



March 4, 2014

Ms. Kathleen Howard
Executive Director
Board of State and Community Corrections
600 Bercut Drive
Sacramento, CA 95811

RE County of Stanislaus SB 1022 Appeal

Dear Ms. Howard,

We are in receipt of the SB 1022 appeal from Stanislaus County. The County of Stanislaus is appealing the denial of Preference Criterion #3 based on "...BSCC's incorrect assumption that the County's documentation of CEQA was incomplete, thus denying the County certification that it had complied with Preference Criterion #3."

You have requested an explanation of what the Department of Finance (Finance) considered and analyzed in determining whether Stanislaus County should be awarded Preference Criterion #3.

Analysis

All submittals for SB 1022 funding were submitted to the Board of State and Community Corrections (BSCC) by October 25, 2013. Finance reviewed all requests for Funding Preference Criterion #3 based on what was required in the Request for Proposal (RFP). Page 18 of the RFP states:

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* (emphasis added), 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.)

Please see attached Exhibit 1 from county counsel John P. Doering certifying that a "Notice of Exemption for the County's SB 1022 project was approved at the County's Board of Supervisors on October 15, 2013. The attached Notice of Exemption was filed with the State Clearinghouse on October 16, 2013 and all related statutes of limitation will expire on November 21, 2013."

Because the county's documentation, which was submitted as required, clearly states that the statute of limitations had NOT expired at the time of submittal of the request, the CEQA criterion was not awarded to Stanislaus County. Had Stanislaus County filed the NOE earlier, they would have been able to provide the required evidence that "that CEQA compliance has been completed, and provide written certification that all statutes of limitation have expired without challenge (emphasis added), or the challenge(s) has been fully resolved."

Stanislaus County has provided additional information in the appeal that states that the CEQA for this project had been included in a larger project and appropriate environmental review had been done at that time. However, this information would not have met the specific requirements in the RFP. The only acceptable documentation for the CEQA criterion was a final Notice of Determination (NOD) or final Notice of Exemption (NOE). Finance staff reviewed the NOE that was submitted by Stanislaus County Counsel as noted above. And since that information indicated the expiration was at a future date, the criterion was not awarded.

There was no "technical review or clarification" requested from the county as the information originally submitted was clear on its face value.

If you have further questions, please call me at 916-324-0043



Karen Finn
Program Budget Manager

Attachment



STANISLAUS COUNTY COUNSEL
1010 Tenth Street, Suite 6400
Modesto, CA 95354
Phone: 209.525.6376
Fax: 209.525.4473

Exhibit 1

John P. Doering
County Counsel
Edward R. Burroughs
Assistant County Counsel

DEPUTIES
Thomas E. Boze
Vicki F. de Castro
Deirdre E. McGrath
Robin L. McIver
Alice E. Mimms
Maria Elena R. Ratliff
Carrie M. Stephens
Wm. Dean Wright

October 21, 2013

Board of State and Community Corrections
600 Bercut Drive
Sacramento, California 95811

Subject: Stanislaus County SB 1022 Application
Reference: Status of CEQA

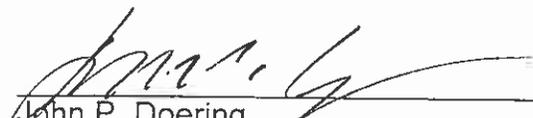
To Whom it May Concern:

This letter constitutes written certification by the County of Stanislaus of the following:

- The attached Notice of Exemption for the County's SB 1022 project was approved by the County's Board of Supervisors on October 15, 2013.
- The attached Notice of Exemption was filed with the State Clearinghouse on October 16, 2013.
- All related statutes of limitation will expire on November 21, 2013.

Should you have any questions regarding the foregoing, please do not hesitate to contact me at (209) 525-6376 or by e-mail at doringj@stancounty.com.

Sincerely,



John P. Doering
County Counsel

JPD:jw

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