

The legislation specifies funding consideration shall be given to counties that are seeking to replace existing compacted, outdated, or unsafe housing capacity or are seeking to renovate existing or build new facilities that provide adequate space for the provision of treatment and rehabilitation services, including mental health treatment.

Further, the legislation specifies funding preference shall be given to counties that are most prepared to proceed successfully with this financing in a timely manner. The determination of preparedness to proceed shall include, but not be limited to, counties providing documentation of adequate, available matching funds authorized by the county board of supervisors from a source or sources compatible with this financing authority as determined by the State Public Works

Board (SPWB) in its sole discretion. The determination of preparedness to proceed will also include submission of the following with the county's project proposal submission:

1. All documents required in the initial county real estate due diligence submission package.
2. Documentation evidencing California Environmental Quality Act (CEQA) compliance has been completed.
3. A resolution adopted by the county's Board of Supervisors certifying the county has read the forms of the project documents for this financing program, and authorizing the appropriate county representative(s) to execute each in substantially the forms presented, at the appropriate times within the financing program, if conditionally awarded.

The basic principles set forth in the preceding paragraphs will serve as the foundation for projects to be considered for financing within this program.

Counties must provide a minimum of 10 percent of the total project costs as county contribution (match). Counties with a general population of less than 200,000 may petition the BSCC requesting a lower level of required minimum contribution (match).

The SPWB and BSCC are authorized to enter into agreements with participating counties for acquisition, design and construction of county criminal justice facilities for projects approved by the BSCC. For purposes of this program, state financing of projects may also include acquisition of completed facilities through a build-to-suit purchase.

A county may only add housing capacity if the county clearly documents an existing housing capacity deficiency. Counties requesting to add housing capacity will be required to certify and covenant in a Board of Supervisors' resolution that the county is not and will not be leasing housing capacity in the proposed criminal justice facility to any other public or private entity for a period of 10 years beyond the completion date of the facility. Regional facility projects meeting the related requirements of this RFP are required to make this certification as well, confirming that the proposed regional facility will only provide housing capacity for the counties involved in the proposal and the arrangement is not being pursued for profit-making purposes by any of the counties involved.

This financing program will be administered by BSCC, with project approval and administrative oversight provided by the SPWB and California Department of Finance (DOF) (acting independently in some instances and as staff to the SPWB in others). The state financing authorized in this program will be from the issuance of lease-revenue bonds. This financing mechanism requires the SPWB to hold an irrevocable leasehold interest of the criminal justice facility during the term of the lease-revenue bonds (approximately 25 years after bonds are sold). The SPWB will lease the criminal justice facility to BSCC, who will in turn sublease the facility to the participating county for their use and operation in the care of county offenders.

Counties that receive notice of a conditional award for financing are responsible for: the site acquisition (if necessary); environmental determinations/mitigation measures; design; construction; staffing; operation; and repair and on-going maintenance of the facility in accordance with applicable laws, regulations, and any terms and conditions in the state/participating county agreements. Some, but not all, of these costs may be included as part of a county's contribution requirement. Counties have the performance obligation to successfully complete the construction project (i.e., proposed scope including number of beds to be constructed; within agreed upon timelines; built to code and standards; and within budget). Counties are also responsible to staff and operate the facility within 90 days after construction completion.

It is anticipated that counties selected for financing through this RFP process will be issued a conditional award by the BSCC at its January 2014 meeting. These awards are "conditional" in that they are predicated, at a minimum, on the requirements that: 1) each county's project be approved by the BSCC at various stages throughout planning and construction, as defined in this RFP; 2) each county's project receive appropriate review and approvals through the state capital outlay process; 3) each selected county enters into the state/participating county agreements as required; and, 4) lease-revenue bonds are sold for each selected project. The lease-revenue bonds provide the necessary long-term financing mechanism to repay all state interim financing and to complete construction of the selected criminal justice facility projects.

Each project submitted for financing under this RFP and conditionally awarded by the BSCC, must comply with specific project milestone requirements to assure the project moves forward in a timely fashion through the state processes. A proposal submittal by a county must include acknowledgement of the milestone requirements. If, after conditional award, a county is unable to perform to the project milestone expectations as detailed in this RFP, the project will be brought to the BSCC Board for review and potential action regarding the county's conditional award status.

Accurate scope, cost and schedule estimates are needed before responding to the RFP. After receiving a conditional award notification, successful applicant counties must translate the proposed project into formal architectural plans and specifications that are submitted to and approved by the BSCC and through the state capital outlay process. Counties must construct the criminal justice facility to enable conformance with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, California Code of Regulations (CCR), as may be applicable. For planning purposes, please note that under this financing program construction should be complete within three years after the participating county begins construction.

The BSCC will not increase state financing amounts after a conditional award notification, or approve a reduction in the proposed and accepted scope of work, if counties receive higher than expected bids. Counties are solely responsible for the payment of higher than anticipated project costs. If counties are able to complete their project utilizing an amount of state financing that is less than was

conditionally awarded for the project, the excess financing allocations shall be returned to the state and may be redistributed and used for other projects.

EXECUTIVE STEERING COMMITTEE/BOARD OF STATE AND COMMUNITY CORRECTIONS BOARD

The BSCC Board has appointed an Executive Steering Committee (ESC) to guide this process; develop recommendations on elements of the RFP and proposal evaluation criteria; review and rate proposals; and make conditional financing award recommendations to the BSCC Board. The ESC's role is advisory to the BSCC Board. The RFP timeline and process may be changed at any time by the BSCC Board. Counties will be notified if changes or modifications occur. The BSCC Board may reject any or all proposals. The BSCC Board will have final determination of the ranking of the projects and will issue conditional financing decisions. BSCC must certify each conditionally awarded project to the SPWB, and each project must receive all necessary reviews and approvals through the state capital outlay process in order to be determined eligible for and maintain eligibility within this financing program.

In order to maintain objectivity and impartiality, members of the ESC and the BSCC Board request that applicants do not contact them about the proposals at any time during this process. Any member of the ESC will abstain from participation in discussions or evaluations of applications submitted by their county of employment or in situations where they have an actual or potential conflict of interest.

ELIGIBLE PROJECTS

Counties may apply for and receive state financing to build new, or expand or renovate existing adult local criminal justice facilities. For purposes of this program, adult local criminal justice facilities are defined as facilities that may include any custodial housing, reentry, program, mental health or treatment space necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code, under the jurisdiction of the sheriff or county department of corrections. The facility subject to construction does not have to be a jail/detention facility, and likewise, the project may or may not include custodial housing/beds. An example of a non-jail facility that would be eligible under this program is a day reporting center (under the jurisdiction of the sheriff or county department of corrections). Projects that include renovation of existing facilities may be permissible if they promote the long-term use of the facility, or the work is necessitated by other project components.

For those projects that do include a jail facility, Type II, III and IV county adult detention facilities are eligible. Type I jail facilities and temporary and court holding facilities projects are not eligible. These facility types are defined in Titles 15 and 24, CCR – the state standards for county detention facilities. If counties have any concerns or questions about their proposed project as it relates to

these standards, please contact your county's BSCC-assigned facility inspector at the earliest possible time to discuss feasibility issues and options for proceeding before a proposal is submitted.

Consistent with the legislative intent of SB 1022, and as stated in Penal Code sections 17.5 and 3450, each project must include a component of construction or renovation that incorporates program space. Projects that do not include some measure of program space in the construction or renovation are not eligible. For purposes of this SB 1022 financing program, "program space" is defined as space in which offenders receive services in the form of programming or treatment to reduce recidivism or as an alternative to incarceration.

Projects may include construction of beds where the county can document an existing housing capacity deficiency. "Existing" is defined as early in year 2014, and counties may build for needs meeting projections to this point in time, and no further. Counties must clearly articulate and justify their determination of "housing capacity deficiency." A county's calculation of need shall include any construction projects for which the county is conditionally awarded under AB 900, and any other construction projects which the county is undertaking.

Any reference to "beds" means BSCC-rated beds that are dedicated to housing offenders in a jail facility's single and double occupancy cells/rooms or dormitories. Beds can also include special use beds for medical, mental health and disciplinary purposes. All beds must be planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, CCR. Temporary holding cells, sobering cells and safety cells may be constructed under this program as needed, but are not considered as cells/rooms with beds (i.e., housing capacity).

For renovation projects or new construction that is physically attached to an existing facility, the lease-revenue bond financing mechanism requires that the scope of the proposed project include all work necessary for the existing facility to meet current fire and life safety standards, and meet or exceed a seismic level 3 performance standard. These improvements may qualify as necessary renovation. However, if the new addition is seismically separated from the existing facility, upgrades to the existing facility will likely not be required. This aspect of each awarded project will be carefully reviewed and considered throughout the state capital outlay process.

Counties must ensure that construction plans also include all necessary ancillary space to enable the facility to comply with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, CCR (e.g., dining, showers, recreation, medical exam rooms). All ancillary space included in the financed project, which includes administrative space, must be reasonable and necessary for facility operations.

TWO TYPES OF PROJECT PROPOSALS

Each project proposal submitted in response to this RFP will be either a) a **Beds and Program Space** proposal that incorporates beds in the construction or

renovation, along with the requisite inclusion of program space in the construction or renovation; or b) a **Program Space** proposal that includes the requisite program space in the construction or renovation, but does not include any beds in the construction or renovation.

Project proposals are not limited to the construction of only beds and program space in the eligible project components. The “beds” and the “program space” are merely defining characteristics of the two basic types of proposals. It is expected that each adult local criminal justice facility project will incorporate all other necessary spaces for a functioning facility. Beds, or program space, are considered to be “constructed” whether it is new construction or renovation, and whether or not there is a resulting addition or net gain in bed count or number of program spaces.

LIMIT ON NUMBER OF PROJECTS AND FINANCING REQUESTS

Set-asides: Up to \$500,000,000 in state lease-revenue bond financing authority is currently available. To ensure that large, medium and small counties each have the opportunity to share in the available financing, the total has been divided as follows. (See table on page 15 for County Population Chart.)

