

# SENATE BILL 863

## BIDDERS' CONFERENCE

### QUESTIONS



Q1	<b>What is the Small County cash match requirement?</b>
A1	Counties with a population below 200,000 may petition for a reduced match. There is no required percentage of match for those who petition; however, the county is still responsible for costs not eligible for state financing. Counties that have a population of 200,000 or more are required to meet a minimum 10% match amount, which may be any combination of cash or in-kind match.
Q2	<b>If the County is not proposing to use land as a part of the match, does the Board of Supervisor's resolution still require the language included in Section 6(H) – the attestation to the current fair market land value for the proposed new facility?</b>
A2	Yes.
Q3	<p>Page 8 of the RFP describes the following: "Renovation projects or new construction proposed through SB 863 that is physically attached to an existing facility, requires that the scope of the proposed project include all work necessary for the existing facility to meet current fire and life safety standards, and meet or exceed a seismic level 3 performance standard (State Administrative Manual- FEMA section 301)."</p> <p>We would like a definition of "physically attached." Would this include a separate new-construction facility that is attached with a walkway or enclosed hallway/corridor?</p>
A3	These decisions are at least partially controlled by SPWB financing requirements, and, among other guiding documents, the California Building Code. Questions of this type must be addressed on a case by case basis.
Q4	<b>Government Code section 15820.935(a)(2) references documents prepared by a participating county pursuant to Public Contract Code section 20133 (this was the statute that previously authorized counties to utilize the design-build construction procurement method). Effective January 1, 2015, Public Contract Code section 20133 was repealed. Does this make design-build ineligible for funding under SB 863?</b>
A4	Design-Build is still an eligible method. AB 114 was signed on June 24, 2015, which codified Government Code Section 13332.19, effectively replacing section 20133.
Q5	<b>SBSD cleared its CEQA in 2013 for the SB1022 project and received full mandatory criterion points at that time. Will the CEQA cleared in 2013 be sufficient for SB863 as long as the scope of work remains the same?</b>
A5	SB 863 requires the BSCC to determine the funding and scoring criteria, including CEQA compliance, which it did, and published them in the RFP. The proposals will be scored in accordance with those criteria.

	<p>SB 863 states the requirements to show preparedness to proceed:</p> <ul style="list-style-type: none"> <li>• A Board of Supervisors’ Resolution</li> <li>• Proof of CEQA compliance, and</li> <li>• County counsel opinion.</li> </ul> <p>Government Code section 15820.936 (b), provides (in relevant part):</p> <p>“...Funding preference shall also be given to counties that are most prepared to proceed successfully with the financing in a timely manner. The determination of preparedness to proceed shall include the following:</p> <ol style="list-style-type: none"> <li>(1) Counties providing a <b>board of supervisors’ resolution</b> authorizing an adequate amount of available matching funds to satisfy the counties’ contribution and approving the forms of the project documents deemed necessary...The identified matching funds in the resolution shall be compatible with the state’s lease revenue bond financing.</li> <li>(2) Counties providing documentation <b>evidencing CEQA compliance has been completed. Documentation of CEQA compliance shall be either a final Notice of Determination or a final Notice of Exemption, as appropriate, and a letter from county counsel certifying the associated statute of limitations has expired and either no challenges were filed or identifying any challenges filed and explaining how they have been resolved in a manner that allows the project to proceed as proposed.</b>” (emphasis added)</li> </ol>
<p><b>Q6</b></p>	<p><b>Matching funds: If the total project cost is 105 million and the award received is 80 million...will 25 million be sufficient for the matching fund requirement?</b></p>
<p><b>A6</b></p>	<p>For counties with a population of 200,000 or more, the minimum matching fund requirement is 10% of the total project cost. If total project cost is \$105 million the minimum match required is \$10.5 million. See page 1 of the Proposal Instructions document for more information.</p>
<p><b>Q7</b></p>	<p><b>Funding source: Is a special account specifically marked SB863 needed? Does the BOS resolution meet the funding source mandatory criterion?</b></p>
<p><b>A7</b></p>	<p>No, a special account is not required. The BOS funding resolution could meet the criterion. See Government Code Section 15820.936(b)(1) states, “Counties providing a board of supervisors’ resolution authorizing an adequate amount of available matching funds to satisfy the counties’ contribution and approving the forms of the project documents deemed necessary, as identified by the board to the BSCC, to effectuate the financing authorized by this chapter, and authorizing the appropriate signatory or signatories to execute those documents at the appropriate times. The identified matching funds in the resolution shall be compatible with the state’s lease revenue bond financing.”</p>
<p><b>Q8</b></p>	<p><b>Is it necessary to include in the BOS resolution the counties commitment to staff and operate the facility as per the RFP section on page 21? Or how does the Commitment need to be stipulated and where in the documents?</b></p>
<p><b>A8</b></p>	<p>The county is required to provide a staffing plan and cost projections, consistent with Government Code section 15820.935 (c ) (4), which states:</p> <p>“Submission of a staffing plan for the adult local criminal justice facility, including operational cost projections and documentation that the adult local criminal justice facility will be able to be safely staffed and operated within 90 days of completion, as may be applicable.”</p> <p>This staffing plan and cost projections should be submitted in Section 5. Budget narrative.</p>

