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SB 81 Round 2 RFP Bidders' Conference Minutes October 16, 2014



EDMUND G. BROWN, JR.
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Agenda Item I

Welcome

Ms. Allison Ganter, Deputy Director with the Board of State and Community Corrections (**BSCC**), welcomed all those in attendance for the conference. She introduced staff and briefed the audience on SB-81 Round Two \$79.2 Million remaining available funding. She noted that the conference would continue until the panel answered all questions presented by the audience regarding the lease revenue bond financing process. She then introduced the Panel to answer the questions from the field.

Agenda Item II

Introductions

Mr. Stephen Benson, Principal Program Budget Analyst with the Department of Finance (**DOF**), introduced himself and noted the differences between a grant program and a Lease Revenue Bond Financing. He noted that **DOF** is the staff to the State Public Works Board (**SPWB**) and as such he represents both agencies at this meeting. Any documents to be submitted to **SPWB** actually go to his office and staff. He also noted that, the **SPWB** also is the agency that issues the bonds that ultimately issues payments to counties for the SB 81. He noted that California Department of Corrections and Rehabilitations (**CDCR**) is the first initial agency to ask questions about financing, state oversight and approvals, but that **DOF** is ultimately responsible for approval.

Ms. Michelle Weaver, Chief of the Finance and Budget Unit within **CDCR**, introduced herself and concurred that her unit is the liaison between counties and **DOF**. She noted that after bonds are sold, **CDCR** would contact the counties on the requirements that are laid out within the facilities sublease for continuing disclosures.

Mr. Michael Butler, Assistant Branch Chief with the Project Management and Development Branch of the Department of General Services, introduced himself and discussed his unit's role of review and approval role in respect to real estate with the SB 81 project sites. His unit performs appraisal reviews and determines the real property value of the project sites. This includes the condition of title of the properties and the review of Real Estate Due Diligence. They are also an available resource to the counties for analysis and title in order to prepare the project site for any Lease Revenue Bond issues.

Mr. Benson then underscored the importance of the procedures that Mr. Butler's unit is performing citing that Lease Revenue Bonds are real estate based form of financing. He noted that if something were to go wrong with county issued bonds, typically 8 times out of 10 it is related to real property rights.

Agenda Item III

Frequently Asked Questions

Mr. Lenard LaChappell, Project Director with the Board of State and Community Corrections, was introduced by Ms. Ganter and he then proceeded to address the questions submitted in advance.

1. If we had a Juvenile Justice Facility needs assessment completed in 2012, would we need a more current report?

A needs assessment is required for all new Local Youthful Offender Rehabilitative Facilities and if beds are added to existing facilities. The needs assessment must reflect the agency's current need; the agency must determine if an updated report is necessary.

2. Can we buy a building and renovate to provide transitional beds for youth reentering and community from the ranch or out of home placement?

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Renovation of an existing building is permitted; however, it must meet a seismic level 3 performance standard as determined by a licensed structural engineer, comply with all Building Codes, and meet current fire and life safety standards. The youth served at the facility must be youthful offenders.

3. Can we open a day reporting center (or does it have to be residential)?

Yes. Day reporting centers are eligible provided they are non-residential and are:

- A. Operated by the county*
- B. Compliant with fire and life safety code*
- C. Compliant with Title 15 and 24*
- D. Serve juvenile offenders*

4. Can we use the building purchase cost as match?

No. The current fair market value of only the land (supported by an independent appraisal) is allowed as in-kind match.

5. For State Fire Marshal fees, the RFP suggests a budget amount of \$75,000, but the Project Proposal Form on page 6 (bullet point 5) recommends a budget amount of \$35,000. Can you please clarify which budget amount is most appropriate for this line item?

The RFP should have stated a budget \$75,000 for match contribution on Line #5 which includes State Fire Marshal fees of \$59,000 and Department of General Services fees of \$16,000.

6. The RFP references WIC 1973 and states that all projects must commence by June 30, 2017. If the A&E firm has begun the process of construction design, does this qualify as project commencement, or is construction or site preparation necessary to meet the requirement? (RFP Page 8)

The definition of project commencement is establishment by the State Public Works Board which requires project scope, cost, and schedule. The project must be established by June 30, 2017 pursuant to WIC Section 1973 (d).

7. It appears that the paragraph on page 17 (bullet point 6) is missing some text. Has there been a revision to the RFP to add this text?

The sentence should include the date "after August 24, 2007."

8. On page 21 of the RFP, bullet 5.B addresses Government Code 1973(d). Should this have stated WIC 1973(d)?

Yes. Item 5.B. should be "as required by WIC 1973(d)."

9. If we have an existing facility (Hall) whereby we wish to tear down buildings and re-build a new program space structure, can this land value then be included as In-Kind match, or is this land value excluded per paragraph (b.2) on page 16 of the RFP?

