

**California Department of Corrections and  
Rehabilitation**

**Corrections Standards Authority**

**REQUEST FOR PROPOSALS**  
**CONSTRUCTION OR EXPANSION**  
**OF COUNTY JAILS**

*AB 900 Phase I - 2009 Edition*



**Issued: July 21, 2009**

**Proposals Due: October 8, 2009**

**Arnold Schwarzenegger, Governor**

**Corrections Standards Authority  
600 Bercut Drive  
Sacramento, CA 95811**

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**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**DEPARTMENT OF CORRECTIONS AND REHABILITATION**

**Matthew L. Cate**, Secretary and Chair

**CORRECTIONS STANDARDS AUTHORITY MEMBERS**

**Scott Kernan**

Manager/Administrator, State Correctional Facility  
For Adult Offenders  
Undersecretary (A), Operations & Administration

**Bernard Warner**

Manager/Administrator, State Correctional Facility  
For Juvenile Offenders  
Chief Deputy Secretary, Division of Juvenile Justice

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Subordinate Officer of the Secretary of CDCR  
Administrator (A), Division of Juvenile Justice

**Chris Ryan**

Subordinate Officer of the Secretary of CDCR  
Director (A), Division of Community Partnerships

**Ed Prieto**

Sheriff (jail with RC of 200 inmates or less)  
County of Yolo

**Leroy Baca**

Sheriff (jail with RC of over 200 inmates)  
County of Los Angeles

**Patricia Bates**

County Supervisor or Administrative Officer  
Supervisor, County of Orange

**Linda Penner**

Chief Probation Officer (county over 200,000 pop.)  
County of Fresno

**Adele Arnold**

Chief Probation Officer (county under 200,000 pop.)  
County of Tuolumne

**John Ingrassia**

Administrator, Local Detention Facility  
Commander, San Diego County Sheriff's Department

**Dr. Mimi. H. Silbert**

Administrator, Local Community-Based Correctional  
Program/Delancey Street Foundation

**Colleene Campbell**

Public Member, Represents Interests of Crime Victims  
Memory of Victims Everywhere & Force 100

**Carol Biondi**

Public Member  
Los Angeles County Commission  
for Children and Families

**Kimberly Epps**

Rank and File, Juvenile Probation Officer  
Supervising Probation Officer  
San Bernardino County Probation Department

**Cleotha Adams**

Rank and File, Deputy Sheriff  
Sergeant, Yuba County Sheriff's Department

**Sandra McBrayer**

Representative, Community-Based Youth Service  
Organization/The Childrens' Initiative

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Rank and File, State Adult Correctional Facility  
Correctional Officer, Folsom State Prison

Staff

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Standards & Training for  
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**Debbie Rives**, Deputy Director

Facilities Standards & Operations  
Division  
**Gary Wion**, Deputy Director

County Facilities Construction  
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**Robert Takeshta**, Deputy Director

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**EXECUTIVE STEERING COMMITTEE MEMBERS  
JAIL CONSTRUCTION FINANCING PROGRAM  
AB 900 PHASE I – 2009 EDITION**

**Sheriff Ed Prieto, Chair**

Board Member, Corrections Standards  
Authority  
Yolo County Sheriff's Department

**Sheriff Donny Youngblood, Co-chair**

Kern County Sheriff's Department

**Don Blevins, Chief Probation Officer**

Alameda County Probation Department

**Kathy Long, County Supervisor**

Ventura County Board of Supervisors

**Gary Wyatt, County Supervisor**

Imperial County Board of Supervisors

**John Ketelsen, County Administrative  
Officer**

Lassen County Administrative Office

## CORRECTIONS STANDARDS AUTHORITY CONSTRUCTION FINANCING PROGRAM

The purpose of this Request for Proposals (RFP) is to establish conditional awardees in order to allocate financing\* from the first phase of the Public Safety and Offender Rehabilitation Services Act of 2007. This phase provides up to \$750 million in state funded lease-revenue bond financing for construction or expansion of county jails in California. This 2009 RFP represents the second offering (Round 2) of Phase I financing in order to allocate the remaining authority of \$194,426,779. This amount could increase should additional Phase I dollars become available during the RFP process.

