

**TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 7**  
**2007 LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY**  
**CONSTRUCTION FINANCING PROGRAM**

**ARTICLE 1. GENERAL PROVISIONS**

**§ 1800. Purpose.**

The purpose of these regulations is to implement and specify [Chapter 1.5, Article 3 of Division 2.5 of the](#) Welfare and Institutions Code ~~Sections 1970 through 1976.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1970, 1971, 1972, 1973, 1974, 1975, ~~and~~ 1976, [1977, and 1978,](#) Welfare and Institutions Code.

**§ 1806. Definitions.**

The following words, where used in this subchapter, shall have the meaning hereafter ascribed to them in this article, unless the context of their use clearly requires a different meaning.

~~“2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program” means the requirements set forth in Chapter 1.5, Article 3 of the Welfare and Institutions Code to finance the construction of local youthful offender rehabilitative facilities.~~

“Administrative work plan” means a comprehensive plan for designing, performing and managing the proposed project.

“Applicant” means the participating county that is applying for financing through the ~~2007~~ Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“~~Authority~~[BSCC](#)” means ~~State Corrections Standards Authority~~[Board of State and Community Corrections](#), which acts by and through its Executive Director and representatives.

[“Architectural drawings” means full-size architectural renderings that shall be prepared at least 1/8 scale.](#)

“Board” means the State Public Works Board.

[“Board of State and Community Corrections agreement” also known as the BSCC agreement, means the written agreement and any amendments thereto which outline roles and responsibilities between the participating county and the BSCC as it relates to the oversight of the project.](#)

“Board of Supervisors’ resolution” means a written resolution by a County Board of Supervisors.

“CCR” means California Code of Regulations.

“CDCR” means the California Department of Corrections and Rehabilitation.

“Cash match” and “hard match” are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1814 of these regulations.

“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.

“Conditional award” means the maximum amount of state reimbursement a participating county may receive for a project through the Local Youthful Offender Rehabilitative Facility Construction Financing Program subject to or conditioned upon certain requirements including, but not limited to: 1) each participating county’s project must be approved by the BSCC and the Board at various stages throughout planning and construction as required by these regulations; 2) each participating county must enter into the state/county agreements as required by these regulations; and 3) the financing mechanism of lease-revenue bonds are able to be sold for each selected project.

~~“Conditionally award state bond funds” means that counties selected for financing through the 2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program will be awarded funds that are subject to or conditioned upon certain requirements including, but not limited to: 1) each county’s project must be approved by the Authority and the Board at various stages throughout planning and construction as required by these regulations; 2) each selected county must enter into the state/county agreements as required by these regulations; and 3) the financing mechanism of lease-revenue bonds are able to be sold for each selected project.~~

“Construction bid” means a construction bid price received for a design-bid-build project as a result of a publicly advertised request for bid from a qualified contractor.

“Construction documents” means architectural plans and specifications that are one hundred percent (100%) 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).

“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.

“County” means a legal subdivision of the State of California as defined in subsection (a) of Section 1 of Article XI of the California Constitution.

~~“County juvenile facility” means a county juvenile hall, juvenile home, ranch or camp, forestry camp, regional youth education facility, boot camp or special purpose juvenile hall as defined in Title 15, CCR, Division 1, Chapter 1, Subchapter 5, Section 1302 and Title 24, CCR, Part 1, Section 13-201. Pursuant to Section 1812, only county-owned and operated county~~

~~juvenile facilities or local youthful offender rehabilitative facilities are eligible for state bond financing. Temporary and court holding facilities are not eligible for state bond financing.~~

“Design-bid-build” means a construction procurement process independent of the design process and in which the construction of a project is procured based on completed construction documents.

“Design-build” means a construction procurement process in which both the design and construction of a project are procured from a single entity.

"Design capacity" includes all housing areas, even those specialized units that are not included in the rated capacity. It does not, however, include temporary holding rooms, such as those in the reception and booking areas of the facility. Design capacity is used in calculating costs per bed and square foot.

"Design development" means architectural plans and specifications that are fifty percent (50%) complete and generally include: outline specifications (detention hardware, equipment, and furnishings); floor plans (to scale with dimensions, room designations, references, wall types, and ratings); building sections (heights and dimensions); interior elevations; and preliminary structural, mechanical, and electrical drawings.

"Detention alternatives" means programming efforts designed to reduce juvenile facility crowding as well as recidivism among local offenders.

"EIR" means environmental impact report; a report as defined in the California Environmental Quality Act (CEQA) as implemented in Title 14, CCR, Public Resources Code, Sections 21000-21177.

"Evaluation and rating process" means the method by which each county's proposal will be evaluated using the criteria stipulated in ~~Sections 1812, 1814, 1830, 1831, and 1840 of these regulations.~~ ~~resulting in a rank ordered list for financing consideration.~~

“Facility administrator” means the chief probation officer or other official charged by law with the administration of a ~~county juvenile facility or~~ local youthful offender rehabilitative facility.

“Facility lease” means a lease-revenue bond financing document in which the Board leases the site and the Board-financed ~~county juvenile facility or~~ local youthful offender rehabilitative facility to CDCR for the term of the bonds and, subject to availability for use and occupancy, the CDCR agrees to pay rent and other related obligations.

“Facility sublease” means a sublease of the Board-financed ~~county juvenile facility or~~ local youthful offender rehabilitative facility from CDCR, with the consent of the Board, to a participating county, for its use, operation and maintenance, as described in Section 1854.

“Ground lease” means a lease between a participating county and CDCR, with the consent of the Board, to place possession and control of the real property upon which the Board-financed ~~county juvenile facility or~~ local youthful offender rehabilitative facility will be constructed ~~(the "site")~~ with CDCR as described in Section 1852.

“Hard match” and “cash match” are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

"In-kind match" and "soft match" are used interchangeably and mean local funds in the form of property value or management/administrative services ~~the cost of county-paid personnel, land, or services~~ dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

“Interim Financing” is a loan or loans that the CDCR and the Board obtain for the state’s share of the project and which may be obtained pursuant to: (i) Sections 16312 and 16313 of the California Government Code (Pooled Money Investment Board loans), (ii) Section 15849.1 of the California Government Code (General Fund loans), or (iii) any other appropriate source.

"Large county" means a county with a general county population from 700,001 and above as ~~provisionally~~ estimated by the State Department of Finance for July 1, 2007, and January 1, 2014.

“Lease-revenue bonds” and “state bond ~~funds~~financing” are interchangeable and means lease-revenue bonds issued by the State Public Works Board for local youthful offender rehabilitative ~~local juvenile~~ facilities as authorized in Chapter 1.5, Article 3 of Division 2.5, of the Welfare and Institutions Code, as may be amended from time to time.

“Local Youthful Offender Rehabilitative Facility” means a juvenile facility, as defined in Minimum Standards for Juvenile Facilities, California Code of Regulations Title 15, Section 1302, Definitions. This term also applies to county operated/owned facilities meeting applicable Title 15 and Title 24 regulations in which programs take place and/or are provided for the purpose of the rehabilitation of youthful offenders. Local youthful offender rehabilitative facilities may include non-secure program space.