Yes. The on-site land value can be included as in-kind match.

10. We are planning on submitting an SB 81 funding application to construct a non-secure, non-residential day reporting treatment center which will be operated by the County. Do we need to complete a separate Needs Assessment Study for this type of project? We are not adding beds or any custody space to the juvenile detention system. The new stand-alone treatment center will only contain program space.

No. Projects for program space only do not require a needs assessment study; however, documentation of need must be provided in the proposal narrative.

11. Can programming (space) include youth from the child welfare system?

The intent of the SB 81 Local Youthful Offender Rehabilitative Facilities Construction Financing Program is to provide construction for facilities serving local youthful offenders- those youth that have entered the juvenile justice system.

12. We are considering a project consisting of a Vocational Education Building in the area of our Juvenile Detention Facility.

Will an exterior fence be allowed to enclose the building?

Yes.

Will we be able to lock the Vocational Education Building exterior doors while youth are in the facility?

Yes. Locking the building is a local decision and would be a county operation issue.

Will we be able to lock interior classroom doors when youth are in a classroom under instruction when teacher(s) and Probation staff are present?

Yes. Locking the classrooms is a local decision.

Mr. LaChappell noted that these 12 questions were those submitted in advance of the Bidder's Conference and proceeded to address the 9 questions submitted in writing on the day of the bidder's conference.

13. What are the specific requirements related to the California Environmental Quality Act (CEQA)? It appears that only a status of the current phase in the CEQA process is due with the application, with completion due within 6 months of the intent conditional award. Is that correct?

Mr. Benson responded to the question. He noted that in terms of exemption a notice of exemption (NOE) would be required. A copy of the final notice of determination (NOD), filed and notarized by the county clerk's office is required by DOF. Also required is a letter from county council indicating that the statutes of limitations on that notice of determination have expired and whether or not any challenge is filed to it. If there has been a challenge filed DOF would need to have indication of how that was or will be resolved. In terms of when CEQA must be completed Mr. Benson referred to the activities timeline on page 7 of the Request for Proposal (RFP). DOF expects CEQA to be completed before preliminary plan approval, which generally is about a year after project approval from the SPWB. He also noted that CEQA costs are not refundable through SB 81, and there is nothing preventing a county from beginning the CEQA process after receiving a conditional award.

14. What is the estimated cost of the Real Estate Due Diligence (REDD)?

Mr. Butler responded to the question. He noted that the anticipated cost is about \$16,000. This includes the analysis of the site and the appraisal review and an anticipated update at the time of bond sale. Mr. Butler also noted that DGS charges at an hourly rate of \$130/hour and will bill the counties on a monthly basis, after the account has been established and their work has been completed. DGS will bill the counties at the same rate of \$130/hour if additional assistance is required.

15. Does the estimate of \$75,000 for State Fire Marshall review include costs associated with the recommended Pre-Design Meeting and each recommended on-site review meeting?

Mr. LaChappell responded to the question. He noted that the counties are responsible for all State Fire Marshal fees associated with the time dedicated to the project, including design and construction inspection. However, the initial kick-off meeting is not a cost that the county is responsible for.

16. Explain "all infrastructure components needed for the financed facility to fully function should be included in the footprint."

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Mr. Benson responded to the question. He noted that anywhere bond proceeds are expected to be spent is where the footprint should be. Secondly, he noted that in order for us to lease something, it needs to be a complete and fully functional asset. Furthermore, he noted that the counties shouldn't spend monies on creating a legal description of the footprint until DOF and DGS have approved the site in order to avoid unnecessary costs. This will be defined during an All Hands meeting to create the project boundaries before working drawings are created.

Mr. Butler also responded to the question. He noted that the proposed project site is more or less the footprint. However the project site should be reasonable and practicable for the project. If a county had 50 acres of unimproved land at the project site, DGS is not looking to encumber the entire 50 acres within the footprint but the appropriate portion that will be improved upon. Mr. Butler also noted that a county does intend to seek an independent appraisal that they should contact him directly.

Mr. Benson also noted that if a county had questions regarding the project's footprint before the county kick-off meeting that he is more than happy to field those questions beforehand.

17. Is the Operational program statement that is required at schematic design drawing submittal the same thing as an "Operating and staffing cost statement" defined under General Definitions?

Mr. LaChappell responded to the question, stating no. The operational program statement is how the facility will be operated and is based on man hours and staff levels. A review of this will be performed by the BSCC Field Representative assigned to the specific county in question.

Ms. Ganter noted that within Title 24, there is a requirement for an operational program statement to be sent to BSCC staff after writing a letter of intent to construct a detention facility, which is separate from the operating and staffing cost statement.

18. Is there a template or specific required language for the demonstration of commitment of local matching funding and verification of cash flow availability?