This RFP package includes (in order of appearance):

- Timeline of Key Events
- Bidders' Conference Registration
- Request for Proposals Detail
- Proposal Evaluation Factors
- Requirements After Notification of Intent to Make a Conditional Award for Financing
- State Public Works Board/Corrections Standards Authority Processes and Requirements
- General Definitions
- Construction Project Flow Chart
- Proposal Form (in separate document)

### **Corrections Standards Authority Staff Contact Information**

Prior to developing and submitting a proposal, applicants should carefully review the entire RFP package. Applicants are encouraged to access the [CSA website](#) for helpful information related to Frequently Asked Questions, standards and construction issues. Questions regarding the RFP may be directed to CSA staff.

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\* A COUNTY'S RECEIPT OF A CONDITIONAL AWARD FOR STATE FINANCING, AS DESCRIBED HEREIN, DOES NOT GUARANTEE THE AWARDED COUNTY WILL RECEIVE AUTHORIZATION TO SEEK AN INTERIM LOAN OR THAT BONDS WILL BE ISSUED (OR SUBSEQUENTLY SOLD). THE CONDITIONAL AWARD IS MERELY AN EXPRESSION THAT THE COUNTY IS QUALIFIED, AT THIS POINT, TO MOVE FORWARD IN THE PROCESS. THE AB 900 JAIL FINANCING PROGRAM IS NOT A GRANT PROGRAM.

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**TIMELINE OF KEY EVENTS  
JAIL CONSTRUCTION FINANCING**

January 8, 2009	CSA Board appoints Executive Steering Committee (ESC) Chair/Co-Chair and approves ESC member composition.
April 27, 2009	ESC meeting to develop elements of RFP and proposal evaluation criteria.
May 18, 2009	Draft RFP sent to California Department of Corrections and Rehabilitation, State Public Works Board, Governor's Office and Attorney General's Office for review and comment.
July 16, 2009	CSA Board meeting to take action on final RFP.
July 21, 2009	CSA issues final RFP.
August 5, 2009	Bidders' conference in Sacramento.
October 8, 2009	Proposals due to CSA office by 5:00 PM.
October 9 – 23, 2009	Staff completes technical requirements review of proposals. Counties are given opportunity to correct technical deficiencies.
November 4 – 5, 2009	ESC raters' training; ESC reviews the proposals and makes preliminary ratings; scheduled county presentations on proposals to ESC (Sacramento); ESC makes final ratings and ranks proposals for financing recommendations.
November 6 – 11, 2009	Staff finalizes ESC recommendation package.
November 12, 2009	ESC recommendations mailed to counties and CSA.
November 19, 2009	ESC recommendations presented to CSA for intent to make conditional awards for financing at a CSA meeting.

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**BIDDERS' CONFERENCE REGISTRATION  
JAIL CONSTRUCTION FINANCING**

A bidders' conference will be held in Sacramento at the CSA conference room, 660 Bercut Drive on August 5, 2009 from 1:00 PM to 3:00 PM. The intent of the bidders' conference is to provide counties and other interested parties the opportunity to ask questions regarding the RFP, and receive clarification on the RFP process. Attendance is optional. Following the conference, questions and answers from the session will be posted on the CSA website.

**Pre-registration for the conference is requested. Please submit the completed registration form by July 31, 2009.**

The registration form is available on-line on the CSA website, accessible through the following link:

**[Bidders' Conference Registration Form](#)**

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**REQUEST FOR PROPOSALS DETAIL**

**SUMMARY**

On May 3, 2007, the Public Safety and Offender Rehabilitation Services Act of 2007 became law (also known and referred to as AB 900, located in Chapter 7, Statutes of 2007). Among its provisions, the State Public Works Board (SPWB) and the California Department of Corrections and Rehabilitation (CDCR) are authorized to enter into agreements with participating counties for acquisition, design and construction of local jail facilities (county adult detention facilities) for projects approved by the State Corrections Standards Authority (CSA) as concurred by the SPWB. Up to \$1.2 billion dollars total is authorized by the legislation for county jail construction.