- Large county set-aside: \$240,000,000
- Medium county set-aside: \$160,000,000
- Small county set-aside: \$100,000,000

Number of Projects: In order to fund as many counties as possible, each county is limited to one project proposal (with the exception of one additional regional facility proposal). Each proposal submittal must be limited to one site location. Counties are not eligible to submit one proposal that incorporates multiple site locations, as multiple sites are considered multiple projects for purposes of this program.

Counties that submit a proposal for a project within their county, may also participate in one regional facility project submittal that meets all of the requirements outlined in this RFP for regional facility project submittals. (The regional facility project submittal will require a separate proposal from the lead county. See Regional Facilities section for details.) If a county submits more than one proposal, the County will be required to construct all of the projects awarded, and to do so within the project timeline requirements referenced in this RFP. Likewise, counties must be able to justify the need for both projects as required by this RFP.

Project Caps: The maximum amount of state financing that can be requested with each project proposal submittal is as follows, based on the size of the county submitting:

- Large counties: \$80 million
- Medium counties: \$40 million
- Small counties: \$20 million

Maximum State Financing: The maximum amount of state financing that can be requested in any one project proposal submittal is limited to 90 percent of the total project costs, up to the amount of the project caps listed above. Small counties may receive a reduction to the 10 percent contribution (match) requirement following petition to the BSCC Board. (See the Budget Summary section of the Proposal Form for the petition.) Small counties that petition for a reduction must still provide a minimum of five percent contribution, and in these cases the maximum amount of state financing is limited to 95 percent of the total project costs, up to the amount of the project caps listed above.

Subject to these maximum state financing limits, the state has no overall limit on the total cost of an eligible county project, so long as the county demonstrates adequate local funding for the county contribution amount related to the project, and commits to the on-going operation of the facility.

The table below defines each county’s size by category of small, medium or large and is based on county general population data.

COUNTY POPULATION CHART			
Large Counties (pop. 700,001 +)	Medium Counties (pop. 200,001-700,000)	Small Counties (pop. 200,000 or fewer)	
Alameda	Butte	Alpine	Modoc
Contra Costa	Marin	Amador	Mono
Fresno	Merced	Calaveras	Napa
Kern	Monterey	Colusa	Nevada
Los Angeles	Placer	Del Norte	Plumas
Orange	San Joaquin	El Dorado	San Benito
Riverside	San Luis Obispo	Glenn	Shasta
Sacramento	Santa Barbara	Humboldt	Sierra
San Bernardino	Santa Cruz	Imperial	Siskiyou
San Diego	Solano	Inyo	Sutter
San Francisco	Sonoma	Kings	Tehama
San Mateo	Stanislaus	Lake	Trinity
Santa Clara	Tulare	Lassen	Tuolumne
Ventura	Yolo	Madera	Yuba
		Mariposa	
		Mendocino	

Source: Department of Finance, May 2013

FUNDING PREFERENCE

The SB 1022 legislation (Government Code section 15820.926(b)) requires that funding preference shall be given to counties that are most prepared to proceed successfully with this financing in a timely manner. It further requires that the determination of preparedness to proceed shall include, but not be limited to, counties providing documentation of adequate, available matching funds authorized by the county Board of Supervisors from a source or sources compatible with the authorized financing, as determined by the SPWB in its sole discretion. Meeting the funding preference criteria is not required in order to be

awarded in this process; however, projects that satisfy the preference criteria will be awarded first within their respective set-aside category (small, medium and large counties).

There are four distinct funding preference criteria, as outlined below. Each proposal submittal may address one or more of these criteria. The first criterion – commitment of adequate county contribution funds, is a mandatory criterion required by law, as noted above. In order to seek any level of funding preference, this criterion must be satisfied. If this criterion is not satisfied, then none of the other preference criteria will be considered for this project submittal. The additional three criteria are optional. However, the greater number of criteria that are satisfied, the greater overall preference that will be afforded the proposal. The appropriate state agencies will review the documentation submitted in connection with satisfying the funding preference criteria and determine whether each criterion has been adequately satisfied in order for it to count toward receiving the actual preference. Each of the four preference criterion carries specific submittal requirements, including language required in Board of Supervisors' resolution.

The four preference criteria are as follows:

1. Commitment of adequate county contribution funds (mandatory criterion).
2. Initial real estate due diligence package submittal.
3. Documentation evidencing CEQA compliance has been completed.
4. Review of and authorization to execute the financing program project documents.

Each proposal will be rated by the ESC, without regard for whether the county is seeking the funding preference. From this rating, a single rank-ordered list of projects will be established, and divided into three set-asides for small, medium and large counties. When the BSCC Board makes conditional awards, those counties that sought and satisfied the preference criteria with their proposal will be awarded first within each set-aside. The order of awards to counties receiving the funding preference will be determined by 1) the number of preference criteria fully satisfied, and then 2) in rank order. Once all projects that satisfied the preference criteria have been conditionally awarded within each given set-aside, then the projects not receiving funding preference will be awarded next, contingent on the amount of financing remaining in each set-aside.

Adequate County Contribution Funds (mandatory criterion): All proposals seeking the funding preference must include all documentation necessary to evidence that the Board of Supervisors has authorized an adequate amount of available funds to fully satisfy the entire amount of the county's cash contribution (match) from a source or sources that are compatible with the state financing authorized in this program. The adequacy of county contribution funds will be determined by the SPWB, in its sole discretion. Determination of adequacy will include whether the county has provided all necessary documentation, whether the amount of funds authorized and available satisfies the county cash contribution amount (as reflected in the Budget Summary Table in the Proposal Form), and whether the source of funds is deemed compatible with the SPWB's lease-revenue bond financing.

Commonly acceptable forms of county contribution funds are General Fund or special use funds. Special use funds require submission of documentation demonstrating the fund source is legally authorized and the proposed project is a lawful use of the funds. Any proposed debt financing will require review by the SPWB on a case-by-case basis because the terms of the potential methods of financing can vary greatly.

The documentation provided must include, but is not limited to, the following:

- The name of each specific fund source to be used, the amount of county cash contribution funds attributed to each source, documentation evidencing the Board of Supervisors has authorized the required amount of funds from each identified source specifically for the proposed project, and documentation demonstrating the authorized funds are available for use solely on the proposed project.
- Citation of the legal authority for each identified fund source evidencing the fund source is legally available and the proposed use is a lawful use of the funds.
- Authorization from the Board of Supervisors to proceed with the proposed project in its entirety if a conditional award of state financing is received.

All county contribution funds documentation shall be submitted in duplicate, in a separate packet, accompanying the proposal submittal to BSCC. The Board of Supervisors' resolution that accompanies the proposal submittal must include the required language for this specific preference criterion, as outlined in the Board of Supervisors' Resolution section of the Proposal Form.

Real Estate Due Diligence (optional criterion): Each proposal seeking to satisfy this criterion must include all documents required in the initial county real estate due diligence submission package. Two separate and duplicative copies of this complete package must accompany the proposal submittal to BSCC. Incomplete packages will result in this preference criterion not being met. Also, the Board of Supervisors' resolution that accompanies the proposal submittal must include the required language for this specific preference criterion, as outlined in the Board of Supervisors' Resolution section of the Proposal Form. The Real Estate Due Diligence Preference Criterion – Due Diligence Package Submission Requirements and Checklist document is a checklist of items needed to constitute a complete submittal of the initial real estate due diligence package, and is provided on the BSCC website with the RFP.

This preference criterion can only be met by counties that are also able to make the site assurance attestation required in this RFP process at the time of proposal submittal. (See Site Assurance section of this RFP, and the required resolution language in the Proposal Form.) The real estate due diligence package submittal requires in depth documentation regarding the project site; therefore, the site assurance must be provided with the proposal submittal if this criterion is being sought.

CEQA Compliance (optional criterion): Each proposal seeking to satisfy this criterion must include documentation evidencing that CEQA compliance has been completed, and provide written certification that all statutes of limitation have expired without challenge, or the challenge(s) has been fully resolved.

Two separate and duplicative copies of the CEQA documentation package must accompany the proposal submittal. The package shall include either the final Notice of Determination (NOD) or final Notice of Exemption (NOE) stamped as received by the entity with which it was filed for public review; the stamp must include the date received. Related back-up information and CEQA documents filed previous to the final NOD or NOE are not requested and should not accompany this submittal, but must be retained by the county. The submittal shall also include a written certification by county counsel that states the final NOD or NOE was filed, the entity with which it was filed, when it was filed, and further certifies that all related statutes of limitation have expired without challenge. If there was a challenge(s), the letter from county counsel must acknowledge the challenge(s), including the nature of the challenge(s), and provide documentation evidencing the challenge(s) has been completely resolved in a manner that allows the project to move forward as proposed. If the filing was done with an entity other than the State Clearinghouse, the county must also provide the statute identifying the length of associated statutes of limitation period (duration).

The required Board of Supervisors' resolution language for this preference criterion shall also be provided with the proposal submittal. (See Board of Supervisors' Resolution section of the Proposal Form.)

Authorization of Project Documents (optional criterion): Each proposal seeking to satisfy this criterion must include documentation in Board of Supervisors' resolution that the county has reviewed the form of each of the required project documents for the construction financing program, and the Board of Supervisors has authorized the appropriate county signatory or signatories to execute these documents at the appropriate times (as further detailed in the resolution language in the Proposal Form), with only those changes deemed necessary to incorporate project specific information or effectuate this financing program.

The required Board of Supervisors' resolution language for this criterion shall be provided with the proposal submittal. (See Board of Supervisors' Resolution section of the Proposal Form.) The required resolution language is the only submittal required for this preference.

The project documents for the financing program are listed below and forms of them are available on the BSCC website:

- Project Delivery and Construction Agreement
- Board of State and Community Corrections Jail Construction Agreement
- Ground Lease
- Right of Entry for Construction and Operation
- Facility Sublease

PROJECT COSTS, STATE REIMBURSEMENT AND COUNTY CONTRIBUTION (MATCH)

Total Project Costs: The total project costs are all costs specifically attributable to activities reasonably and directly necessary to complete the acquisition, design and construction of the proposed adult local criminal justice facility project, including all costs reasonably and directly necessary to satisfy the requirement of this financing program. The state has identified specific types of costs as being eligible either for state reimbursement or to be included in the county cash or in-kind contribution (match) within this financing program, as detailed below. These costs are defined as the total project costs for purposes of this financing program. Any other costs will not be considered project costs for purposes of this program.