“Local Youthful Offender Rehabilitative Facility Construction Financing Program” means the requirements set forth in Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code to finance the construction of local youthful offender rehabilitative facilities.

“Match” means local funds in the form of cash, property value, or management/administrative services contributed by a county on a state bond ~~funded~~ financed project in the ratio described in Section 1814.

"Medium county" means a county with a general county population from 200,001 to 700,000 as ~~provisionally~~ estimated by the State Department of Finance for July 1, 2007, and January 1, 2014.

“Needs assessment study” means a compilation of data that substantiates and justifies the scope of the ~~new county juvenile facility or local youthful offender rehabilitative facility or the project that expands the rated capacity of a current facility~~ proposed to be funded through the ~~2007~~ Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Net gain in beds” means the number of beds (rated capacity and special use beds) to be added (if any), minus the number of existing beds (rated capacity and special use beds) to be

eliminated in the county (if any) as a result of the project constructed through the ~~2007~~-Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Operational program statement” means a description of the intended operation of a ~~county juvenile facility or~~ local youthful offender rehabilitative facility proposed to be ~~funded~~-financed through the ~~2007~~-Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Participating county,” ~~as defined in Welfare and Institutions Code Section 1970,~~ means any county, or regional consortium of counties, within the state that has been certified to the Board by the CDCR as having satisfied all of the requirements set forth in Chapter 1.5, Article 3, of Division 2.5 of the Welfare and Institutions Code ~~Sections 1970 and 1975 respectively,~~ for financing ~~the construction or renovation of a county juvenile facility or~~ local youthful offender rehabilitative facility pursuant to ~~those that~~ chapters.

“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.

“Project” means the construction, expansion or renovation of a ~~county juvenile facility or~~ local youthful offender rehabilitative facility proposed to be ~~funded~~-financed by through the ~~2007~~ Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Project delivery and construction agreement” means the written agreement and any amendments thereto between the Board, the CDCR, the ~~Authority~~BSCC, and the participating county supplying the terms, provisions, and conditions governing the delivery of the project, as well as other supplemental terms and conditions that are deemed necessary to the project by the Board as described in Section 1848.

“Proposal” means the document prepared by a county, or two or more counties if a common ~~application~~proposal, by which a request is made to participate in the ~~2007~~-Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Proposal evaluation criteria” means criterion by which proposals will be rated for financing through the ~~2007~~-Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Rated capacity” means the number of detainee occupants, as determined by the ~~Authority~~BSCC, for which a facility’s single and double occupancy rooms or dormitories (excluding those areas dedicated for medical or mental health care or disciplinary isolation

housing), were planned and designed in conformity with the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and ~~Chapter 12~~Part 2, Section 1230.

“Regional consortium of counties” means two or more counties bound together by a memorandum of understanding or a joint powers agreement identifying the terms, conditions, rights, responsibilities, and financial obligations of all parties.

“Renovation” means major upgrading, enhancing, remodeling or reassigning of space with the primary objective to improve safety, security and functional use (including rehabilitative program use) and extend the useful life of the facility.

“Round One” means the process and award of financing within the Local Youthful Offender Rehabilitative Facility Construction Financing Program pursuant to the request for proposals issued July 15, 2008.

“Round Two” means the process and award of financing within the Local Youthful Offender Rehabilitative Facility Construction Financing Program pursuant to the request for proposals issued September 12, 2014.

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

“Scope of work and project impact” means a description of the project and the impact the project will have on the county’s juvenile detention system.

“Site” means the property on which the ~~Board-financed county juvenile facility or~~ local youthful offender rehabilitative facility is located, including a buffer zone. Roadways or areas serving functions other than the ~~local youthful offender rehabilitative facility~~ juvenile facility shall not be considered part of the site.

“Small county” means a county with a general county population of 200,000 or fewer as ~~provisionally~~ estimated by the State Department of Finance for July 1, 2007, and January 1, 2014.

“Soft match” and “in-kind match” are used interchangeably and mean ~~the cost of county-paid personnel, land, or services~~ local funds in the form of property value or management/administrative services dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

“Special use beds” means beds for the purpose of appropriately housing detainees in medical, mental health or disciplinary rooms or units that are planned and designed in conformity to the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and ~~Chapter 12~~Part 2, Section 1230.

“Staffing plan” means an assessment and identification of staffing levels needed to operate the proposed project.

“State bond ~~fund~~financing” and “lease-revenue bonds” are used interchangeably and mean lease-revenue bonds issued by the State Public Works Board for ~~county juvenile facilities or~~ local youthful offender rehabilitative facilities as authorized in Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code, as may be amended from time to time.

“State reimbursements” are payments made to the county by CDCR to reimburse the county for project costs which were deemed eligible for state financing.

“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.

~~“Youthful offender rehabilitative facilities” mean county-owned structures including non-secure bed/program space meeting applicable Title 15 and Title 24 regulations in which county-operated programs take place for the purpose of the rehabilitation of youthful offenders.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1970, 1971, 1972, 1973, 1974, 1975, ~~and~~ 1976, 1977, and 1978 Welfare and Institutions Code.

## ARTICLE 2. ELIGIBILITY REQUIREMENTS

### § 1812. Eligibility Requirements.

- (a) To be eligible for participation in the ~~2007~~-Local Youthful Offender Rehabilitative Facility Construction Financing Program, a county shall:
- (1) Submit the required proposal described in Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;
  - (2) If building a new ~~county juvenile facility or~~ local youthful offender rehabilitative facility or expanding the rated capacity of a current ~~county juvenile~~-facility, complete or update a needs assessment study as prescribed in Section 1831 of these regulations;
  - (3) Provide match as specified in Section 1814 of these regulations; and
  - (4) Provide a copy of a signed Board of Supervisors’ resolution as specified in Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two.
- (b) If the conditions in subsection (a) of this regulation are met counties may apply for ~~financing reimbursement~~ for the following:
- (1) Costs of construction of the ~~Authority~~BSCC-approved ~~county juvenile facility or~~ local youthful offender rehabilitative facility project including site preparation, fixed equipment and fixed furnishings, and installation of fixed equipment and fixed furnishings necessary for the operation of the facility, not to exceed seventy five percent (75%) of the total project costs. Costs in excess of these levels, including higher than expected construction bids, unanticipated costs, cost overruns, and costs of moveable equipment and moveable furnishings, shall be funded by the county.
- (c) Projects or items not eligible for state ~~bond-financing~~reimbursement under these regulations shall include, but not be limited to, the following:

- (1) Temporary holding or court holding facilities.
- (2) ~~Local~~ juvenile facilities or portions thereof operated by jurisdictions other than counties. City, state and federal facilities are not eligible ~~for financing~~.
- (3) Purchase, lease, or rent of land; personnel or operational costs; construction management; architectural programming and design; environmental reports; soil and/or water contamination assessment/mitigation; excavation of burial sites; moveable equipment and moveable furnishings; public art; off-site costs including access roads, power generation and utilities development; costs attributable to county building permit fees and/or building code inspection fees; supplies; bonus payments; and debt service or interest payments on indebtedness required to finance the county's share of project costs.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1975 and 1976, Welfare and Institutions Code.