<b>Q9</b>	Are counties authorized to utilize design-build given that Government Code section 15820.935(a)(2) references Public Contract Code 20133 which has been repealed and replaced with Public Contract Code section 22160 et seq.?
<b>A9</b>	Yes. Please refer to response for Q4.
<b>Q10</b>	If the project is a design-build project when does the three years for completion of construction begin? When the contract is awarded to the design-build team? When any construction begins at the site – even demolition?
<b>A10</b>	Three years from the date of DOF approval of Notice of Award.
<b>Q11</b>	On pages 33-34 under Task 6 it refers to a finance action to approve an award of a design-build contract and issuing a Notice to Proceed for construction within 42 months of conditional award by the BSCC. But final plans will not be developed until after the design-build contract is approved. Does this mean counties have 42 months to select a design-build team and obtain SPWB/DOF approval of plans and then an additional 36 months to complete construction or does the 36 months to complete construction begin when the design-build contract is approved?
<b>A11</b>	The 42 months begins on the date of the BSCC conditional award letter.
<b>Q12</b>	On the list of items required in our Board Of Supervisors' Resolution, item "B" states: "Approving the forms of the project documents deemed necessary, as identified by the board (SPWB) to the BSCC, to effectuate the financing authorized by the legislation." How can our Board approve documents that have yet to be drafted?
<b>A12</b>	This statement refers to "Form of" agreements that are standard form agreements approved by DOF for use on Lease-Revenue Bond projects. They include the BSCC/participating county agreement, PDCA agreement, Right of Entry, Facility Lease and Sublease and Ground Lease and Ground Sublease agreements. The template "Form of" documents are located here: <a href="http://www.bscc.ca.gov/s_cfcformofdocuments.php">http://www.bscc.ca.gov/s_cfcformofdocuments.php</a> and will be customized with the specifics when the successful applicant is chosen.
<b>Q13</b>	Section 4 Fact sheet asks for statistics such as Average Daily Population, arrests, Bookings, etc. What time frame are we to use?
<b>A13</b>	Table 1, Section 4: Fact Sheet, Item 7 (percentage non-sentenced inmates of system) is to be reported for January 1, 2013 through December 31, 2013. For the other information, the county should determine the appropriate time frame for reporting and should indicate the date or timeframe on which they are reporting.
<b>Q14</b>	What constitutes an award? For example, Siskiyou county is waiting on an award from AB 900 Phase II, by way of legislative action. If Siskiyou has been offered the award at the time of RFP submittal, does that count as being awarded?
<b>A14</b>	A "conditional award" is the result of a BSCC board action that approves a staff recommendation for the County to receive funds in the stated amount in the form of lease-revenue bond financing. Counties may receive additional conditional awards based on relinquished funding at upcoming 2015 BSCC Meetings.
<b>Q15</b>	Page 7: Eligible projects – The RFP states that "Proposed projects may include existing housing capacity, realizing only a minimal increase in capacity, using this financing authority" a. Question: Does existing housing capacity rely strictly on BSCC rated beds? b. Question: If some rated beds are being converted to special use beds, thus increasing special use beds and decreasing rated beds, how is this treated in terms of "capacity"?

A15	Government Code Section 15820.936(d) states, "A participating county may replace existing housing capacity, realizing only a minimal increase of capacity, using this financing authority if the requesting county clearly documents an existing housing capacity deficiency." The proposal needs to describe the county's current capacity, including rated and non-rated beds. The proposal should make clear any changes or increases in special use or treatment beds.
Q16	<b>Proposal Form Section 1 / Page 1</b> <b>a. Question: Are Counties expected to complete Section D: "Beds Constructed" for renovation type projects?</b>
A16	Yes.
Q17	<b>Page 14, Section 6: Board of Supervisor's resolution – Attestation to value as the current fair market land value... Pg. 14 (H)</b> <b>a. Question: Confirmation that a renovation project of a current operational facility does not require a Board resolution attesting to the land value of the project site?</b> <b>b. Pg. 15 note – Additionally, refer to "Section 5: Narrative – Readiness to Proceed" Are there addition resolution items from Section 5?</b>
A17	1. a: A BOS resolution attesting to the land value of the project site is required, as noted in Q2. 2. b: The county may determine if any other information is helpful to include in the resolution.
Q18	<b>Page 12, Section 5: Administrative work plan – ...list of division/offices including personnel that will be responsible for each phase of the project</b> <b>a. Question: Does this level of detail only apply if a county is claiming county administration for in-kind match?</b>
A18	Yes. This level of detail only applies if a county is claiming county administration for in-kind match.
Q19	<b>Proposal Instruction Section 2 / Form Page 5, a. 10., County Administration – "Define the county staff salaries/benefits directly associated with the proposed project"</b> <b>Verification that this is only required if a county is claiming county administration for in-kind match?</b>
A19	Yes. This level of detail only applies if a county is claiming county administration for in-kind match.
Q20	<b>Page 5, Section 2: 8. Needs Assessment</b> <b>a. Question: Verification as to whether or not a Needs Assessment is required if a renovation project results in a decrease in rated beds, but an increase in special use beds?</b>
A20	Needs assessments are required for all new facilities or when adding 25 beds or more to an existing facility. See CCR, Title 24, Part 1, Chapter 13, sec. 102 (c) 2.
Q21	<b>Net gain in beds according to BSCC means the number of beds (rated capacity and special use beds) to be added, minus the number of existing beds (rated &amp; special use) to be eliminated. Question: How should the County detail the net beds in the application when we are eliminating more operational beds than rated beds?</b>
A21	The SB 863 Proposal Form does not address "net gain."
Q22	<b>Does the County need an appraisal of the land even if our matching funds far exceed the 10%?</b>
A22	Yes. DOF will require an appraisal.
Q23	<b>Page 24 of the RFP, In-Kind (Soft) Match, item 3, states that land value cannot be claimed for land that is under an existing operational local jail facility. Is this to mean only the land directly within the physical perimeter of the walls of an existing facility, or is it mean all site appurtenances (e.g. ramps, driveways, sidewalks and miscellaneous site areas) within an existing complex cannot be claimed?</b>