Each proposal submitted within this financing program must include the total project costs detailed within the appropriate cost categories – state reimbursement, county cash contribution and county in-kind contribution. All amounts for the types of costs identified as eligible for state reimbursement, as well as for county cash contribution, must be reported as total project costs in the Budget Summary Table within the Proposal Form. Costs eligible to be included as county in-kind contribution are optional.

Distinction is made between on-site versus off-site construction costs. On-site is generally considered to include the constructed facility and the area within a reasonable buffer zone surrounding the constructed facility, security fence (if applicable) and parking lot(s). Spaces shall be sized to state standards, and all reasonable and necessary facility ancillary and administrative space may be included. If a county is not reporting land value as part of its in-kind contribution, an appraisal is not needed for purposes of this financing program.

The following sections describe which project costs are eligible within each of the categories – state reimbursement, county cash (hard) contribution and county in-kind (soft) contribution.

State Reimbursement: The state may reimburse counties for specified activities that occur after the project scope, cost and schedule have been established by the SPWB, conditioned on successful completion of the other approval and oversight requirements with this financing program. Project costs eligible for state financing may include:

1. Architectural programming and design (for activities performed by consultants or contractors).
2. Project/Construction Management (for activities performed by consultants or contractors).
3. Building permit fees, sewer/utility use or unit fees, building inspection fees and/or appraisal fees.
4. On-site construction of the BSCC-approved facility project, including site preparation.

5. Fixed equipment items; e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc., as necessary for the operation of the facility.
6. Fixed furnishings; e.g. built-in and permanently-affixed counters, tables, cabinets and seats, etc., as necessary for the operation of the facility.
7. Installation of fixed equipment and fixed furnishings as necessary for the operation of the facility.
8. Moveable equipment and moveable furnishings; e.g. mobile security equipment, computers, furniture, etc. (subject to state review and approval).

Total project costs attributable to activities related to any of the above listed items that occur prior to the establishment of the project by the SPWB may be claimed as county cash contribution, but are not eligible for state reimbursement. Specific approvals by the SPWB and DOF are required relative to preliminary plans (design development drawings) and working drawings (construction documents). Projects that include any amount of working drawings phase costs as a state reimbursed cost may not proceed with working drawings until the SPWB and DOF have approved preliminary plans. Further, counties cannot proceed with any phase of design (schematic design, design development or construction documents) wherein state reimbursement will be requested for any portion of costs for that phase of design, until after the project has been established by the SPWB.

All costs to be reimbursed from state financing must be identified in the Proposal Form – Budget Summary Table. The maximum amount of state financing that can be requested by individual counties within a proposal submittal is limited to 90 percent of the total project costs, up to the amount of the project caps listed above. Small counties may receive a reduction to the 10 percent contribution requirement following petition to the BSCC Board. However, in no case will the state financing exceed 95 percent of the total project costs, up to the amount of the project caps listed above.

County Contribution (Match) Requirements: All county contribution amounts must be identified in the Proposal Form – Budget Summary Table. The county contribution must account for all of the total project costs not included in the amount to be reimbursed from state financing (with the exception that in-kind costs/contribution are optional), and may be any combination of cash match and/or in-kind match.

It is recognized that with the requirement that all cash contribution amounts be reported for each budget line item in the Budget Summary Table, and that the project may experience some shifting of costs through the project duration, the county's overall contribution amount/percentage may change over the life of the project. Provided all requirements of this SB 1022 financing program are adhered to, that difference in the contribution amount will be accepted. Never will a project be allowed to drop below the required county contribution amounts. As a side note to this, there is no rating bonus for greater contribution amounts. Counties should estimate their budgets as realistically as possible. Budget review and reasonableness is an evaluation factor.

County contribution is subject to the following limitations:

Cash (Hard) Contribution: All county contribution amounts eligible to be claimed in the cash contribution must be reported in this category. The county cash contribution includes costs attributable to activities directly related to the project that are performed by consultants or contractors engaged to perform the specified services, as well as certain other construction-related project costs as specified below. Eligible cash contribution expenditures only include costs of:

1. Items eligible for state financing as previously indicated.
2. Project/Construction Management (for activities performed by consultants or contractors) prior to the establishment of the project by the SPWB.
3. Architectural programming and design (for activities performed by consultants or contractors) prior to the establishment of the project by the SPWB.
4. Preparation costs for full or focused environmental reports (for activities performed by consultants or contractors).
5. Off-site costs, including access roads and utilities development, outside of a reasonable buffer zone surrounding the perimeter of the (security) fence, project facility building and parking lot.
6. Public art.
7. Real estate due diligence costs as billed to the county by the state.
8. State Fire Marshal fees for plan review and inspections, as billed to the county by the state.
9. Audit of state interim or permanent financing at the conclusion of the project (for services performed by a contracted auditor).
10. Needs assessments (for activities performed by consultants or contractors).
11. Transition planning (for activities performed by consultants or contractors after June 27, 2012).

In-Kind (Soft) Contribution: All eligible amounts the county chooses to claim within its contribution must be reported in this category. Any reporting of in-kind costs is optional. The county in-kind contribution includes costs attributable to activities directly related to the project that are performed by county staff, as well as the current fair market land value of the project site, as specified below. Eligible in-kind contribution only includes:

1. Audit of state interim or permanent financing at the conclusion of the project (staff salary/benefits of independent county auditor).
2. Needs assessments (staff salary/benefits directly related to the project).
3. Current fair market land value supported by independent appraisal (on-site land only regardless of acquisition date). This can be claimed for on-site land value for new facility construction, on-site land value of a closed facility that will be renovated and reopened, or on-site land value used for expansion of an existing facility. It cannot be claimed for land value under an existing operational detention facility. If a

- county is not reporting land value as part of its in-kind contribution, an appraisal is not needed for purposes of this financing program.
4. County administration (staff salary/benefits directly related to the project for activities after June 27, 2012).
 5. Transition planning (staff salary/benefits directly related to the project for activities after June 27, 2012).

Ineligible costs which may not be attributed to state reimbursement, cash or in-kind contribution requirements include, but are not limited to: those project costs that are determined by the BSCC to be unreasonable or unnecessary; construction of other non-project related space such as courtrooms, department offices and county administrative complexes; facility personnel and operational costs, and related costs of supplies; costs outside the scope of the BSCC-approved project; bonus payments; debt service or interest charges; travel and per diem costs; temporary holding or court holding facilities; and jail or program facilities, or portions thereof, under a jurisdiction other than the county sheriff or department of corrections, as may be applicable. Counties must pay for ineligible cost items with supplemental funds not included in the county contribution. If applicants are unsure if an item is eligible as state reimbursable or county contribution, please contact BSCC staff before submitting a proposal. Any costs that are ineligible for purposes of this application, but necessary for the beneficial use and occupancy of the adult local criminal justice facility, shall be funded by the county through other means, and in such timely manner, so as not to interrupt or delay the occupancy and use of the facility.

Timing and Nature of State Financing and County Contribution/Match: The SPWB will not be able to establish the scope, cost and schedule of a project until the respective county demonstrates to the state's satisfaction that all county funds necessary to support the county cash contribution (match) requirement, will be available as necessary for the timely completion of the project. The state will only reimburse county costs attributable to identified eligible state project costs, and only after the start of construction, as approved by the state. Therefore, counties whose project budgets include state reimbursement for any eligible project design costs will not be able to seek reimbursement from the state for those eligible costs until the county has received approval from the state to award a contract to the construction contractor, and issued a notice to proceed to the contractor. At that point the county can request reimbursement of eligible state financed project costs accumulated to date. If the county does not enter into a contract with a construction contractor to construct the project, the county will not be reimbursed for the accumulated project costs.

The state will not finance county contribution amounts. In addition, county contribution funds cannot be provided from any fund source that is incompatible with the SPWB's lease-revenue bonds, as determined in the sole discretion of the SPWB. Of particular concern is a county financing mechanism that would use the proposed facility or any revenues from it as security for the county financing. Any county financing mechanism or funding source may have restrictions, terms or conditions that govern the use of funds, security, fiscal and disclosure obligations associated with that fund source. Commonly acceptable forms of county contribution funds are General Fund or special use funds.

Special use funds require submission of documentation demonstrating the fund source is legally authorized and the proposed project is a lawful use of the funds. Any proposed debt financing will require review by the SPWB on a case-by-case basis because the terms of the potential methods of financing can vary greatly.

County Fund Source Review: This section outlines the typical fund source review for projects. To ensure the county proposed fund source(s) is/are compatible with SPWB lease-revenue bonds, the state will analyze the specifics of the county fund source(s). To facilitate this review, counties will be required to provide information on the source of funds being used for their cash contribution (match). This submittal of county fund sources for state review will be required shortly after the county is conditionally awarded by the BSCC Board, unless the county is seeking the funding preference, in which case this information must be submitted with the county's proposal submission.

For those counties seeking the funding preference, the county fund source review will occur as outlined in the Funding Preference section of this RFP. All projects that are awarded but not defined as seeking/satisfying the preference criteria will be handled as described in this section. All projects, whether the county applied for the funding preference or not, will require a review of all county cash contribution before the project can be established by the SPWB.