### **§ 1814. Matching Fund Requirements.**

- (a) Participating county matching funds for projects proposed to be ~~funded~~ financed under these regulations shall be a minimum of twenty-five percent (25%) of the total project costs pursuant to Welfare and Institutions Code Section 1976.
- (b) The AuthorityBSCC may reduce matching fund requirements for participating counties with a general population ~~below of~~ 200,000 or fewer upon petition by a participating county to the AuthorityBSCC requesting a lower level of matching funds pursuant to Welfare and Institutions Code Section 1976.
- (c) Cash match must be at least 10 percent (10%) of total eligible project costs for large counties and at least 5 percent (5%) of total eligible project costs for medium and small counties.
- (d) Expenditures eligible as cash match shall include those for:
  - (1) Costs of construction of the AuthorityBSCC, CDCR and Board-approved ~~county juvenile facility or~~ local youthful offender rehabilitative facility project;
  - (2) Architectural programming and design by consultants or contractors;
  - (3) Preparation of full or focused environmental reports by consultants or contractors; ~~and~~
  - (4) Construction management by consultants or contractors;
  - (5) Costs of real estate due diligence, State Fire Marshal fees, and fees associated with other necessary state services; and
  - (6) Costs to audit the state bond financed project by consultants or contractors.
- (e) In-kind match cannot exceed 15 percent (15%) of total eligible project costs for large counties and cannot exceed 20 percent (20%) of total eligible project costs for medium and small counties.
- (f) Expenditures eligible as in-kind match shall include those defined above as eligible cash match expenditures, plus the following:
  - (1) Costs to audit the state bond financed project ~~including by~~ staff, including salary/benefits of independent county auditor ~~or services of a contracted auditor~~;
  - (2) A needs assessment study (or studies where applicable);
  - (3) Site acquisition cost or current fair market value supported by an independent appraisal of on-site land cost/value of new facility construction, or on-site land cost/value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. Costs cannot be claimed for land that is under an existing operational county ~~juvenile~~ facility;

- (4) County administration where the staff salary/benefits are directly related to the construction project; and,
  - (5) Transition planning, including staff salary/benefits and consultant activities directly related to the construction project.
- (g) To qualify as match, local expenditures must be directly for the project ~~funded by the Authority~~.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1975 and 1976, Welfare and Institutions Code.

**ARTICLE 3. ~~APPLICATION PROPOSAL~~ TO PARTICIPATE IN ~~2007~~-LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY CONSTRUCTION FINANCING PROGRAM**

**§ 1830. Proposal For Round One**

- (a) The proposal will be submitted on the 2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program Proposal Form, dated July 15, 2008, attached to the Request for Proposals Construction, Expansion or Renovation of County Juvenile Halls and Camps and incorporated into these regulations by reference herein. This is an interactive form to be completed by counties electronically, printed and submitted as the project proposal along with other required documents as attachments. The form can be accessed through the ~~Authority~~BSCC's website at ~~http://www.cdcr.ca.gov/Divisions\_Boards/CSA/~~<http://www.bscc.ca.gov>. It is also available to the public upon request directly from the ~~Authority~~BSCC's business office in Sacramento, CA.
- (b) Proposals shall consist of, but not be limited to, the following:
  - (1) A signed Board of Supervisors' resolution authorizing submission of the proposal for financing with designated state bond financing;
  - (2) A description of the project need;
  - (3) An estimated budget for the project, which must ~~include identifying~~identify the amount of state bond ~~funds~~-financing requested and the local match to be provided; and,
  - (4) A description of the proposed scope of work for the project including project impact, (i.e., number of beds to be added if any; and how renovation will improve the facility,) a construction and administrative work plan, and an estimated timetable for completion of major phases of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1830.1 Proposal For Round Two.**

- (a) The proposal will be submitted on the 2014 Local Youthful Offender Rehabilitative Facility Construction Financing Program Proposal Form, dated September 12, 2014, attached to the Request for Proposals Construction, Round Two Construction of Local Youthful Offender Rehabilitative Facilities, and incorporated into these regulations by reference herein. This is an interactive form to be completed by counties electronically, printed and submitted as the project proposal along with other required documents as attachments. The form can be accessed through the BSCC's website at <http://www.bscc.ca.gov>. It is also available to the public upon request directly from the BSCC's business office in Sacramento, CA.

(b) Proposals shall consist of, but not be limited to, the following:

- (1) A signed Board of Supervisors' resolution authorizing submission of the proposal for financing with designated state bond financing, including the set aside of matching funds;
- (2) A description of the project need;
- (3) Documentation evidencing compliance with the California Environmental Quality Act, or status of CEQA certification including a Notice of Determination or Notice of Exemption;
- (4) An estimated budget for the project, which must identify the amount of state bond financing requested and the local match to be provided; and,
- (5) A description of the proposed scope of work for the project including project impact, (i.e., number of beds to be added if any; and how renovation will improve the facility,) a construction and administrative work plan, and an estimated timetable for completion of major phases of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1831. Needs Assessment Study.**

Any county or regional consortium of counties intending to construct a ~~county juvenile facility (as defined in Title 15, CCR, Division 1, Chapter 1, Subchapter 5, Section 1302 and Title 24, CCR, Section 13-201) or a~~ local youthful offender rehabilitative facility or expand the rated capacity of a current ~~county juvenile~~ facility shall complete a needs assessment study pursuant to Title 24, CCR, Part 1, Section 13-201(c)2. The needs assessment study shall be submitted with the proposal.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1840. Proposal Evaluation Criteria For Round One.**

Pursuant to Welfare and Institutions Code Section 1975, the criteria by which the proposals shall be rated shall include the following:

- (a) Approach to the rehabilitation of juvenile offenders;
- (b) Documentation of need for the project;
- (c) Relationship between construction plan and rehabilitation of juvenile offenders;
- (d) Detention alternatives;
- (e) Scope of work and project impact;
- (f) Administrative work plan;
- (g) Cost effectiveness/budget review;
- (h) Overall quality of written proposal;
- (i) Cash match; and,
- (j) Proposed regional facilities.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

## § 1840.1 Proposal Evaluation Criteria For Round Two.

Pursuant to California Welfare and Institutions Code Section 1975, the factors by which proposals will be assessed shall include the following:

- (a) The proposed project;
- (b) Need for new and/or renovated facility and/or program space;
- (c) Method of youthful offender rehabilitation;
- (d) Cost effectiveness;
- (e) Readiness to proceed;
- (f) Administrative work plan; and,
- (g) Overall project evaluation.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