A23	Department of Finance, acting on behalf of State Public Works Board, will require the County to show that the facility being encumbered as collateral for the lease revenue bonds can be made available to the State, through legal process, in the unlikely event of payment default by the County. The boundary of the land encumbered for each project will be unique and these land boundary questions are always case by case determinations, depending on the legal descriptions of the projects. When determining the boundary of the land encumbrance, all ancillary structures, equipment, and site improvements that are included in the legal description of the encumbered land must be included in the encumbrance. This boundary, as evidenced by the ultimate legal description that will be filed with the County Recorder, will determine the land area from which a land value can be estimated.
Q24	<b>Does the County need to include in its Board Resolution the intent to eliminate the beds in a facility it will be closing to build the new jail facility?</b>
A24	No. The BSCC does not require a BOS resolution is to eliminate beds; whether or not the County requires such an action to be documented in a BOS resolution is up to the County counsel.
Q25	<b>On section 4 fact sheet: Does this information on ADP, percentage of felony inmates, percentage of non-sentenced inmates need to match the needs assessment? Do we use the information from June 2014 as in the needs assessment or do we use current information?</b>
A25	Data presented by the County in the RFP Proposal should be consistent with the supporting Needs Assessment, and should cover the time period prescribed in the RFP and the statute with respect to Item 7 (percentage of non-sentenced inmates of system).
Q26	<b>Is the occupancy within 90 days of construction satisfied with opening the facility only partially? If so, can the transition be one floor at a time?</b>
A26	Occupancy is determined on a case by case basis by the State Fire Marshal and local building officials.
Q27	<b>How long do counties have to provide corrections of any technical compliance deficiencies noted by the BSCC?</b>
A27	BSCC Technical review begins August 31, 2015. BSCC Staff will notify counties of technical compliance issues by September 4, 2015. Counties will have until September 11, 2015 to provide corrections.
Q28	<b>Can the County Auditor (who is a CPA) perform the fiscal audit due within 90 days of the SFM certificate of occupancy? She is not the project financial officer or project manager.</b>
A28	A county employee who is a CPA may be able to prepare the final audit, provided that the audit techniques used conform to requirements of the RPF and Generally Accepted Accounting Principles. In addition, the CPA, if also a county employee, must certify the audit in accordance with standard accounting practices and must have been certified to be free of conflicts and not have been involved financially with the project except to perform the audit.
Q29	<b>Page 7, paragraph 6 states "Proposed Project and Evaluation Factors" section on page 17 of this RFP. Where is this? Possibly meant page 14?</b>
A29	Correct. The section for Proposed Project and Evaluation Factors is on page 14, not 17.
Q30	<b>What does "must translate the proposal into formal architectural plans and specifications that are submitted to, and approved by, the SPWB, DOF and BSCC." Please explain what this means.</b>
A30	The RPF Proposal is a narrative of the County's proposed project, and is not in a form that can be constructed, as is. Upon receipt of a conditional award, the County agrees to have architecture/engineering plans and specifications prepared that define the project in the standard format used by the building construction industry so the project can be constructed by licensed contractors.
Q31	<b>Fact Sheet. Do they want the population numbers from January 1, 2013 through December 31, 2013, as they request in sections of the RFP?</b>

<b>A31</b>	Please see the answer to Q13 above.
<b>Q32</b>	"May a portion of land/carve-out of an existing operational jail facility which is subject for closure, renovation/new construction and reopen be used for the land value as part of the County's In-kind match?"
<b>A32</b>	We would need more specific information to properly answer this question. Questions like this will need to be answered on a case-by-case basis.