PROPOSAL DUE DATE AND SUBMITTAL REQUIREMENTS

The proposal must be made utilizing the *SB 1022 Adult Local Criminal Justice Facilities Construction Financing Program – Proposal Form*, including any exhibits and/or attachments, complete with signature from a designated county official, along with the proposal narrative (to be attached as described later in this RFP). Additionally, all proposals must include:

- The original signed proposal (marked as "original") and 16 copies of the proposal. Each of the 17 proposals shall be clipped (not stapled); three-hole punched on the left side and two-hole punched at the top; printed on a single side only; and without covers, tabs or dividers. Each proposal shall be assembled so as to be easily photo-copied if needed.
- Two duplicate copies of a fully executed Board of Supervisors' resolution (as described in this RFP) must accompany each proposal submittal addressing all required points. Multiple resolutions collectively containing the necessary verbiage are acceptable. Photo copies are also acceptable.
- One copy of a formal needs assessment study per county applicant (as described later in this RFP) must also accompany the proposal submittal, pertinent only to projects proposing a new jail facility or adding 25 or more beds to an existing facility.
- All necessary documentation related to the funding preference criterion, as may be applicable.

Project proposals must be received at the BSCC office, 600 Bercut Drive, Sacramento, CA 95811 no later than 5:00 PM on October 24, 2013. Late

proposals will not be considered. A time-stamped copy of each proposal's first page will be available at the BSCC front desk.

At a future point after proposal submission, to be determined by the BSCC, each county will be required to provide an electronic or disc version of its proposal. BSCC will make contact with the designated project contact person with this request. This is not presently requested and should not accompany the proposal submission.

All proposals received under this program will be: 1) reviewed by BSCC staff for technical compliance with BSCC proposal submittal requirements (with opportunity given to counties to correct technical compliance deficiencies noted by staff before proposals are sent to the ESC for review); 2) reviewed and rated by the ESC; and 3) ranked by the ESC with conditional award recommendations provided to the BSCC Board. All documentation submitted in connection with satisfying the funding preference will be reviewed by the appropriate state agencies to determine whether the specified requirements have been fully satisfied. The BSCC Board may accept, reject, or change any ESC recommendations before providing its conditional awards and recommendations to the SPWB.

BSCC staff's review of the technical compliance requirements will include, but may not be limited to, verifying the following:

- project eligibility (county facility, or jail Type II, III or IV facility, or build-to-suit);
- state reimbursement requested is within project cap limits;
- state reimbursement requested is no more than 90 percent of total project costs, or 95 percent for small counties petitioning for a reduced county contribution amount;
- cost and budget summaries and bed number computations are free of mathematical errors;
- project timetable conforms to required timeframes for specific milestone activities;
- proposal form is in original format and signed;
- font size, number of narrative pages and spacing format is consistent with requirements;
- Board of Supervisors' resolution contains necessary components; and,
- a formal needs assessment study is submitted with the proposal if a new facility is proposed or 25 beds or more are being added.

During the ESC proposal review process, each applicant will be invited to make a brief scheduled presentation of their proposal to the ESC in Sacramento on December 4 – 6, 2013. Although not required, this presentation period is intended to provide applicant counties with the opportunity to answer any questions the ESC may have about the proposed project. Presentations shall be done by county officials and not by consultants. (A county's hired consultants may be in attendance to assist the county as needed.)

TECHNICAL REQUIREMENTS REVIEW OF DRAFT PROPOSAL

It is anticipated that BSCC staff will be available to provide a limited technical review of the draft proposals anytime up to two weeks before the submittal deadline to determine if the draft proposal complies with the technical requirements. Draft proposal reviews are not required. Reviews are informal in nature, non-binding and limited to staff assessment of compliance with state requirements. Staff can make no judgment as to the merit of draft proposals or how proposals will be evaluated by reviewers.

GENERAL CONSIDERATIONS

Build-to-Suit: The SB 1022 legislation permits a build-to-suit arrangement that allows a private developer to purchase land and complete design and construction of a project as specified by a county. The facility would be expected to meet all applicable state regulations, as with any other construction project. The county would be responsible for making the purchase from the developer, and then seeking reimbursement from the state.

The most likely approach to a build-to-suit arrangement compatible with this financing program involves the county entering into a lease arrangement with the developer who owns or will purchase land for this construction project, and will provide the upfront financing for the design and construction of the facility. This will require initial approval and an agreement between the county and the SPWB. The county's lease agreement with the developer would likely have various purchase options, or points in time, when the county could make the purchase from the developer. The county would be responsible for paying rent to the developer once construction is complete and the facility is occupied by the county. When the county determines it is ready to make the purchase of the land and facility from the developer, the county would seek approval from the SPWB, and then make the purchase after this approval has been received. The purchase would then be eligible for state reimbursement, assuming appropriate state approvals are in place.

Counties proposing to utilize a build-to-suit arrangement for their facility construction shall meet the required milestones as outlined in this RFP for site assurance, design, notice to proceed (construction start) and occupancy. In this scenario a county will not have site ownership within 90 days as required for the site assurance requirement; however, the county will be required to provide a complete, detailed and unexecuted copy of the lease agreement intended to be used between the county and the developer. The SPWB reserves the right to edit the agreement as necessary to facilitate the state financing.

Needs Assessment Study/Letter of Intent: One copy of a formal needs assessment study, containing all required data elements as defined in Title 24, CCR, Section 13-102 (c) 2, must be submitted concurrent with the proposal if a county proposes to construct a new jail facility, or add 25 or more beds to an existing facility. Proposals fitting this description that are submitted without a needs assessment study will be rejected. The needs assessment study must

reflect current needs and through the year 2014; this can be an update of a previous needs assessment study. The needs assessment study must support the project being proposed through this RFP process. Adding fewer than 25 beds to existing facilities does not require a separate needs assessment study, but does require a comprehensive targeted summary of need to be provided in the proposal narrative. Proposals submitted to the BSCC will be considered a Letter of Intent to build, expand or remodel a facility as required by Title 24, CCR, Section 13-102 (c) 1.

Site Assurance for Adult Local Criminal Justice Facilities: Counties must possess a suitable project site (fee simple land title or comparable long term possession) and provide assurance by Board of Supervisors' resolution at the time a proposal is submitted, or not later than 90 days following the date of notification by BSCC of the conditional award for financing. This means that any land purchase options must be exercised (and escrow closed) within 90 days following the notification of conditional award. The project site must be suitable for lease-revenue financing as determined in the sole discretion of the SPWB from the results of the real estate due diligence review.

An exception to the aforementioned is related to counties that are following a build-to-suit arrangement with their proposal. For these proposals only, site assurance shall be accomplished by the county providing a complete, detailed and unexecuted copy of the lease agreement intended to be used between the county and the developer.

Real Estate Due Diligence: The state will conduct its own real estate due diligence review of a county's proposed project site. Counties conditionally awarded under this SB 1022 process must submit the completed real estate due diligence package within 120 days from notice of award. (Counties seeking to satisfy the real estate due diligence criterion in the funding preference must follow the requirements outlined in the Funding Preference section of this RFP.) This package includes, but is not limited to, all work related to establishing site ownership and title absent liens, encumbrances, property easements, etc.; and ground/soil analysis, topography, hydrography, environmental impacts and other identified site related issues. This review will confirm that the county's property interest in the site is sufficient to support the state's lease-revenue bond financing and that no exceptions or limitations exist (either recorded or unrecorded) that would interfere with the state's right to beneficial use and occupancy of the facility so long as the bonds are outstanding. Any necessary costs incurred by the state for appropriate title review will be charged to the county. An estimated average cost to counties is \$16,000. (See the BSCC website for the County Real Estate Due Diligence Checklist.)

Environmental Requirements: For purposes of this financing program, counties are the lead agency for ensuring that the project complies with the necessary provisions of the California Environmental Quality Act (CEQA) process prior to the start of construction. Counties must submit to the BSCC documentation evidencing compliance with CEQA, and certification from county counsel that the litigation period expired without challenge. If there was a challenge(s), the letter from county counsel must acknowledge the challenge(s),

including the nature of the challenge(s), and provide documentation evidencing the challenge(s) has been completely resolved in a manner that allows the project to move forward as proposed.

Commitment to Staff and Operate the Facility: Counties must commit to staffing and operating the facility in accordance with state standards, as may be applicable, within 90 days of construction completion. Counties must further agree to operate, maintain and repair the facility at least until the state bonds are fully repaid.

Regional Facilities: Counties desiring to construct a regional adult local criminal justice facility for the purpose of serving adult county offenders from multiple counties, must submit one single proposal from the lead county in which the project is being constructed. Data and information relevant to each partner county must be reflected in the lead county's proposal, justifying the project size and components, and clarifying how this regional approach is beneficial. The lead county's size determines the project cap amount that is the maximum amount of state financing the county can request and whether the county can petition for a reduced minimum contribution amount. For proposals seeking the funding preference, as described in the Funding Preference section of this RFP, it is incumbent upon the lead county to meet the preference requirements.

The proposal must include a county Board of Supervisors' resolution from each respective county in the partnership and a copy of a Memorandum of Understanding (MOU) between the partner counties. The agreement must clearly identify the terms, conditions, rights, responsibilities and financial obligations of all parties in sufficient detail that demonstrates that the regional facility will serve or confine offenders from all partner counties.

Although the state will require partnering counties to enter into an MOU, the lead county will be considered the operator of the site/facility and will be the designated participant in the state financing program. All counties in a regional facility will potentially be subject to any and all requirements of the lead county, including but not limited to, all project documents and bond documents necessary in this financing program and for the SPWB's lease-revenue bond financing, with the obligation to perform and complete construction, and provide the required county contribution (match). The county under the terms and conditions of all state/participating county agreements necessary in this financing program may enter into legal arrangements, as it deems appropriate, to ensure that its regional partners provide a portion of the funds to meet its county contribution requirements as outlined in the MOU. Notwithstanding any provision of any contract, agreement or MOU, the failure of any partner county to provide funds to the lead county does not relieve the lead county under state/participating county agreements from its construction and county contribution performance obligations.

The regional facility concept is not intended for counties choosing to: 1) overbuild their current needs; and/or 2) lease beds or other facility space to other entities for financial gain. The SB 1022 legislation (Government Code section 15820.926(b)) specifically states that any county adding housing capacity under

this program shall not lease housing capacity to any other public or private entity for 10 years beyond the completion date of this facility. Counties involved in a regional facility, entering into an MOU and complying with the criteria established in this RFP, are eligible provided the required assurance regarding not-for-profit is included in the Board of Supervisors' certification.