## **§ 1847. ~~Pre-financing Requirements~~ Steps to Proceed with Construction for Design-Bid-Build Projects.**

- (a) Prior to a participating county receiving state bond ~~fund~~ financing, the Authority BSCC shall ensure that the county is ready to proceed with construction. A participating county shall be deemed ready to proceed with construction when it has done all of the following:
- (1) Met all the requirements in the proposal pursuant to Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;
  - (2) As required in Section 1849, obtained compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and ~~Chapter 12~~ Part 2, Section 1230 and the fire and life safety requirements in Title 24, CCR, Part 2, Volume 1, Chapter 4, Section 408;
  - ~~(3) Filed with the Authority a summary of construction bids received, including a statement explaining to which contractor the bid was awarded and why, and a copy of the notice to proceed issued to its contractor;~~
  - (3) Obtained confirmation that CDCR has received the following:
    - (A) Establishment of the scope, cost and schedule of the project by the Board;
    - (B) Approval of preliminary plans by the Board and the State Department of Finance;
    - (C) Approval of working drawings by the State Department of Finance;
    - (D) Approval of proceeding to bid by the State Department of Finance; and,
    - (E) Approval of construction bid award by the State Department of Finance.
  - (4) Filed with the Authority BSCC a schedule of values of expected ~~financing from~~ state ~~bond funds~~ reimbursements, cash match, and in-kind match and other budget items, along with a construction schedule, project management plan, and names, roles and contact information of key county personnel;
  - (5) Filed with the Authority BSCC a financial plan detailing arrangements to provide its portion of project costs, including reserves for cash flow, source of matching funds, and a schedule of anticipated match expenditure that is at least proportional to the expenditure of costs that are proposed to be reimbursed by the ~~financing of~~ state ~~bond funds~~;
  - (6) Filed with the Authority BSCC a statement citing any exemptions from federal laws, state or local laws, regulations, ordinances, standards, or requirements;

- (7) Filed with the ~~Authority~~BSCC ~~a final notice of determination on its environmental impact report~~documentation of California Environmental Quality Act compliance;  
and,
- (8) Filed with the ~~Authority~~BSCC a written certification, that the county has control of the site, either through fee-simple ownership or comparable long-term possession ~~(minimum of a 40 plus year site lease or use permit),~~ and right of access to the facility sufficient to assure undisturbed use and possession.~~;~~and,
- ~~(9) Certified to the CDCR and the Authority that the Board has determined that the ownership interest of the participating county of the site or sites for the project is adequate for the purposes of its financing of the project pursuant to Welfare and Institutions Code Section 1971.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

### § 1847.1. Steps to Proceed with Construction for Design-Build Projects.

- (a) Prior to a participating county receive state bond financing, the BSCC shall ensure that the county is ready to proceed with the design-build process. A participating county shall be deemed ready to proceed with the design-build process when it has done all of the following:
  - (1) Met all the requirements in the proposal pursuant to Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;
  - (2) As required in Section 1849.1(a), obtained the BSCC's approval of the performance criteria or performance criteria and concept drawings. The performance criteria or performance criteria and concept drawings shall specify the project will meet the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and Part 2, Section 1230 and the fire and life safety requirements in Title 24, CCR, Part 2, Volume 1, Chapter 4, Section 408;
  - (3) Obtained confirmation that CDCR has received the following:
    - (A) Establishment of the scope, costs and schedule of the project by the Board;
    - (B) Approval of performance criteria or performance criteria and concept drawings by the Board;
    - (C) Approval of proceeding to design-build proposal solicitation by the State Department of Finance; and,
    - (D) Approval of design-build contract award by the State Department of Finance.
  - (4) Filed with the BSCC a schedule of values of expected state reimbursements, cash match, and in-kind match and other budget items, along with a construction schedule, project management plan, and names, roles and contact information of key county personnel;
  - (5) Filed with the BSCC a financial plan detailing arrangements to provide its portion of project costs, including reserves for cash flow, source of matching funds, and a schedule of anticipated match expenditure that is at least proportional to the expenditure of costs that are proposed to be reimbursed by the state;
  - (6) Filed with the BSCC a statement citing any exemptions from federal laws, state or local laws, regulations, ordinances, standards, or requirements;
  - (7) Filed with the BSCC documentation of California Environmental Quality Act Compliance; and,

- (8) Filed with the BSCC a written certification, that the county has control of the site, either through fee-simple ownership or comparable long-term possession, and right of access to the facility sufficient to assure undisturbed use and possession.
- (9) Filed with the BSCC conceptual drawings for the proposed facility.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

#### **§ 1848. Requirements for the Project Delivery and Construction Agreement.**

~~(a) The project delivery and construction agreement between the Board, CDCR, the Authority BSCC, and a participating county shall be executed soon after the county is selected to participate and the county has received approval from after the Board establishes regarding the scope, and cost and schedule of the project. The project delivery and construction agreement shall consist of standard contracting requirements used by the State of California as well as include the roles, responsibilities and performance expectations of the parties for participation in and financing through the State's lease-revenue bond program for financing local juvenile facilities.~~

~~(b) The project delivery and construction agreement shall include, but not be limited to, the following:~~

- ~~(1) A narrative description of the project the participating county intends to construct, which shall include the design and construction, expansion or renovation of the county juvenile facility or local youthful offender rehabilitative facility, pursuant to Welfare and Institutions Code Section 1971, costs for design and construction, expansion or renovation of the county juvenile facility or local youthful offender rehabilitative facility, and a schedule for completion of design and construction, expansion or renovation;~~
  - ~~(2) The performance expectations of the parties related to the acquisition, pursuant to Welfare and Institutions Code Section 1971;~~
  - ~~(3) Guidelines and criteria for the use and application of the proceeds of lease-revenue bonds, notes, or bond anticipation notes that are issued by the Board to fund the approved county juvenile facility or local youthful offender rehabilitative facility project, pursuant to Welfare and Institutions Code Section 1971;~~
  - ~~(4) Responsibilities for the ongoing maintenance and staffing during the financing, pursuant to Welfare and Institutions Code Section 1971;~~
  - ~~(5) A brief statement as to who will be responsible for the legal, financial, institutional, and managerial resources available to ensure the completed construction of the county juvenile facility or local youthful offender rehabilitative facility;~~
  - ~~(6) Information contained in the formal project proposal;~~
  - ~~(7) Language that states that the participating county shall agree to indemnify, defend, and save and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's acquisition, design and construction of the county juvenile facility or local youthful offender rehabilitative facility; and;~~
  - ~~(8) Language that states that the county agrees to maintain the tax-exempt status of the bonds, notes, or bond anticipation notes issued by the Board.~~
- ~~(c) Counties shall require their construction contractors to post payment and performance bonds, each of which shall be in an amount not less than one hundred percent (100%) of the construction contract price.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1848.5. Requirements for the Board of State and Community Corrections Agreement.**

The Board of State and Community Corrections agreement between the BSCC and the participating county shall be executed concurrently, or as concurrently as practicable, with the execution of the project delivery and construction agreement. The Board of State and Community Corrections agreement shall include the roles and responsibilities of the participating county and the BSCC as it relates to the oversight of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1849. Submittal of Architectural Drawings and Specifications for Design-Bid-Build Projects.**

