

AB 900 Jail Construction Financing Program Frequently Asked Questions (New as of June 2010)

Q1. Is there a requirement for the county to obtain hard bids before bonds can be sold to finance the jail project?

R. The state has had minimal access to initiate lease revenue bond funded projects over the last couple of years. This is because loans from the Pooled Money Investment Board (PMIB), the previous source of funding to initiate lease revenue bond funded projects, have been very limited (only court-ordered projects have been approved for funding).

As the Red Team began discussions with the counties and the concerns regarding initial funding sources were raised, it appeared the only way to ensure the counties would receive funding was to commit to complete the sale of bonds earlier than was the normal process. As Department of Finance (Finance) staff began to investigate this option, it became apparent that the requirements that would be placed upon the counties by a lease revenue bond sale would be onerous, present investors with more risk (since projects would not be complete), and would be considerably more expensive for the state (which would be paying for the long-term costs).

As a result, Finance is looking more diligently to re-initiate loans with the PMIB until the projects are closer to occupancy. The ability to fund the jail projects with state loans will provide more certainty of completion prior to selling bonds. In the event the PMIB has not changed its policy, the Director of Finance could authorize General Fund loans which would ultimately be repaid with a loan from the PMIB or the sale of bonds.

Finance is committed to working with each county and their unique needs and project schedules to ensure that funds will be available when each county is ready and has fulfilled the balance of the Corrections Standards Authority (CSA) program requirements.

Q2. Is it permissible under the lease-revenue bond financing program for a county to “lease” a portion of their new jail beds to other counties, given that the county leasing the beds continues to staff and operate the facility/housing unit where the leased beds are located?

R. These leasing arrangements would require State Public Works Board (SPWB) consent. The primary consideration for SPWB is to ensure the tax-exempt status of the bonds is maintained by ensuring a limited amount of “private activity” in the leased asset. However, leasing the beds to other counties would not present a private activity concern and therefore the SPWB would not have concerns consenting to such a lease.

Q3. What role does the local Fire Marshal play in the plan review and approval process?

R. These local jail projects are state facilities until the debt for the lease-revenue bond financing is paid in full, therefore the State Fire Marshal is required by law to review jail design plans submitted at each of the three phases of drawings, schematic design, design development (preliminary plans), and construction documents (working drawings). The final set of construction documents will be stamped by the State Fire Marshal indicating final approval. It is however, required that the facility administrator consult with the local fire department having jurisdiction over the facility, with the State Fire Marshal, or both, in developing a plan for fire suppression, regular fire prevention inspections, evacuation and emergency inmate housing (Title 15, Section 1032).

Q4. What agency (state or local) reviews the plans for compliance with requirements relative to the Americans with Disabilities Act (ADA)?

R. During the plan check review, CSA will review the design plans for compliance with Title 15 and Title 24 California Code of Regulations, Minimum Standards for Local Detention Facilities. Counties should consult with their local building authority regarding ADA compliance issues.

Q5. Will CSA, Department of General Services (DGS), or both agencies be reviewing construction progress?

R. DGS does not have a role in reviewing construction progress. CSA will conduct intermittent visits to the county's construction site. The SPWB is the principal state entity responsible for the approval and oversight of the jail construction project. Therefore, Finance will review construction progress as reported by the county and CSA.

Q6. Will reviews of field progress constitute an inspection with corrective actions required?

R. CSA Field Representatives from the County Facilities Construction Division will make intermittent monitoring visits to the jail construction site. The primary purpose of these site visits is to verify that the construction progress is consistent with the approved schedule and scope of work, and to provide technical assistance to the county as needed. Any inconsistencies noted will need to be addressed with the county and may require SPWB approval. Upon construction completion an inspection of the jail facility will be conducted by the Facilities Standards and Operations Division for compliance with applicable Title 15 and 24 standards prior to the staffing and operation of the facility.

Q7. Following construction reviews, what documentation will the county receive which validates their continued eligibility in the program?

R. After each CSA site visit, the county will receive a copy of the monitoring report. The county continues to be eligible to participate in the jail construction financing program until terminated pursuant to the provisions in the Project Delivery and Construction Agreement.

Q8. Following design reviews, what documentation will the county receive which validates their continued eligibility in the program?

R. All SPWB and Finance actions are recorded on a standard "Form DF-14D" and transmitted to the California Department of Corrections and Rehabilitation (CDCR). CDCR/CSA will notify the county in writing after the Form DF-14D has been approved. CSA will provide a written report following review of each plan submittal, with written approval provided once plans appear to comply with Title 24 California Code of Regulations, Minimum Standards for Local Detention Facilities.

Q9. Are off-site utilities eligible for state funds?

R. No. As stated in the AB 900 Jail Construction Financing Program Request for Proposals (December 2007 and July 2009), ineligible costs for which state funds cannot be used include, but are not limited to off-site costs such as access roads, power generation and utilities development. These off-site costs are also not eligible as county matching funds.