Certification – Leasing of Beds: The SB 1022 legislation (Government Code section 15820.926(b)) states that “Any county requesting to add housing capacity using this financing authority shall be required to certify and covenant in writing that the county is not and will not be leasing housing capacity to any other public or private entity for a period of 10 years beyond the completion date of the adult local criminal justice facility.” All projects that are constructing beds (constructing new, expanding or renovating) shall provide this required certification in Board of Supervisors' resolution accompanying the proposal submittal. This leasing restriction applies only to housing capacity added in an adult local criminal justice facility project using financing authorized in this SB 1022 financing program. For this purpose, “added” means newly constructed housing capacity, whether or not there is a net gain in beds. Specific certification language for the resolution is outlined in the Proposal Form – Board of Supervisors' Resolution section.

The purpose of the restriction on leasing beds is to ensure that counties are constructing public safety facilities that are necessary, and not to profit from state financing.

Pilot Projects: BSCC does not grant “variances” to state regulations. However, “pilot projects” and “alternate means of compliance” (both defined in Titles 15 and 24, CCR), may be proposed if counties seek BSCC approval to demonstrate or evaluate a new method to meet or exceed the intent of a regulation in an innovative way. There is no guarantee that the BSCC will approve any pilot project or alternate means of compliance request. If counties have any concerns about their ability to meet standards, or intend to request a pilot project or alternate means of compliance, please contact your county's BSCC-assigned facility inspector at the earliest possible time to discuss feasibility issues and options for proceeding before a proposal is submitted.

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

PROPOSAL EVALUATION FACTORS

The evaluation factors to be used and the maximum points that will be allocated to each factor are shown in the table below.

Rating Factors and Maximum Points

RATING FACTOR		MAXIMUM POINTS
1	Project Need	250
2	Scope of Work	200
3	Offender Management and Programming	250
4	Administrative Work Plan	100
5	Budget Review	200
Total Points:		1,000

The evaluation of each factor will be based on an assessment by the raters to the degree with which a proposal adequately addresses the minimum discussion points in a clear and comprehensive manner, and the extent to which overall statement of need is persuasive. (Information to be evaluated is provided in the Proposal Form – Narrative section).

BOARD OF STATE AND COMMUNITY CORRECTIONS CONSTRUCTION FINANCING PROGRAM

GENERAL OVERVIEW OF PROCESS AFTER NOTIFICATION OF CONDITIONAL AWARD FOR FINANCING

This section is intended to address general considerations for the time period following the notice from the BSCC Board of a conditional award. The next section – State Capital Outlay/Board of State and Community Corrections Process Details and Timing Requirements, provides a more detailed outline of the milestone requirements that counties must meet at various times throughout the financing process.

All construction proposed to be financed under this program must meet all of the requirements as identified in this RFP and enable facilities to: maintain compliance with safety and security considerations in facility operational standards as contained in Title 15, CCR; fire and life safety standards as contained in Title 24, CCR; and physical plant requirements, as contained in Title 24, CCR. If for any reason the proposed project is exempted from any state or local laws, regulations, ordinances, standards or requirements, counties must provide the BSCC a statement citing the appropriate exemption.

In addition to customary BSCC and State Fire Marshal (SFM) reviews and requirements, the SPWB and DOF (acting independently in some instances and as staff to the SPWB in others) exercise administrative oversight of the state capital outlay process. These requirements play a significant role in the financing of these construction projects with respect to approval and long-term possession of the facilities. This is addressed in detail in the following State Capital Outlay/Board of State and Community Corrections Process Details and Timing Requirements section.

BSCC Staff: A designated BSCC staff person will be assigned to each county/project after counties receive notice of conditional award. The assigned BSCC staff is the primary point of contact for county officials and is responsible for addressing questions or coordinating state responses to issues. The BSCC requires that county communication with the BSCC staff be done by county designated officials, not county contractors or consultants.

SFM Fees: Counties will be responsible for timely payment of all fees generated by the SFM on the county's project during design and construction. The total fees can vary between projects due to complexities of design and/or construction. Considering this variance, and the need to budget for this cost, counties should consider an approximate cost of \$35,000, recognizing the actual may be more or less than this amount. (This amount was derived from recent fee data.) This project cost must be captured in the county cash contribution (match) within the Budget Summary Table in the Proposal Form (see State Agency Fees line item). All SFM fees must be paid in full before BSCC will

release the retention being withheld by the state. (See Payment of Eligible State Share section for explanation of state's retention.)

Pre-Design Meeting: After a county receives notice of its conditional award to proceed in the state financing program, county officials and their architects are strongly encouraged to meet with BSCC staff and SFM staff at the BSCC offices in Sacramento for a pre-architectural design meeting in order to review BSCC and SFM requirements and answer questions specific to the county's proposed project.

Architectural Plan Submittals and Acceptance: Counties including design costs as state reimbursed costs, for one or more phases of design, may not proceed with that phase of the design process until after the project scope, cost and schedule are established by the SPWB. Furthermore, counties seeking reimbursement of working drawings/construction documents phase costs cannot proceed with the working drawings/construction documents phase until the county's preliminary plans/design development drawings have been approved by the SPWB and DOF. Additionally, design phase costs intended to be state financed will not be reimbursed until the county begins construction of the facility. If the county does not begin construction of the facility, the design phase costs will not be reimbursed.

For projects constructed via the design-bid-build method, sets of full-size (at least 1/8" scale) architectural drawings must be submitted to the BSCC for review at three sequential stages: 1) two sets at schematic design (30 percent complete and accompanied by an operational program statement as defined in Title 24, CCR); 2) three sets at design development (50 percent complete and accompanied by a preliminary staffing plan and operational and staffing cost statement); and 3) two sets at construction documents (100 percent complete). (After BSCC/SFM approval of construction documents, a SFM signed set of drawings must be submitted to the BSCC.)

For projects constructed via the design-build method, the following submittals to the BSCC/SFM are required: 1) two sets of performance criteria (or performance criteria and concept drawings) accompanied by an operational program statement (as defined in Title 24, CCR), and a preliminary staffing plan and operational and staffing cost statement, and 2) two sets of construction documents. (After BSCC/SFM approval of construction documents, a SFM signed set of drawings must be submitted to the BSCC.) Although not a requirement, counties are strongly encouraged to submit architectural drawings for review prior to reaching the construction document phase, to avoid the potential of costly changes. Counties should contact BSCC staff to discuss the additional plan reviews.

At each submittal stage, BSCC and SFM staff (separate state agencies) conducts independent architectural plan reviews for safety, security and compliance with regulations. Counties are encouraged to meet with BSCC and/or SFM staff for an on-site review meeting following each plan submittal. At each submittal stage, written responses are sent to the county. BSCC response time is generally within 45 days, and the SFM within approximately 60 days.

Review time may take longer. There is no cost to counties anticipated for BSCC services provided.

Sometimes counties may be required to make design changes necessary to comply with regulations or to remedy safety or security defects. The BSCC may also require changes in construction materials to enhance facility safety and security if materials proposed at the time of the final construction plans and specifications are not reasonable, essential and customary (as used statewide) for facilities of the same security level.

The schematic design submittal, or performance criteria (or performance criteria and concept drawings) submittal, is the first formal, official review point of construction plans. Any response to general or conceptual inquiries before this point does not constitute formal plan review or official acceptance by the BSCC or SFM.

Specific to the state capital outlay process, SPWB staff will review preliminary plans (design development) and working drawings (construction documents) for design-bid-build projects and performance criteria (or performance criteria and concept drawings) for design-build projects for consistency with the SPWB's previously approved project scope and cost. (Please see the General Definitions section of this RFP for the definitions of preliminary plans, working drawings, performance criteria and concept drawings.) Any SPWB concerns will be relayed to the counties by BSCC staff.

If the project budget includes any state reimbursements for design activities, the county may not commence any activities in the relevant phase(s) of design until after the SPWB establishes the scope, cost and schedule of the project. This means counties cannot proceed with a phase of drawings (schematic design, design development, construction documents, performance criteria, or performance criteria and concept drawings) wherein state reimbursement will be requested for any portion of that phase of design, until after the project scope, cost and schedule has been established by the SPWB.

Also note that if the project budget includes any state reimbursements for working drawings/construction documents phase costs, the SPWB and DOF must approve preliminary plans/design development drawings before the county can commence work on the working drawings/construction documents phase. For any project that includes any state reimbursement of the working drawings/construction documents phase costs, if the county commences any working drawings/construction documents phase activities before obtaining approval of preliminary plans/design development drawings from the SPWB and DOF, the entire state portion of the project financing will be forfeited and the state will not reimburse any county project costs.

Likewise, for projects utilizing a design-build project delivery method, if the project budget includes any state reimbursements for design-build phase costs, the SPWB and DOF must approve performance criteria or performance criteria and concept drawings before the county can commence work on the design-build phase. For any project that includes any state reimbursement of the design-build

phase costs, if the county commences any design-build phase activities before obtaining approval of performance criteria or performance criteria and concept drawings from the SPWB and DOF, the entire state portion of the project financing will be forfeited and the state will not reimburse any county project costs.

Project Bids: Note that for design-bid-build projects, the state capital outlay process requires state approval of working drawings/construction documents and proceeding to bid, as well as award of a construction contract(s) once bids are received. Likewise, for design-build projects the state capital outlay process requires state approval of performance criteria (or performance criteria and concept drawings) and proceeding to bid, as well as award of a design-build contract(s), once bids are received. All contract awards must be within the SPWB established scope, cost and schedule for the project. As part of the required project milestones, counties are required to receive DOF approval to award a construction/design-build contract, and subsequently issue a Notice to Proceed for construction, within 42 months of conditional award by the BSCC.