- (a) Architectural drawings and specifications shall be submitted to the ~~Authority~~BSCC at the schematic design phase, the design development phase, and the construction document phase, pursuant to Title 24, CCR, Part 1, Section 13-201(c)5.  
~~(1) Pursuant to Title 24, CCR, Part 1, Section 13-201(c)3, an operational program statement shall be submitted with the schematic design drawings and specifications.~~
- (b) The ~~Authority~~BSCC will review the drawings and specifications as soon as practicable, but no later than thirty (30) calendar days, and in the event of any major deficiencies, the ~~Authority~~BSCC will notify the county in writing. Deficiencies may be identified as either failures to comply with the Minimum Standards for Local Juvenile Facilities or as design features that may pose serious safety, security, operational, or management problems if left uncorrected, even where the Minimum Standards for Local Juvenile Facilities are not violated.
- (c) Pursuant to Welfare and Institutions Code Section 1975, to enhance safety and security, the ~~Authority~~BSCC may require changes in construction materials if the materials proposed with the final plans and specifications are not essential or customary, as used statewide for same security level facilities.
- (d) Deficiencies in compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and ~~Chapter 12~~Part 2, Section 1230 and construction materials shall be corrected by the county prior to advertising for bids.
- (e) Architectural drawings and specifications shall be submitted to the State Fire Marshal for review and approval.
- (f) The Board will have final approval of all projects and Board approval or disapproval of any project is not subject to the appeal process as described in Article 5.
- (g) No state moneys shall be encumbered in contracts let by a participating county until construction document plans and specifications have been approved by the ~~Authority~~BSCC and subsequent construction bids have been received.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 6029, Penal Code; and Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1849.1. Submittal of Performance Criteria and Architectural Drawings and Specifications for Design-Build Projects.**

- (a) Performance criteria or performance criteria and concept drawings shall be submitted to the BSCC for review and approval before the county issues a request for proposals for the services of a design-build entity.
- (b) Construction documents shall be submitted to the BSCC and the State Fire Marshal for review and approval.
- (c) The BSCC will review the construction documents as soon as practicable, but no later than thirty (30) calendar days, and in the event of any major deficiencies, the BSCC will notify the county in writing. Deficiencies may be identified as either failures to comply with Minimum Standards for Local Juvenile Facilities or as design features that may pose serious safety, security, operational, or management problems if left uncorrected, even where Minimum Standards for Local Juvenile Facilities are not violated.
- (d) Pursuant to Welfare and Institutions Code Section 1975, to enhance safety and security, the BSCC may require changes in construction materials if the materials proposed with the construction documents are not essential or customary, as used statewide for same security level facilities.
- (e) Deficiencies in compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and Part 2, Section 1230 and construction materials shall be corrected prior to completion of construction.
- (f) The Board will have final approval of all projects, and Board approval or disapproval of any project is not subject to the appeal process as described in Article 5.
- (g) No state moneys shall be encumbered in contracts let by a participating county until performance criteria or performance criteria and concept drawings have been approved by the BSCC pursuant to subsection (a) and a design-build contract has been awarded.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 6029, Penal Code; and Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1850. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Bid-Build Projects.**

- (a) Pursuant to Title 24, CCR, Part 1, Section 13-201(c)3, an operational program statement shall be submitted with the schematic design drawings and specifications.
- ~~(a)~~(b) At the time the county submits the design development plans and specifications for review and approval, it shall also submit a preliminary staffing plan, along with an analysis of other anticipated operating costs, for the facility. At a minimum, this plan shall include the following:
  - (1) Staffing requirements under the proposed design capacity;
  - (2) Shift and post identification of staff for the proposed facility, delineated by custody and support staff;
  - (3) Transition team ~~program statement and~~ costs;
  - (4) Analysis of a thirty (30) year lifecycle operating costs and maintenance and energy costs for the proposed facility; and,
  - (5) Identification of, and revenue sources for, sufficient county funds needed to support the staffing levels and operating costs for the proposed facility.
- ~~(b)~~(c) Following ~~Authority~~BSCC determination that the preliminary staffing plan complies with regulations, the facility administrator or designee shall submit the preliminary staffing plan and operating cost analysis to the Board of Supervisors for review and approval.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1850.1. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Build Projects.**

- (a) At the time the county submits the performance criteria or performance criteria and concept drawings for review and approval with respect to a design-build project, it shall also submit an operational program statement, and a preliminary staffing plan, along with an analysis of other anticipated operating costs, for the facility. At a minimum, this plan shall include the following:
- (1) Staffing requirements under the proposed design capacity;
  - (2) Shift and post identification of staff for the proposed facility, delineated by custody and support staff;
  - (3) Transition team costs;
  - (4) Analysis of a thirty (30) year lifecycle operating costs and maintenance and energy costs for the proposed facility; and,
  - (5) Identification of, and revenue sources for, sufficient county funds needed to support the staffing levels and operating costs for the proposed facility.
- (b) Following BSCC determination that the preliminary staffing plan complies with regulations, the facility administrator or designee shall submit the preliminary staffing plan and operating cost analysis to the Board of Supervisors for review and approval.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1851. General County Requirements.**

- (a) Pursuant to Welfare and Institutions Code Section 1971, a participating county may acquire, design, and construct the ~~county juvenile facility or~~ local youthful offender rehabilitative facility in accordance with its local contracting authority.
- (b) Pursuant to Welfare and Institutions Code Section 1971, a participating county may assign an inspector during the construction of the project, notwithstanding California Government Code Section 14951.
- (c) Pursuant to Welfare and Institutions Code Section 1971, the participating county is the lead agency responsible for compliance with the California Environmental Quality Act.
- (d) With the consent of the Board, the CDCR and a participating county are authorized to enter into leases, subleases, contracts, or other agreements pursuant to Welfare and Institutions Code Section 1974.
- (e) In all agreements related to this program, ~~T~~the participating county shall ~~agree to~~ indemnify, defend, and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's acquisition, design, construction, operation, maintenance, use and occupancy of the ~~county juvenile facility or~~ local youthful offender rehabilitative facility.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1852. Ground Lease.**

- (a) ~~In the situation involving a ground lease, a~~ A ground lease between the participating county and CDCR, with Board consent, will be entered into after the county has entered

into the project delivery and construction agreement and ~~only after the county has certified the site pursuant to Welfare and Institutions Code Section 1975 (b)(1) and~~ the Board has determined the site is adequate for purposes of financing in accordance with Welfare and Institutions Code Section 1971(a). ~~These certifications will be based upon thorough research of both recorded and unrecorded interests in the property, and may include, as appropriate, certification regarding any use, generation, storage, release, discharge, or disposal of hazardous or toxic materials on, under, in or about the site.~~

- (b) An easement (documented in a separate easement agreement) over adjacent county property for project access, utilities and repairs may also be required at the time the ground lease is initiated. ~~The ground lease must be adequate to support lease-revenue financing and be in a form agreed to by the Office of the Attorney General, the Board and Authority.~~
- (c) 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.~~
- ~~(d) The ground lease will be recorded.~~
- ~~(e) The site should not be encumbered by any liens or debt.~~
- ~~(f) The recommended term is for 50 years, in no event less than 35 years after construction completion.~~
- ~~(g) The lease term must be extended beyond the term to cover abatement periods due to abatement events.~~
- ~~(h)~~(d) The ground lease shall not be terminated as long as the lease-revenue bonds are outstanding, even in the event of default.
- ~~(i) Damages for default shall be limited to specific performance or money damages.~~
- ~~(j) After all lease-revenue bonds are paid off, the ground lease will terminate and title to the county juvenile facility or local youthful offender rehabilitative facility will vest in county.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1974 and 1975, Welfare and Institutions Code.