Mr. Benson noted that there is not any specific template language to demonstrate the commitment of local match funding. What DOF looks for within the match review, is a resolution from the county's Board of Supervisors authorizing the project for a specified amount with county match funds from a specific funding source.

19. Who prepares the agenda items the SPWB meetings? If it is the BSCC, what is the required lead time for counties to submit agenda materials to the BSCC in preparation for SPWB meetings?

Ms. Weaver noted that the CDCR will be preparing the agenda items to the SPWB. CDCR is to submit agenda items to DOF 4 weeks before the SPWB meeting and as such counties should submit project documentation to CDCR 7 to 8 weeks prior to the SPWB meeting.

20. How long does plan review take? This information is necessary for completion of a project timeline.

Mr. LaChappell noted that this is associated with the quality of the architect's design and the number of submittals required to pass the plan review process. He also noted that the BSCC will work with the counties in order mitigate these costs, but ultimately the State Fire Marshal fees associated with plan reviews is a cost that the counties are responsible for.

Mr. Benson notes that within county kick off meetings it has been encouraged that counties hire an independent Fire & Life Safety consultant in order to avoid excessive fees associated with the plan review process.

Mr. LaChappell concurred with Mr. Benson and noted that the costs associated with an independent Fire & Life Safety consultant are typically much less than those of the State Fire Marshal's.

21. Ground lease – what is an abatement event?

Mr. Benson responded to the question. In general an abatement event is anything that causes the building to be financed to not be available for use and occupancy. This would include Title defects, natural disasters, and any other event that prevents the building to not be available for use or occupancy.

Mr. LaChappell then opened the discussion to the audience for any questions that they may have had.

22. Are there limitations to how the counties staff the facilities beyond Title 15 Regulations? For example the utilization of CBO staff.

Ms. Ganter responded to the question. She noted that as long as the facility is county owned and operated there are no limitations beyond Title 15 Regulations for the staffing of the facility.

Mr. Benson noted that given the nature of the financing, DOF would need to look at any contracts with privatized contractors especially if they have property rights to install equipment, or if it is lease like in nature.

23. Will there be any additional requirements that counties will need to meet other than what is listed on page 28 of the RFP?

Mr. Benson responded to the question. He noted that scope changes could possibly require recognition from the SPWB, depending on the nature of the scope change. He noted that if the county had any project scope changes that the county is urged to notify CDCR right away.

Mr. Butler noted that any changes in the real property rights to the proposed project site, or anything that affects access to utilities or access to the site, that may require an easement will require the review of the documentation thereof by state stakeholders in advance of execution.

24. If there is a change to a county's project's timetable, will that be able to be approved?

Mr. Benson responded to the question, answering yes. After which he offered a caveat that, the execution and authorization of the Project Delivery and Construction Agreement and Ground Lease and their associated documents have been delegated from the SPWB to DOF staff and as such will not need to go to an SPWB meeting.

25. May the RFP construct 3 different facilities located on 3 different premises?

Mr. Benson responded to the question. He first asked for clarification if the facilities would be located on the same campus or not. As the facilities would be located at three different locations, it would not be allowable.

26. In regards to cash match expenditures, would construction costs above the award be included? For example could upgrading existing utilities be included within the match?

Mr. Benson responded to the question. He noted that the reporting requirement is that the state entities would need to see the total project cost. So far as how that cost is broken up within the 3 page estimate, there are specific things that are allowed to be reimbursed by the state, eligible, which go into the state reimbursement column. There are some guidelines for cash and in kind matches. On the budget summary there is an 'other cost' line that allows to list these items. All associated project costs must be included on the 3 page estimate.

Mr. Butler also responded to the question. He noted that when a county has a much larger project with total costs much greater the conditional award amount, and plans to issue bonds, or other forms of debt financing that may impact the property rights of the footprint or project site, that the county should inform its partnered state entities as soon as possible.

27. Does the build need to be a single structure or can it incorporate multiple buildings on a single project site?

Mr. Benson responded to the question. He noted yes, multiple buildings within the same project site may be included within a single proposal. He also noted that there are many projects underway that are already doing this.

28. Is it allowable to demolish antiquated facilities and include the property value within the in kind match? Also if a proposal was to demolish bed space, would a needs assessment be required?

Mr. Benson responded to the question. He noted that a proposal may demolish old facilities and include the fair market value of the land within the counties in kind match.

Ms. Ganter also responded to the question. She noted that a needs assessment is only required when adding new bed space. The needs assessment is a separate submittal and not counted as part of the 35 page limit.

29. In terms of a county's in kind match, is a full real estate appraisal due at bid submission or is it due after the conditional award?

Mr. Butler responded to the question. He noted that an independent appraisal of the real estate in kind match would not affect the scoring process of the proposal.