State/County Relationship Regarding Construction: The state's relationship with the county is in the form of the agreements stipulated in the State Capital Outlay/Board of State and Community Corrections Process Details and Timing Requirements section. The county's relationship with its construction contractor is in the form of a county Agreement for Construction contract. As such, the state is not contracting for facility construction. Counties are responsible for compliance with the requirements established by the local contracting authority, as well as compliance with county bidding and construction contracting rules and procedures. Resolution of bid disputes, or subsequent construction/design-build contract or consultant disputes, are the sole responsibility of the county. These same principals apply to project/construction management or architectural contracts.

Payment and Performance Bonding and Cost Scheduling: A county that receives state financing shall require its construction/design-build contractor to post payment and performance bonds, each of which shall be in an amount not less than 100 percent of the construction contract price. Construction contingency is limited to 10 percent of the accepted construction contract bid amount. If applicable, in all requests for payment, the contractor shall separately list work not eligible for reimbursement with state financing or payment with county contribution funds, and the county construction administrator shall identify such work for the contractor.

Payment of Eligible State Share: Payment will be made to counties in arrears (reimbursement) based on invoices/progress reports submitted to BSCC on a pre-determined basis. Counties may choose monthly, bi-monthly (every two months) or quarterly invoicing and reimbursement. This means counties will pay their respective contractors first and then submit reimbursement requests to BSCC. (With regards to retention being withheld by a county from its contractor's payment, in accordance with the Public Contract Code, the state will reimburse the county for the county's payments made to a third party escrow account for this retention purpose.) These invoices to BSCC are processed upon receipt, and

then forwarded to the appropriate state agencies for payment. The typical turn-around time for payment to counties after submittal of an invoice is approximately 30 to 60 days. As such, counties should plan for needed cash flow to support the project given the reimbursement basis.

At such time as 95% of the final amount of state reimbursed project costs, which amount may be less than the conditional award amount, have been expended, the state will withhold the remaining 5% as security to be released to counties upon compliance with all state/county agreement provisions including: final construction inspection and approval by appropriate state and local officials; payment of SFM fees in full; staffing and operating the facility within 90 days of construction completion; and state receipt and approval of the final audit report. In cases where project costs dictate the county is unlikely to draw 100% of the conditional award amount, the state will withhold 5% of the budgeted state dollars sooner, before 95% of the conditional award amount has been expended. The timing of the withhold shall be at the sole discretion of the BSCC, and will coincide with the point in time when it appears the project is nearing completion and there are approximately 5% of the state dollars remaining that are likely to be reimbursed to the county.

Accounting and Audit Requirements: Adequate supporting documentation must be maintained in accordance with generally accepted accounting principles (see *Accounting Standards and Procedures for Counties*, State Controller's Office, Division of Local Government Fiscal Affairs) and in such detail as will permit the tracing of transactions from support documentation, to the accounting records, to the financial reports and billings.

Counties that receive state financing must perform an audit of the project within 90 days following conclusion of the construction. The audit must be performed under the direction of a certified public accountant or a county internal auditor that is organizationally independent from the county's project financial officer and project management and accounting functions. The audit is to be performed in accordance with *Government Auditing Standards* (the "Yellow Book"), as promulgated by the Comptroller General of the United States and the contract requirements of the state. The auditor shall advise the county of any findings and recommendations. The final audit report shall be sent to the Board of Supervisors of the county and shall incorporate the county's response, and if needed, plans for corrective action. Two copies of the final audit report, including management letters and corrective action plans (if applicable) must be filed with the BSCC. The state may disallow (that is, deny both use of state financing and any applicable county contribution credit for) all or part of the cost of the activity or action determined to be ineligible and not in compliance with the terms and conditions of the various state financing agreements.

BOARD OF STATE AND COMMUNITY CORRECTIONS CONSTRUCTION FINANCING PROGRAM

STATE CAPITAL OUTLAY/ BOARD OF STATE AND COMMUNITY CORRECTIONS PROCESS DETAILS AND TIMING REQUIREMENTS

The SPWB and DOF are the principal state entities responsible for the oversight of most capital outlay projects undertaken by the State of California. The SPWB is empowered to issue lease-revenue bonds to finance and refinance the acquisition, design and construction of public buildings which have been authorized by the state Legislature. The Legislature authorized the SPWB to issue lease-revenue bonds for these adult local criminal justice facilities projects. This section outlines the state capital outlay process and the SPWB's and DOF's oversight requirements in this process, as well as BSCC specific requirements at various stages.

Since all of the state-financed adult local criminal justice facilities projects will go through the state capital outlay process, counties are encouraged to be familiar with the Local County Projects, Capital Outlay and State Public Works Guidelines. This document is designed to provide counties an understanding of the tasks necessary to proceed through the state's capital outlay process.

Counties must also be familiar with the various agreements that will be required between the county and state, and be authorized to execute these agreements as a condition of receiving state financing. Counties may be required to participate in key SPWB meetings and must provide supporting project documentation as requested by BSCC staff at various times throughout the duration of the project.

The Local County Projects, Capital Outlay and State Public Works Guidelines and forms of the above mentioned agreements are available on BSCC's website.

PROJECT SCOPE

The following information should be considered when determining project scope:

A fundamental concept in lease-revenue bond financing is the beneficial use and occupancy of the facility for its intended governmental purpose. The financed facility is identified, in part, through a metes and bounds legal description. Generally, in SPWB financings there is a 5 to 15 foot "buffer" that is part of the legal description of the proposed project. This would be the distance between the financed facility and other buildings on the site or security fencing from the property line. This guideline is unrelated to any building code requirement and may be altered given

particular site conditions. A proposed project with less than a 5 to 15 foot buffer will have to be evaluated on a case-by-case basis.

In addition to a “clean footprint” for inclusion in the financing leases, the issue of shared infrastructure may be a factor, e.g., electrical, water, sewer, HVAC, common areas, phone, etc. If a state financed adult local criminal justice facility is proposed to be “physically attached” to another structure by, for example, a corridor, there may be an issue of shared infrastructure with an adjacent building. Generally, all infrastructure components needed for the financed facility to fully function should be included in the footprint, i.e. the legal description should include a fully integrated facility.

Counties will be required to incorporate state seismic and fire and life safety requirements into the scope of their projects. For projects remodeling an existing facility, the existing facility must be brought up to current fire and life safety standards and meet or exceed a seismic level 3 performance standard as evaluated and determined by qualified and licensed structural engineers. If new construction is adding onto an existing facility, the existing facility is generally not required to be upgraded for fire and life safety or seismic standards if the new construction is seismically separate from the existing facility.

PROJECT TIMELINE

Throughout this process, counties will be required to submit various documents to BSCC for processing and approval through the BSCC, SPWB and DOF. Counties should build into their Project Timetable (Section 3 of the Proposal Form) adequate time for all of these activities and reviews to occur. The following tables contain information from the Local County Projects, Capital Outlay and State Public Works Guidelines. The tables are an attempt to provide counties with an overview of the activities and approximate timeframes required for a design-bid-build project and a design-build project. These timeframes include the review and approval processes required of the various state agencies, melding typical BSCC activities with those of SPWB.

All timeframes in the right-hand Approximate Duration column reflect the approximate time it takes from start to finish, and will vary based upon the circumstances of each county’s unique project. The timeframes provided are predicated on the state receiving required information from counties in a timely and complete manner and assumes that all activities within a Task are occurring simultaneously.

Due to many variables, an approximate timeframe was not provided for the completion of the real estate due diligence process. However, real estate due diligence must be completed before execution of the PDCA and/or approval of preliminary plans by the SPWB and DOF.

Of importance to this process is the requirement for counties to meet specific milestones within certain timeframes, an indication that the project is on a schedule for consistently moving forward from the time of conditional award by the BSCC Board (anticipated in January 2014). These specific milestones and related timeframe requirements are noted within the table under the Activity heading.

PROJECT TIMELINE – DESIGN-BID-BUILD

ACTIVITY	APPROXIMATE DURATION
Project Start-Up – Notices and Activities	4 months
BSCC notifies county of conditional award for project financing.	
County to submit site assurance to BSCC within 90 days of award.	
County to submit real estate due diligence package within 120 days of award.	
Task 1: SPWB Meeting – Project establishment (scope, cost and schedule) (to be completed within 18 months of award)	4 months
State development of project scope.	
County development of project schedule.	
County development of detailed cost estimate by phase (3-page estimate).	
Statement describing status of CEQA & status of any litigation.	
Due diligence approval letter from Department of General Services.	These activities are not necessarily completed as part of Task 1, but can be. They must be completed in concert with Task 2 and before Task 3.
Cash match approval.	
In-kind match approval.	
County signs Certification of Matching Funds.	
County signs PDCA and BSCC Agreement.	
BSCC Plan Review Submittal (within 24 months of award)	BSCC/SFM 8 weeks
County submits schematic design drawings & specifications to BSCC/SFM (with operational program statement for BSCC only).	
BSCC Plan Review Submittal	BSCC/SFM 8 weeks
County submits design development drawings & specifications/preliminary plans to BSCC/SFM (with staffing plan and analysis of anticipated operating costs for BSCC only).	
Task 2: SPWB Meeting – Preliminary Plan Approval (occurs after BSCC/SFM review)	6 weeks
Review of project scope.	
Review project schedule.	
Review of cost estimate (3-page estimate).	