### **§ 1853. Right of Entry for Construction.**

- (a) A right of entry for construction and operation between CDCR and the participating county will be entered into concurrently with the ground lease. ~~It will terminate when the construction is complete or until the facility sublease is entered into, whichever is earlier.~~
- (b) The right of entry for construction and operation authorizes the participating county and their contractors to use the site that has been leased to CDCR via the ground lease for construction related activities and operation of the project upon substantial completion of construction.
- ~~(c) The county shall agree to indemnify and hold harmless the State of California, CDCR and the Board for any and all claims and losses arising out of the construction of the county juvenile facility or local youthful offender rehabilitative facility as part of the right of entry for construction.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1974, Welfare and Institutions Code.

### **§ 1854. Facility Sublease.**

- (a) ~~Immediately after~~ if the facility lease between the Board and CDCR is executed, CDCR and the participating county shall enter into a facility sublease of the facility lease with Board consent. ~~Subject to the terms of the facility sublease, the county may use and~~

~~occupy the county juvenile facility or local youthful offender rehabilitative facility. The facility sublease will describe the county's responsibilities, obligations, and other terms and conditions for the county's occupancy of the facility during the term of the facility sublease.~~

(b) The facility sublease is subject to and subordinate to the facility lease.

~~(c) The facility sublease shall include, but not be limited to, the following requirements:~~

- ~~(1) The county shall not abandon the county juvenile facility or local youthful offender rehabilitative facility.~~
- ~~(2) The county is obligated to maintain (both ordinary and extraordinary) the county juvenile facility or local youthful offender rehabilitative 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. The county must annually submit to Board and CDCR proof of its approved budget detailing the allocation of funds to maintain and operate the county juvenile facility or local youthful offender rehabilitative facility.~~
- ~~(3) Subject to the availability of the county juvenile facility or local youthful offender rehabilitative facility for occupancy, CDCR will continue to pay rent under the facility lease.~~
- ~~(4) The county may make additions, betterments or improvements to the county juvenile facility or local youthful offender rehabilitative facility in a manner that will not result in abatement of rental.~~
- ~~(5) CDCR will maintain the insurance policies required under the facility lease. The county will maintain commercial general liability insurance and other insurance required by the Board or maintain an acceptable self-insurance program and provide proof of insurance to the Board and CDCR annually.~~
- ~~(6) The county agrees to indemnify and hold the State of California, CDCR and the Board harmless for any and all claims and losses accruing, resulting from or arising out of the county's use and occupancy of the county juvenile facility or local youthful rehabilitative facility.~~
- ~~(7) The county agrees not to encumber the county juvenile facility or local youthful offender rehabilitative facility or otherwise subordinate its interest in the county juvenile facility or local youthful offender rehabilitative facility under the facility sublease.~~
- ~~(8) The county agrees to annually provide the CDCR, Board and the State Treasurer information about private activity use within the county juvenile facility or local youthful offender rehabilitative facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.~~
- ~~(9) The county promises not use or permit the use of the county juvenile facility or local youthful offender rehabilitative facility in any manner which would cause the Board bonds to be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986.~~
- ~~(10) The county promises to obtain the consent of the Board and CDCR to any assignment, subletting or transfer of its interest in the facility sublease or any part thereof.~~
- ~~(11) In the event of breach by the county that goes uncured, CDCR may evict the participating county and together with the Board may relet the county juvenile facility or local youthful offender rehabilitative facility.~~

#### **ARTICLE 4. ADMINISTRATION OF ~~THE PROCEEDS OF THE STATE BOND FUNDS~~ REIMBURSEMENTS AND PROJECT MONITORING**

##### **§ 1856. Disbursement of ~~the Proceeds from the Lease-Revenue Bond Funds~~ State Reimbursements.**

- (a) No state moneys shall be encumbered in contracts let by a participating county until either (i) construction document plans and specifications have been approved by the AuthorityBSCC pursuant to Section 1849 and subsequent construction bids have been received, or (ii) performance criteria or performance criteria and concept drawings have been approved by the BSCC pursuant to Section 1849.1(a) and the design-build contract has been awarded.
- (b) Upon approval of the participating county's proposal by the ~~AuthorityBSCC~~ and execution of the ~~project delivery and constructionBSCC~~ agreement, a ~~payment~~ state reimbursement schedule will be established by the ~~AuthorityBSCC~~.
- ~~(e) Proceeds of lease-revenue bonds can only be used for activities that occur after the date of the conditional award for state bond funds.~~
- ~~(d)(c)~~ Requests for ~~payments from the proceeds of lease-revenue bonds~~state reimbursements shall include such supporting documentation as may be required by ~~the Board and/or the AuthorityBSCC and/or CDCR and~~, in the event of deficiencies in the request, the participating county shall be notified by the ~~AuthorityBSCC~~ of the deficiencies as soon as practicable.
- ~~(e) Payments from the proceeds of lease-revenue bonds shall be processed by the BSCC subject to the following conditions:~~
- ~~(1)(d)~~ Payment State reimbursements shall be made in arrears ~~(reimbursement)~~ on a schedule mutually agreed to by the BSCC and the participating county and established in the BSCC agreement~~quarterly basis through invoicing;~~
- ~~(e)~~ No ~~payments~~ state reimbursements will be made until the participating county has complied with all applicable state requirements;~~;~~~~and;~~
- ~~(f)~~ Participating counties including any design costs as state reimbursed costs, for one or more phases of design, may not proceed with that phase of design process until after the project scope, cost, and schedule are established by the Board.
- ~~(g)~~ If a design-bid-build project budget includes any state reimbursements for working drawings/construction documents phase costs, the Board and the State Department of Finance must approve preliminary plans/design development drawings before the participating county can commence work on the working drawings and/or construction documents phase. If a participating county commences any working drawings and/or construction documents phase activities before obtaining approval of preliminary plans and/or design development drawings from the Board and State Department of Finance, the entire state portion of the project financing shall be forfeited and the state will not reimburse any participating county project costs.
- ~~(h)~~ If a design-build project budget includes any state reimbursements for design-build phase costs, the Board and State Department of Finance must approve performance criteria or performance criteria and concept drawings before the participating 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 participating county commences any design-build

phase activities before obtaining approval of performance criteria or performance criteria and concept drawings from the Board and State Department of Finance, the entire state portion of the project financing shall be forfeited and the state will not reimburse any participating county project costs.