Mr. LaChappell concurred with Mr. Butler and noted that the appraisal would need to be submitted within 90 days of the conditional award.

Mr. Butler went on to caution that an accurate estimate is required in order for a county to meet it's in kind match requirements. In order for fairness between competing counties the appraisals need to show an accurate land value for the date of December 19, 2014.

Mr. Benson also cautioned that a land value estimate should be conservative because if the appraisal shows that the property value is less than the estimate, the county will still be responsible for the same proposed in kind match and would have to make up the difference elsewhere.

30. Would any contractor time spent prior the intent to award funding be considered an eligible cost for reimbursement?

Mr. Benson responded to the question. Referring to the RFP he noted that any costs incurred after the release of the RFP and before the award of funds can be included within a county's in kind match.

Mr. LaChappell concurred with Mr. Benson.

31. May the demolition of structures existing on the project site be included within a county's project cost?

The panel answered in unison, yes.

32. Should the ground lease or any of the subordinate agreements or leases be anticipated to create any possessory interest taxes for which the county will become responsible for?

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Mr. Butler responded to the question. He noted that both the state and county are exempt from real property taxes. If the property is within a special assessment district there are some obligations for the state to pay its fair share of special assessments, but other than that all parties should be exempt from paying taxes.

33. Regarding in kind match, if a county was to construct a parking lot and access road, would that be considered a part of the project cost or a part of the county's in kind match?

Mr. Benson responded to the question, referencing page 16 of the RFP. He noted that if the parking area is within the encumbered footprint that it should be claimed as in kind match. More specifically, if the scope of the project is a visitation center and a parking to facilitate it, then that would be a part of the project cost.

34. What is the specific date of value to be used for the real estate appraisal?

Mr. Butler responded to the question. He noted that the date to be used is the project submittal deadline, December 19, 2014.

35. In regards to programming, what is the maximum age of youth that would be allowed to receive services at our facility?

Ms. Ganter responded to the question. She noted that as the facility would not be a detention center, there is no maximum age for the youth. If the youth are under the jurisdiction of the facility, there would not necessarily be a maximum age for those receiving services.

36. Is a needs assessment required when demolishing bed space and then constructing new bed space?

Ms. Ganter responded to the question. She noted that any time you are constructing new bed space or moving bed space, a needs assessment is required.

37. If an area is that is currently being used is vacated and then demolished for the construction of a new facility on the same footprint, may that property be used for the counties in kind match?

Mr. Benson responded to the question. He answered, yes.

Mr. Butler also responded to the question. He noted that if an existing building is to be added onto with an SB 81 project, the entire building will be included within the lease revenue bond footprint.

38. How will best practices be used within the rating of SB81 Round 2 proposals?

Ms. Ganter responded to the question. She noted that the examples of best practices will not be used as a grading tool when rating proposals. Rating factor #7 of the application asks about best practices, but the reference material on best practices is not intended to be replicated or used as a mandatory guideline for the rating of proposals.

39. May SB 81 Round 1 proposals which have been awarded funding be reviewed by other counties looking to submit SB 81 Round 2 proposals?

Ms. Ganter responded to the question. She noted that they would need to refer to BSCC's legal counsel in order to be determined.

Mr. Benson concurred with Ms. Ganter. He suggested asking the specific counties in question directly to expedite this nuance.

40. If a county is looking to renovate or add onto an existing facility, will the existing structure need seismic retrofitting to current code?

Mr. Benson was asked this question on behalf of the audience and answered it in the affirmative, yes.

41. In regards to the design build process, will a contractor's design be included within the construction contract?

Mr. Benson responded to the question. He noted that only the construction costs would be reimbursable by the state through the RFQ criteria.

42. Would it be permissible within the scope of the RFP to build a facility on top of an athletic field, and then demolish an old building and build an athletic field where the demolished building was?

Mr. Benson responded to the question. He noted that yes this would be permissible, but that any real estate that was improved upon with state funding would need to be encumbered within the footprint of the project site.

43. Is there anything within the SB 81 Round 2 financing that would preclude third party, private, financing to be a part of the project costs?

Mr. Benson responded to the question. He noted that the private financing in question would not be able to have a real property interest in the end result of the project. Any other forms of private financing would more likely be allowable, but DOF and DGS would need to review the terms of the financing.

44. Is there a cutoff date to submit questions regarding SB 81 Round 2 proposals?

Mr. LaChappell responded to the question. He noted that the cutoff date for these questions would be two weeks before the December 19, 2014 proposal due date. The cutoff date for questions regarding SB81 Round 2 proposals is December 9, 2014 at 5pm.

Mr. LaChappell asked the audience for any further questions. Seeing none he thanked the audience and panel members for participating and concluded the SB81 round 2 Bidders' conference.