Development of preliminary plan (design development) estimate.	
Documentation that CEQA is complete.	
Preliminary plans (design development) submittal.	
Task 3: SPWB Meeting – Consent to Ground Lease / Right Of Entry	2 months
Review of project scope.	
Review of project schedule.	
Review of cost estimate (3-page estimate).	
Meeting with DOF, SPWB Counsel, BSCC, DGS & county scheduled.	
County signs Ground Lease/Easement Agreement/Right of Entry.	
BSCC Plan Review Submittal	BSCC/SFM 8 weeks
County submits construction document drawings & specifications (working drawings), to BSCC/SFM for plan check/review and approval.	
Task 4: Pooled Money Investment Board – Loan Request	4 months
Certification that the County has satisfied all of the requirements set forth in statute for the financing of the project.	
Twelve month cash flow projection.	
Task 5: Finance Action to Approve Working Drawings and Proceed to Bid	6 weeks
Development of scope of bid package.	
Working drawings estimate reconciliation.	
Development of project milestone schedule.	
Review of project scope.	
Review of project schedule.	
Review of cost estimate (3-page estimate).	
Working drawings & specifications submittal.	
Task 6: Finance Action to Award Construction Contract (NTP within 42 months of award)	5 weeks
Updated cost estimate (3-page estimate).	
Bid tabulations.	
Updated project schedule.	
Board of Supervisors approval.	
Notice to Proceed/NTP (milestone – within 42 months of award)	

PROJECT TIMELINE – DESIGN-BUILD

ACTIVITY	APPROXIMATE DURATION
Project Start-Up – Notices and Activities	4 months
BSCC notifies county of conditional award for project financing.	
County to submit site assurance to BSCC within 90 days of award.	
County to submit real estate due diligence package within 120 days of award.	
Task 1: SPWB Meeting – Project Establishment (scope, cost and schedule) & Resolution Authorizing Interim Financing (to be completed within 18 months of award)	4 months
State development of project scope.	
County development of project schedule.	
County development of detailed cost estimate by phase (3-page estimate).	
Statement describing status of CEQA & status of any litigation.	
Due diligence approval letter from Department of General Services.	These activities are not necessarily completed as part of Task 1, but can be. They must be completed in concert with Task 2 and before Task 3.
Cash match approval.	
In-kind match approval.	
County signs Certification of Matching Funds.	
County signs PDCA and BSCC Agreement.	
Task 2: SPWB Meeting – Consent to Ground Lease / Right of Entry	2 months
Review of project scope.	
Updated project schedule.	
Updated cost estimate (3-page estimate).	
Meeting with DOF, SPWB Counsel, BSCC, DGS & county scheduled.	
County signs Ground Lease/Easement Agreement/Right of Entry.	
BSCC Plan Review Submittal (within 30 months of award)	BSCC/SFM 8 weeks
County submits performance criteria or performance criteria and concept drawings to BSCC/SFM (with operational program statement, staffing plan and analysis of anticipated operating costs for BSCC only).	
Task 3: SPWB Meeting – Approval of Performance Criteria or Performance Criteria and Concept Drawings (occurs after BSCC/SFM review)	1 month
Review of project scope.	

Updated project schedule.	
Updated cost estimate (3-page estimate).	
Development of preliminary estimate.	
Documentation that CEQA is complete.	
Performance criteria/concept drawings submitted.	
Task 4: Pooled Money Investment Board – Loan Request	4 months
Certification that the County has satisfied all of the requirements set forth in statute for the financing of the project.	
Twelve month cash flow projection.	
Task 5: Finance Action to Approve Request for Proposals	6 weeks
Development of scope of request for proposals.	
Development of project milestone schedule.	
Review of project scope.	
Review of project schedule.	
Review of cost estimate (3-page estimate).	
Request for proposals submitted.	
Task 6: Finance Action to Award Design-Build Contract (NTP within 42 months of award)	5 weeks
Review updated cost estimate (3-page estimate).	
RFP results.	
Review updated project schedule.	
Board of Supervisors approval.	
Notice to Proceed (NTP) for construction (milestone – within 42 months of award)	
BSCC Plan Review Submittal	8 weeks
County submits construction document drawings & specifications to BSCC/SFM for plan check/review and approval.	

AGREEMENTS

This section provides a framework of details for the various agreements necessary involving county and state entities for the adult local criminal justice facilities construction projects. These overviews are provided for the counties' benefit in an effort to better inform counties of the expected contractual nature of the types of agreements that will be required. Depending on the types of proposals and other unknowns, other individual, county specific agreements may be necessary. Forms of these agreements can be found on the BSCC's website.

1. Project Delivery and Construction Agreement

Parties: SPWB, BSCC and County

Purpose: Provides the necessary framework, agreements, covenants and obligations of the parties in order for SPWB to sell lease-revenue bonds (Bonds) to finance the construction of the jail facility.

Consideration: County's minimum 10 percent contribution (match) (unless County qualifies for and is granted a lower contribution (match) amount) of the total project costs in exchange for the state's reimbursement of up to 90 percent of the total project costs, conditioned on the requirements of the Project Delivery and Construction Agreement (PDCA) and the BSCC Agreement being met by County.

Terms: Required by Government Code section 15820.92, the PDCA will be entered into when the reimbursement resolution for state financing is adopted by the SPWB and terminates upon the later of 1) completion of construction, or 2) execution and delivery of the facility sublease, unless terminated earlier in accordance with its terms.

- The terms of the PDCA are driven largely by statutes, and the requirements necessary for SPWB to issue Bonds; the terms and conditions are designed to support lease-revenue bond financing and, as such, do not lend themselves to substantial negotiation.
- The adult local criminal justice facilities project is subject to the approval and administrative oversight of the SPWB and DOF.
- BSCC will act as liaison between the County and SPWB.
- The County agrees to indemnify and hold harmless the State of California for any and all claims and losses arising out of any breach by County of the PDCA, the operation, maintenance, use and occupancy of the jail facility, and the actions of county's contractors and subcontractors.
- County is obligated and assures state parties it will adhere to the terms of the PDCA, as well as the county's own procurement, bidding and construction laws, regulations and procedures with regards to the construction of the adult local criminal justice facility.
- County agrees to be the "agent" for BSCC and SPWB for purposes of acquiring, designing and constructing the adult local criminal justice facility.

2. BSCC Agreement

Parties: BSCC and County

Purpose: Sets forth the roles, responsibilities and performance expectations of the parties for the construction of the adult local criminal justice facility.

Consideration: County's minimum 10 percent contribution (match) (unless County qualifies for and is granted lower contribution (match)

amount) of the total project costs in exchange for the state's reimbursement of up to 90 percent of the total project costs, conditioned on requirements of the PDCA and the BSCC Agreement being met by County.

Terms: The BSCC Agreement is entered into concurrently with the PDCA and terminates at the completion of construction.

- The BSCC Agreement details roles and responsibilities of the participating county and the BSCC as it relates to the oversight of the Project.
- County agrees to indemnify and hold harmless the State of California for any and all claims and losses arising out of the acquisition, design or construction of the adult local criminal justice facility.
- County agrees to staff, maintain and operate the adult local criminal justice facility.
- The BSCC Agreement describes county's contribution (match) of total project costs, as well as its responsibility for construction cost overruns beyond the state's contribution and specifies the process and schedule for claiming state reimbursements.
- The BSCC Agreement sets forth the County's reporting and scheduling requirements during the construction period.

3. Ground Lease

Parties: BSCC and County with the consent of the SPWB and approval of DGS

Purpose: To place possession and control of the real property upon which the adult local criminal justice facility will be constructed with BSCC.

Consideration: Facilitates the state financing of an adult local criminal justice facility to be operated and maintained by County.

Terms: The Ground Lease will be entered into after the County has entered into the PDCA and only after the County has certified the site pursuant to Government Code section 15820.925(c)(1) and the SPWB has determined the site is adequate for purposes of financing in accordance with Government Code section 15820.92(a). These certifications will be based upon thorough research of both recorded and unrecorded interests in the property. The Ground Lease terminates only after all Bonds are paid.

- The Ground Lease must be adequate to support lease-revenue bond financing; by virtue of these limitations, the Ground Lease does not lend itself to substantial negotiation.
- Attached to the Ground Lease will be a metes and bounds legal description of the site and a simple diagram of the site, both with surveyor stamps or equivalent.
- The Ground Lease will be recorded.
- The site should not be encumbered by any liens or debt.

- Damages for default are limited to specific performance or money damages.
- The Ground Lease may require an associated Easement Agreement for Grants of Access, Utilities, and Repairs.
- The Ground Lease cannot be terminated as long as the Bonds are outstanding, even in the event of default.
- After all Bonds are paid, the Ground Lease will terminate.

4. Right of Entry for Construction and Operation

Parties: BSCC and County with consent of the SPWB and approval of DGS.

Purpose: Authorizes County and their contractors to use the site that has been leased to BSCC via the Ground Lease for construction related activities, as well as allowing the County to operate the facility if construction is completed prior to the sale of Bonds.

Consideration: Facilitates the County's construction of the SPWB financed adult local criminal justice facility.

Terms: The Right of Entry for Construction and Operation will be entered into concurrently with the Ground Lease. It will terminate when the Facility Sublease is entered into (when Bonds are sold).

- County agrees to indemnify and hold harmless the State of California for any and all claims and losses arising out of the construction of the adult local criminal justice facility.
- This is a standard document for Bond financing and does not lend itself to negotiation.

5. Site Lease

Parties: BSCC and SPWB

Purpose: Transfers control and possession of the adult local criminal justice facility site from BSCC to SPWB on which the financed adult local criminal justice facility is to be located (the "Site").

Consideration: BSCC provides the Site in order to enable the SPWB to issue its Bonds to finance the adult local criminal justice facility. In addition, the Site Lease provides for nominal monetary consideration.

Terms: The Site Lease is entered into when the Bonds are issued by the SPWB as part of a bond sale; the timing of the bond sale is determined by the SPWB in consultation with the California State Treasurer as agent of sale for the bonds. The timing of the sale is largely driven by federal tax law considerations. The Site Lease expires when all of the Bonds issued to finance the adult local criminal justice facility have been paid.

- This is a standard financing lease and not subject to negotiation.

6. Facility Lease

Parties: SPWB and BSCC

Purpose: The SPWB leases the Site and the project back to BSCC for the term of the Bonds and, subject to availability of use and occupancy, the BSCC agrees to pay rent and other related obligations.

Consideration: Rent is paid in exchange for the right to use and occupy the adult local criminal justice facility.

Terms: The lease term runs as long as the Bonds issued for the adult local criminal justice facility are outstanding but not to exceed 35 years.

