

County Juvenile Facility Site Real Estate Due Diligence Training
Corrections Standards Authority
California Department of Corrections and Rehabilitation
State Department of General Services
April 29, 2009

The following is a list of questions asked by participants in the above referenced training session. In some cases further clarity has been added to the responses as detailed below.

1. Will there be one bond sale for all of the Senate Bill (SB) 81 projects?

It is not likely that all of the SB 81 projects will be ready for a bond sale at the same time due to the diversity of projects and their respective timelines. Subsequently, there may be one or more than one bond sale that includes SB 81 projects. The State Public Works Board (SPWB) will determine the timing and packaging of the bond sale(s). Bonds are typically not sold until the project's construction is complete and the facility is ready for occupancy. In some instances, as determined by the SPWB on a case-by-case basis and subject-to the concurrence of the bond underwriters, a nearly complete project may be approved for inclusion in a bond sale.

2. Is the Department of General Services (DGS) going to issue a calendar indicating when certain documents are due for the due diligence package?

The County SB 81 Real Estate Due Diligence Package Submission Checklist (Checklist) provides a sequential schedule and methodology for real estate due diligence document delivery. The initial due diligence package submission date will be as directed by the California Department of Corrections and Rehabilitation (CDCR) and the SPWB. Diana Frederick at CDCR (916-355-3397) is available to assist with coordinating county real estate due diligence package submissions.

3. It was mentioned that one of the counties' due diligence responsibilities is to facilitate site inspections by the State. When will the site visits take place; before or after the county submits the due diligence package?

DGS will schedule its site visit after the county's initial package submission and prior to completing its review of the Initial County Package Submission Documents identified in the Checklist.

4. **If a county also has an Assembly Bill (AB) 900 local jail construction project in the works, can the DGS due diligence site visit be coordinated to occur at the same time as the SB 81 juvenile site visit?**

Yes, both site inspections can occur during the same visit assuming that the AB 900 and the SB 81 initial packages have both been submitted.

5. **Can the county use a staff appraiser?**

No. To avoid a conflict of interest or appearance thereof, the appraisal assignment must be performed by an independent real estate appraiser with a valid Certified General License issued by the State of California Office of Real Estate Appraisers.

6. **Is there a requirement to create a separate parcel for the property that will be used for the construction of the juvenile facility?**

No. Only a legal description and plat map are necessary. The legal description and accompanying plat map will be utilized as exhibits within multiple lease-revenue bond documents and are subject to the approval of the SPWB and DGS. To more efficiently manage project costs, it is recommended that counties coordinate with CDCR and DGS staff prior to preparing or contracting for the deliverables. Standards for these exhibits are found in the Checklist under Additional County Deliverables After the DGS's Initial Review.

7. **Will DGS be asking for an ALTA (American Land Title Association) survey on the proposed site?**

No. ALTA surveys are not necessary. The required Title Exceptions Map deliverable identified in the Checklist will provide the needed data.

8. **Should the county also submit findings relative to the site that are not recorded?**

Yes. The county should submit all unrecorded findings and unrecorded rights pursuant to the requirements identified in the Checklist. The local facility property manager and the county property manager must each be authorized to sign an Unrecorded Rights Certification letter. Authorization shall be by Board of Supervisors resolution, existing authority within County Code, or by prior Board delegation of authority.

9. **Our title report will show a 15 foot easement that refers to a fire access road. Can we have the engineers hand draw the easement on the Title Exceptions Map?**

Yes, a hand drawing would be acceptable. The Title Exceptions Map is to be prepared by a Land Surveyor licensed in the State of California, wet signed, and subject to additional requirements identified in the Checklist.

10. What rate does DGS charge for its real estate due diligence services?

DGS' current hourly rate is \$117. This could change in the next fiscal year. At current rates, the initial real estate title due diligence costs charged by DGS could run between \$10,000 and \$12,000, but could be as low as \$8,000 in some cases. DGS typically charges between \$1,000 and \$1,500 for an appraisal review. DGS typically charges approximately \$2,500 for the updated due diligence that occurs just prior to the bond sale. In total, the DGS due diligence costs could range from \$11,500 to \$16,000.

11. How does the state's lease-revenue bond schedule and bond sale correspond with all of the legal agreements the counties must sign? Are the bonds sold before or after the agreements are signed?

The Project Delivery and Construction Agreement that sets forth the roles, responsibilities and performance expectations of parties for participation in and funding through the State's lease-revenue bond program for financing juvenile facilities is entered into at the beginning of the county's project when it is recognized and approved by the SPWB. All of the leases are executed prior to, and as a condition of, close of bond sale.

12. When will the counties be able to review the various lease agreements?

The lease agreements are still being drafted by counsel. Once completed, they will be distributed to the counties for review.

13. When are the lease-revenue bonds sold?

The bond sale date for those eligible to participate in the SB 81 Youthful Offender Rehabilitative Facilities Construction Financing program is selected by the California State Treasurer as agent of sale for the bonds. The timing of the sale is largely driven by federal tax law considerations. The federal tax law requires that construction/expansion/renovation be substantially complete (approximately 90 percent) within three years after the participating county begins construction/expansion/renovation. Please see FAQ #1 above for additional pertinent comments.

14. When does the State Public Works Board meet?

The SPWB meets on the second Friday of each month and agenda items must be submitted at least 20 calendar days in advance of the scheduled meeting.

15. Does the appraisal include the land and structures on the land?

No. The real estate appraisal should identify the land-only value for the proposed project site. The appraisal should include or assume legal access to the proposed project site. If an independent real estate appraisal was not prepared for the county's RFP response, submit a new appraisal that provides a January 6, 2009 effective date of value for the proposed project site.

16. Should our project footprint also include the recreation yard?

There are numerous actual and potential variables in play here that could influence the final analysis and direction. More detailed discussion is necessary for a successful resolution. Diana Frederick at CDCR (916-355-3397) is available to assist with resolving county concerns and issues.

17. Are we supposed to be appraising the Greater Parcel?

No. The real estate appraisal should identify the land-only value for the proposed project site. The appraisal should include or assume legal access to the proposed project site. If an independent real estate appraisal was not prepared for the county's RFP response, submit a new appraisal that provides a January 6, 2009 effective date of value.

18. What typically is the cost of a Preliminary Report?

The cost of a title company search and Preliminary Report can typically range from \$350 to \$1,500, but some have been as high as \$3,000. The cost of updates could range from \$0 to \$350. A Preliminary Report covering the Greater Parcel Area provided by a title company authorized to issue title insurance within the State of California along with all vesting, exception, and vesting/exception sub-documents is required.

19. When we do lease-revenue bond projects at the county level we are required to have title insurance. Does the State require title insurance?

Title insurance is not a State requirement.

20. Concerning the CEQA process, when should the preliminary site assessments occur?

California Department of Corrections and Rehabilitation's Environmental Services Branch staff will walk the project site approximately two months prior to the SPWB meeting when the results of the real estate due diligence and CEQA compliance are reported.

21. Are mitigation costs for species removal/relocation included in the project costs?

Mitigation costs for species removal/relocation are the responsibility of the county and may or may not be eligible as match. After CEQA environmental studies/reports are complete, species mitigation measures are determined, and costs are known, counties should provide CSA with this information in order to determine match eligibility. In no event are off-site mitigation costs eligible as match or state funds.