(i) At such time as the balance of anticipated total state reimbursements reaches five percent (5%), for Adult Local Criminal Justice Facility projects, the BSCC shall withhold that amount as security. When a participating county is unlikely or ineligible to draw 100 percent (100%) of the conditional award amount, the state shall withhold the final 5% of eligible state reimbursements. The withheld amount will be released to the participating county upon compliance with all of the applicable terms in the BSCC agreement, project delivery and construction agreement, other agreements applicable to the financing, and applicable conditions and requirements of law and regulation. These requirements of law and regulations include:

- (1) Final completion of the project;
- (2) Payment of State Fire Marshal fees in full;
- (3) Receipt and approval of the final audit and the final project summary report;
- (4) The final construction inspection and approval by appropriate officials; and
- (5) Staffing and operating the facility within ninety (90) days of construction completion.

~~(2)~~

~~(3) At such time as the balance from the proceeds of lease-revenue bonds to the participating county reaches twenty percent (20%), the Authority shall withhold that amount as security, to be released to the participating county upon compliance with all of the terms in the project delivery and construction agreement and conditions and requirements of law and regulation, including staffing and operating the facility within ninety (90) days of construction completion, receipt and approval of the final project audit report, and final construction inspection and approval by appropriate officials.~~

Note: Authority cited: Section 6030, Penal Code Section; and Section 1975, Welfare and Institutions Code. Reference: Sections 1973 and 1975, Welfare and Institutions Code.

### ~~§ 1857. Pooled Money Investment Board.~~

~~(a) Pursuant to California Government Code Sections 16312 and 16313, the Pooled Money Investment Board may make loans from the Pooled Money Investment Account to the CDCR for the purpose of carrying out projects authorized to be financed by lease-revenue bonds, notes, or other indebtedness.~~

~~(b) Pursuant to Welfare and Institutions Code Section 1972, upon project approval by the Board, CDCR and the Authority, and upon a participating county's receipt of responsive construction bids, the Board and the CDCR may borrow funds from the Pooled Money Investment Account, pursuant to California Government Code Sections 61312 and 61313, or from any other appropriate source.~~

~~Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 16312 and 16313 Government Code; Section 1972, Welfare and Institutions Code.~~

## § 1860. Record Keeping and Accounting.

- (a) The participating county shall establish an official file for the project. The file shall contain adequate documentation of all actions that have been taken with respect to the project. The documents to be retained shall include, but are not limited to, contracts, payment of invoices, transfer of funds and other related accounting records sufficient to reflect properly the amount, receipt and disposition of all state reimbursements and county funds for contribution. The participating county will provide a copy of the official file to CDCR upon termination of the BSCC agreement.
- (b) The participating county shall protect records from fire or other damage.
- (c) The official project file must be preserved a minimum of three years after the last date on which no lease-revenue bonds are outstanding.
- ~~(a)~~(d) All ~~proceeds of lease-revenue bonds~~state reimbursements received by the participating county shall be deposited into separate fund accounts, which identify the funds and clearly show the manner of their disposition.
- ~~(b)~~(e) Accounting for ~~proceeds of lease-revenue bonds~~state reimbursements shall be in accordance with generally accepted accounting principles and practices. Supporting records must be maintained by the participating county in sufficient detail to demonstrate that the state ~~bond funds~~reimbursements were used for the purpose for which the award was made and in accordance with the provisions of state contracting, and shall be subject to Board and ~~Authority~~BSCC audit as described in Section 1870.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

## § 1866. Monitoring of Process.

- (a) The ~~Authority~~BSCC and CDCR shall regularly monitor the administration of the project and the distribution of ~~the proceeds of lease-revenue bonds~~state reimbursements to a participating county, in order to assess compliance and determine that the project is operating in accordance with the approved proposal, the conditions of the BSCC agreement these regulations and the law.
- (b) The BSCC, Board and the State Department of Finance shall have administrative oversight of the project.
- (c) Access to the project site, county project files and contractors' records shall be provided to the BSCC, or other state officials, during all phases of construction throughout the term of the BSCC agreement.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

## § 1867. Completion of Project.

- (a) The participating county shall agree to proceed with the agreed upon construction schedule and complete the project in accordance with the ~~project delivery and construction~~BSCC agreement and the plans and specifications (with respect to a design-bid-build project) or the performance criteria or performance criteria and concept drawings (with respect to a design-build project) approved by the Board and the ~~Authority~~BSCC. ~~If a participating county is not proceeding with the construction schedule as agreed to in the project delivery and construction agreement, the Authority has the discretion to give written notice of failure to comply with terms of the agreement and may terminate that project delivery and construction agreement.~~

(b) The participating county's failure to proceed with the project on the agreed schedule may be a material breach of the project delivery and construction agreement and the BSCC agreement.

(c) Upon completion of the project, the participating county shall submit a final project summary and audit to the BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1974 and 1975, Welfare and Institutions Code.

### **§ 1868. Project Modifications.**

(a) Project modifications proposed after the ~~project delivery and construction~~ BSCC agreement is signed require ~~advance a written amendment and~~ approval of the Board and the ~~Authority~~ BSCC if the modifications:

- (1) ~~Substantially alter~~ Are more than minor changes which affect the scope, design, configuration, cost or schedule ~~or scope~~ of the project;
- (2) Are more than minor changes to ~~Substantially alter~~ the design, location, size, capacity, or quality of major items of equipment; ~~or,~~
- (3) ~~Change the number of beds or otherwise impact Authority construction or operational regulations.~~ Cause a delay or change in the date of substantial completion or final completion dates for the project; or,
- ~~(3)~~(4) Cause any change that would impact the BSCC's operational or construction regulations in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Section 13-201 and Part 2, Section 1230 or the State Fire Marshal's construction regulations in Title 24, CCR, Parts 2 and 9 as adopted by the Office of the State Fire Marshal, a change in the number of beds or a change which affects the security or fire and life safety of the facility.

(b) The participating county shall report, in writing, to the BSCC any modifications to the county's agreement for construction with its contractor.

~~(b)~~(c) Summaries of all change orders shall be submitted to the Authority BSCC quarterly with each invoice/progress report.

~~(e)~~(d) Neither the approval of the ~~project delivery and construction~~ BSCC agreement or any action of staff with respect to project changes, including approval or disapproval thereof, shall commit or obligate the ~~Authority~~ BSCC to any increase in the amount of the ~~funds financing~~ conditionally awarded, except as expressly provided in writing by the Authority BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1870. Audits.**

(a) A participating county shall ~~perform a financial audit of~~ obtain an audit performed in accordance with Government Auditing Standards, issued by the Comptroller General of the United States for its project within ninety (90) days following construction completion. The audit shall be performed under the direction of a Certified Public Accountant or a county auditor that is organizationally independent from the participating county's project financial management functions. ~~In addition, the Board and Authority reserve the right to audit the accounting records of the project at any time. The Board and Authority may disallow claims for the proceeds of lease-revenue bonds and/or applicable matching credit~~

~~for all or part of the cost of an item determined to be ineligible and/or not in compliance with the terms and conditions of the bond agreement.~~