- The Facility Lease is entered into when the Bonds are issued by the SPWB; the timing of the bond sale is determined by the SPWB in consultation with the California State Treasurer and is largely driven by federal tax law considerations.
- Subject to the availability of the adult local criminal justice facility for occupancy, BSCC has the right to occupy and use it and in return agrees to pay rent. The SPWB has the right to enter and inspect the adult local criminal justice facility subject to customary security procedures.
- BSCC promises it will not abandon the adult local criminal justice facility.
- BSCC has the obligation to maintain (both ordinary and extraordinary) the adult local criminal justice facility during the term of the Facility Lease (including the costs of ordinary wear and tear) and arrange for the payment of all utilities.
- BSCC may make additions, betterments or improvements to the adult local criminal justice facility in a manner that will not result in abatement of rental.
- BSCC is obligated to maintain property casualty insurance and rental interruption insurance.
- BSCC agrees to annually provide the SPWB and the State Treasurer updated information about private activity use within the adult local criminal justice facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.
- BSCC promises not to use or permit the use of the adult local criminal justice facility in any manner which would cause the bonds to be “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986.
- BSCC promises to obtain the consent of the SPWB to any assignment, subletting or transfer of its interest in the Facility Lease or any part thereof.
- In the event of breach by BSCC that goes uncured, the SPWB may evict BSCC and relet the adult local criminal justice facility.
- At the expiration of the Facility Lease (when all Bonds are paid), the property and improvements secured by the Facility Lease vest with BSCC. Concurrent with the termination of the Facility Lease, the

Ground Lease will also terminate and the property and improvements thereon vest with the County. BSCC will record any documentation necessary or desired to clarify the status of title.

- This is a standard financing lease and not subject to negotiation.

7. Facility Sublease

Parties: BSCC and County with the consent of the SPWB

Purpose: BSCC subleases the adult local criminal justice facility to the County for its use, operation and maintenance.

Consideration: Benefit to the state's public safety by addressing overcrowding and otherwise deficient adult local criminal justice facilities.

Terms: The Facility Sublease is entered into at the same time as, and with a term running concurrently with, the Facility Lease. Subject to the terms of the Facility Sublease, the County may use and occupy the adult local criminal justice facility.

- The Facility Sublease is subject to and subordinate to the Facility Lease.
- County promises it will not abandon the adult local criminal justice facility.
- County has the obligation to maintain (both ordinary and extraordinary) the adult local criminal justice facility during the term of the Facility Sublease (including the costs of ordinary wear and tear) and arrange for the payment of all utilities and applicable taxes or assessments. County must annually submit to SPWB and BSCC proof of its approved budget detailing the allocation of funds to maintain and operate the adult local criminal justice facility.
- Subject to the availability of the adult local criminal justice facility for occupancy, BSCC continues to pay rent under the Facility Lease.
- County may make additions, betterments or improvements to the adult local criminal justice facility in a manner that will not result in abatement of rental.
- BSCC will maintain the insurance policies required under the Facility Lease. County will maintain commercial general liability insurance and other insurance required by the SPWB or maintain an acceptable self-insurance program and provide proof of insurance to the SPWB and BSCC annually.
- County agrees to indemnify and hold the state harmless for any and all claims and losses accruing, resulting from or arising out of the County's use and occupancy of the adult local criminal justice facility.
- County agrees not to encumber the adult local criminal justice facility or otherwise subordinate its interest in the adult local criminal justice facility under the Facility Sublease.
- County agrees to annually provide BSCC, SPWB and the State Treasurer information about private activity use within the adult local

criminal justice facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.

- County promises not to use or permit the use of the adult local criminal justice facility in any manner which would cause the SPWB Bonds to be “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986.
- County promises to obtain the consent of the SPWB and BSCC to any assignment, subletting or transfer of its interest in the Facility Sublease or any part thereof.
- In the event of breach by County that goes uncured, BSCC may evict County and together with the SPWB may relet the adult local criminal justice facility.

**BOARD OF STATE AND COMMUNITY CORRECTIONS
CONSTRUCTION FINANCING PROGRAM**

GENERAL DEFINITIONS

“Adult detention facility” means a Type II, III, or IV county detention facility as defined in Title 24, CCR.

“Adult local criminal justice facility” means a facility or portion thereof which may include any custodial housing, reentry, program, mental health, or treatment space necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code, under the jurisdiction of the sheriff or county department of corrections.

“Beds” mean BSCC-rated beds that are dedicated to housing offenders in a jail facility's single and double occupancy cells/rooms or dormitories. Beds can also include special use beds for medical, mental health and disciplinary purposes. All beds must be planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, CCR (state standards for county detention facilities).

“Build-to-Suit” has the meaning ascribed to such term in the General Considerations – Build-to-Suit section of this RFP.

“Cash (hard) contribution (match)” means the county's cash contributed to the project by the applicant for eligible expenditures as identified in the Request for Proposals and as listed in the Project Delivery and Construction Agreement and the BSCC Agreement.

“Concept drawings” means, with respect to a design-build project, any drawings or architectural renderings that may be prepared, in addition to performance criteria, in such detail as the participating county determines necessary to sufficiently describe the participating county's needs.

“Construction” means the building of the BSCC-approved project by the successful bidder/contractor. Construction generally begins with site preparation/excavation and ends with the completion of the project and acceptance by the county.

“Construction bidding” means the county receiving and accepting a bid to complete construction of the project.

“Construction documents” means architectural plans and specifications that are 100 percent complete and generally include: completed specifications, with bid proposal documents; completed construction drawings; and special interest items (corrections, modifications or additions made to the documents). This term correlates with the SPWB term; see also – “working drawings.”

“Construction management” means a specialized, multidisciplinary function provided by a firm or individual acting as the county’s representative with the responsibility to guide the county through all phases of delivery of the construction project. Construction management is an eligible project cost for state financing.

“County Contribution,” in the context of this application, means, 1) the county’s cash dedicated to the project (cash match) by the applicant for eligible expenditures as identified in the Request for Proposals and as listed in the Project Delivery and Construction Agreement and the BSCC Agreement and 2) the value of personnel, land or services dedicated to the project (in-kind match) by the applicant for eligible expenditures as identified in the Request for Proposals and as listed in the Project Delivery and Construction Agreement and the BSCC Agreement.

“County Construction Administrator” is the county official designated by the Board of Supervisors to oversee construction and administer the project agreements with the state.

“Design development” means architectural plans and specifications that are 50 percent complete and generally include: outline specifications (detention hardware, equipment and furnishings); floor plans (to scale with dimensions, room designation, references, wall types and ratings); building sections (heights and dimensions); interior elevations; and, preliminary structural, mechanical and electrical drawings. This term correlates with the SPWB term; see also – “preliminary plans.”

“Financial plan” means arrangements by the county to fund its portion of the project cost, including reserves for cash flow during the construction period.

“In-kind (soft) contribution (match)” means the county contribution in the form of property value or management/administrative services contributed to the project by the applicant for eligible expenditures as identified in the Request for Proposals and as listed in the Project Delivery and Construction Agreement and the BSCC Agreement.

“Maximum security bed space” generally means those areas of a detention facility that are designed with multiple layers of security barriers and constructed for the housing of high security/high risk offenders. Maximum security housing usually holds offenders in single cells/rooms, but may involve double occupancy cells/rooms in certain situations. County security definitions vary and applicants should defer to county policy in categorizing bed space.

“Medium security bed space” generally means those areas of a detention facility designed with a single building security barrier that may be supplemented by an outside grounds perimeter security system monitored by facility staff. Medium security housing generally holds offenders in double or multiple occupancy cell/rooms or dormitories. County security definitions vary and applicants should defer to county policy in categorizing bed space.

“Minimum security bed space” generally means those areas of a detention facility with the lowest level of security barriers. Minimum security housing usually holds lower-risk offenders, typically in dormitory settings, and may or may not have a grounds perimeter security system monitored by facility staff. County security definitions vary and applicants should defer to county policy in categorizing bed space.

“Occupancy” means the placement and continued housing of offenders in a staffed and operational adult local criminal justice facility.

“Off-site” means outside of a reasonable buffer zone surrounding the perimeter of the security fence, adult local criminal justice facility and parking lot. Off-site costs (e.g., access roads, utilities development, etc.) are eligible as cash contribution.

“Operating cost analysis” means a 30-year analysis of anticipated operating costs (e.g. staff salary/benefits, transition team costs, utilities and maintenance) and the identification of, and revenue sources for, sufficient county funds needed to support the operation of the proposed facility. The operating cost analysis must be submitted for BSCC review with the design development plans and specifications. Following BSCC’s review, the county shall submit the operating cost analysis to the Board of Supervisors for review and approval.

“Operational program statement” means a description of the intended operation of a local jail. The operational program statement must be submitted for BSCC review and acceptance with the schematic design drawings and specifications.

“Performance criteria” means, with respect to a design-build project, the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site, the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the participating county’s needs; including documents prepared pursuant to paragraph (1) of subdivision (d) of Section 20133 of the Public Contract Code.

“Preliminary plans” means a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate, for each utility, site development, conversion, and remodeling project. The drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed. See also “design development.”

“Program space” means space in which offenders receive services in the form of programming or treatment to reduce recidivism or as an alternative to incarceration.

“Project Financial Officer” is the county official designated by the Board of Supervisors to be responsible for all financial and accounting related project activities.

“Project Contact Person” is the county official designated by the Board of Supervisors to be responsible for project coordination and day-to-day liaison work with BSCC.

“Schematic design” means architectural plans and specifications that are 30 percent complete and generally include: a site plan; floor plan; exterior elevations and cross sections; type of construction; and actual gross floor area.

“Special use beds” means beds for the purpose of appropriately housing offenders in medical, mental health or disciplinary rooms, cells or units that are planned and designed in conformity to the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Section 1231.

“Staffing plan” means an assessment and identification of staffing levels needed to operate the proposed project. The staffing plan shall include: staffing requirements under the proposed design capacity and shift and post identification of staff for the proposed facility, delineated by custody and support staff. The staffing plan must be submitted for BSCC review with the design development plans and specifications. Upon BSCC’s determination that the staffing plan complies with regulations, the county shall submit the staffing plan to the Board of Supervisors for review and approval.

“Supplant” means the use of cash match to replace funds otherwise dedicated or appropriated for construction activities.

“Working Drawings” means a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. See also “construction documents.”