- (b) 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 plans for corrective action to any auditor findings and recommendations. Notice that the audit has been delivered to the Board of Supervisors shall be submitted to the BSCC.
- (c) A corrective action plan for each finding and recommendation must be prepared by the county (within ten days after notification of the findings) and submitted to the BSCC as part of the final audit report. The corrective action plan must include:
  - (1) A description of each finding and recommendation;
  - (2) Specific steps taken to remedy the finding or implement the recommendation;
  - (3) A timetable for performance of each corrective action; and,
  - (4) A description of monitoring to be performed, and who will perform it to ensure implementation of each corrective action.
- (d) The Board, CDCR and BSCC reserve the right to audit the accounting records of the project at any time. The CDCR or the BSCC may disallow claims for the state reimbursements and/or applicable matching credit for all or part of the cost of an item determined to be ineligible and/or not in compliance with established terms and conditions.
- ~~(b)~~(e) Any state reimbursement of an improper expenditure of the proceeds of lease-revenue bonds disclosed in such audits will be recovered by the state through withholding future payments-state reimbursements and/or repayment by the participating county, at the discretion of the AuthorityBSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1872. Unused ~~Proceeds of Lease-Revenue Bonds~~ Conditional Awards.**

- (a) In no case shall a participating county receive ~~the proceeds of lease-revenue bonds~~state reimbursements in excess of the amount of the conditional award ~~provided~~approved by the ~~Authority~~BSCC.
- (b) If a participating county does not use the full amount of the conditional award, the unused amount shall be available for redistribution to other counties and used for other eligible projects.
- ~~(b)~~(c) Any ~~proceeds of lease-revenue bonds~~state reimbursements determined to have been inappropriately or erroneously ~~spent~~made, including those resulting from noncompliance as well as overpayments resulting from county plan modifications or other causes, shall, upon written notification, be repaid to the state. Such repayment may be by county warrant and/or may be withheld from subsequent ~~payments-state reimbursements~~ at the discretion of the ~~Authority~~BSCC.
- ~~(c)~~ Any ~~proceeds of lease-revenue bonds not expended by a participating county pursuant to the approved proposal, project delivery and construction agreement or approved construction plan shall be redistributed to other counties and used for other eligible projects. This repayment may be made by:~~
  - ~~(1) County warrant payable to the state within thirty (30) calendar days of the date of notification; or through a negotiated repayment and interest schedule; or a combination of (c) (1), (c) (2) and (c) (3);~~

- ~~(2) Deduction by the Authority of the amount to be repaid by the county from the next progress payment(s) by the state; or,~~
- ~~(3) Deduction by the Authority of the amount to be repaid by the county from the retention amount withheld.~~

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

## ARTICLE 5. APPEAL PROCEDURES

### § 1876. Purpose.

The appeal hearing procedures are intended to provide a review concerning the ~~Authority~~BSCC's proposal evaluation and rating process. A county may appeal on the basis of the ~~Authority~~BSCC's alleged ~~financing~~evaluation criteria misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures regarding the proposal evaluation and rating process.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### § 1878. Definitions.

For the purposes of this article, the following definitions shall apply:

"Appeal hearing" means an administrative procedure providing an appellant with an opportunity to present the facts of the appeal for a formal decision concerning matters raised pursuant to the purposes set forth in Section 1876 of these regulations.

"Appellant" means a participating county that files a request for an appeal hearing.

"Authority" means Corrections Standards Authority, which acts by and through its Executive Director and representatives.

"Authorized representative" means an individual authorized by the appellant to act as his/her representative in any or all aspects of the hearing.

"BSCC" means the Board of State and Community Corrections, which acts by and through its Executive Director and representatives.

"Executive Director" means the Executive Director of the ~~Authority~~BSCC.

"Filing date" means the date a request for an appeal hearing is received by the Executive Director's office at the Corrections Standards Authority.

"Hearing panel" means a panel comprised of three members of the ~~Authority~~BSCC, who shall be selected by the chairperson of the ~~Authority~~BSCC at the time the appeal is filed. A fourth member may be designated as an alternate. Members designated to the hearing panel shall not:

- (i) Be employed by, or be residents of, the county submitting the appeal or,
- (ii) Be employed by any other county that has a funded project or is seeking qualification for disbursement of ~~the proceeds of lease-revenue bonds~~state reimbursements.

"Notice of decision" means a written statement by the Executive Director of the ~~Authority~~BSCC, which contains the formal decision of the ~~Authority~~BSCC and the reason for that decision.

"Proposed decision" means a written recommendation from the hearing panel to the ~~Authority~~BSCC, containing a summary of facts and a recommended decision on the appeal.

"Request for appeal hearing" means a clear written expression of dissatisfaction about a procedure or action taken and a request for a hearing on the matter, and filed with the Executive Director of the ~~Authority~~BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1888. Request for Board of State and Community Corrections ~~Standards Authority~~ Appeal Hearing.**

- (a) If a participating county is dissatisfied with an action of the ~~Authority's~~BSCC's evaluation and rating process, it may file a request for an appeal hearing with the ~~Authority~~BSCC. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the county is dissatisfied.
- (b) The request shall be in writing and:
  - (1) Shall state the basis for the dissatisfaction;
  - (2) Shall state the action being requested of the ~~Authority~~BSCC;
  - (3) Shall state the desired remedy; and,
  - (4) Shall include as attachments any correspondence related to the appeal to and from the Executive Director.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1890. Board of State and Community Corrections' ~~Standards Authority's~~ Hearing Procedures.**

- (a) The hearing shall be conducted by a hearing panel, designated by the Chairperson of the ~~Authority~~BSCC, at a reasonable time, date, and place, but not later than twenty-one (21) days after the filing of the request for hearing with the ~~Authority~~BSCC, unless delayed upon mutual agreement by the ~~Authority~~BSCC and the participating county. The ~~Authority~~BSCC shall mail or deliver to the appellant or authorized representative a written notice of the time, date, and place of hearing not less than seven days prior to the hearing.
- (b) The procedural time requirements may be waived with mutual written consent of the parties involved.
- (c) Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision within sixty (60) days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued upon mutual agreement between the hearing panel and the participating county.
- (d) An appellant may waive a personal hearing before the hearing panel and, under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.
- (e) The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded.
- (f) Neither the Federal Rules of Evidence nor the California Rules of Evidence apply in these administrative hearings.

- (g) After the hearing has been completed, the hearing panel shall submit a proposed decision in writing to the ~~Authority~~ BSCC at its next regular public meeting.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1892. Board of State and Community Corrections' ~~Standards~~ Authority's Decision.**

- (a) The ~~Authority~~ BSCC, after receiving the proposed decision, may:
- (1) Adopt the proposed decision;
  - (2) Amend the decision with or without taking additional evidence into consideration; or,
  - (3) Order a further hearing to be conducted, if additional information is needed to decide the issue.
- (b) After the hearing panel's proposed decision is adopted, or an alternate decision is rendered by the ~~Authority~~ BSCC or notice of new hearing ordered, the notice decision or other such actions shall be sent via certified mailed by the ~~Authority~~ BSCC to the appellant.
- (c) The record of the testimony, exhibits, all papers and requests filed in the proceedings, and the hearing panel's proposed decision shall constitute the exclusive record for decision and shall be available to the appellant for one year after the date of the ~~Authority's~~ BSCC's notice of decision in the case.
- (d) The decision of the ~~Authority~~ BSCC shall be final.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.