Up to \$750 million in Phase I jail construction financing is conditionally available. **This RFP is intended to solicit proposals to establish a rank-ordered list of projects and to potentially allocate financing of the remaining Phase I authority of \$194,426,779. This amount is subject to increase should additional financing authority become available.** There is a June 30, 2017 deadline for Phase I funding.

The CDCR/CSA foresees issuing a third, separate RFP for up to \$470 million for additional Phase II jail construction as authorized by this legislation. At the time of the issuance of this RFP, it is uncertain how expeditiously Phase II can and will be implemented.

Counties with a general population equal to or greater than 200,000 must commit to providing a minimum of 25 percent of the total project costs as matching funds. Counties with a general population of less than 200,000 may petition for a lower matching fund requirement.

In order to proceed to Phase II funding, AB 900 requires the siting or construction of at least 4,000 new local jail beds in Phase I. As a second benchmark prior to accessing Phase II funding for jail construction, AB 900 requires the siting or construction of 2,000 state prison reentry facility beds, to be funded through separate means. The programming of state prison reentry facilities is a separate process being administered by other divisions of CDCR.

This RFP for county jail construction is being issued for the State of California by the CSA, an entity within CDCR. **Completed project proposals must be received at the CSA office in Sacramento no later than 5:00 PM on October 8, 2009.** Project proposals received after that date and time will not be considered.



Jail construction financing will be administered by the SPWB from the issuance of lease-revenue bonds. This financing mechanism requires the SPWB on behalf of the State of California to hold an irrevocable leasehold interest of the jail facilities during the term of the lease-revenue bonds (approximately 25 to 30 years). The SPWB will lease the jail facilities to CDCR, who will in turn sublease the jail facilities to the participating county for their use and operation in the care and custody of county jail inmates.

Counties that receive notice of a conditional award for financing are responsible for: the site acquisition; environmental determinations/mitigation measures; design; construction; staffing; operation; and repair and on-going maintenance of the facility in accordance with applicable laws, regulations, and any terms and conditions in the CDCR/participating county agreements. Some, but not all, of these costs may be included as part of a county's local match requirement (see State Financing and County Matching Requirements section). Counties have the performance obligation to successfully complete the construction project (i.e., proposed scope including number of beds to be added; within agreed upon timelines; built to code and standards; and within budget). Counties are also responsible to fully staff and operate the facility within 90 days after construction completion.

It is anticipated that counties selected for financing through this RFP process will be issued an intent to conditionally award by the CSA at its November 2009 meeting. These awards are "conditional" in that they are predicated, at a minimum, on the requirements that: 1) each county's project be approved by the CSA and the SPWB at various stages throughout planning and construction, as defined in this RFP; 2) each selected county enters into the state/county agreements as required; and, 3) lease-revenue bonds are sold for each selected project. The lease-revenue bonds provide the necessary long-term financing mechanism to repay all state interim financing for the selected jail construction projects up to that point.

Accurate scope, cost and time estimates are needed before responding to the RFP. After receiving a conditional award notification, successful applicant counties must translate the proposal into formal architectural plans and specifications that are submitted to and approved by the SPWB and CSA (see the State Public Works Board/Corrections Standards Authority Processes and Requirements section). Counties must construct the jail facility to enable conformance with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, California Code of Regulations (CCR). For planning purposes, please note that under this financing program construction should be substantially complete (approximately 90 percent) within three years after the participating county begins construction.

The CSA will not increase financing amounts after a conditional award notification, or approve a reduction in the proposed and accepted scope of work, if counties receive higher than expected construction bids. Counties are solely responsible for the payment of higher than anticipated project costs. If counties

receive project bids that are less than the estimated amount of state financing, or if they are able to complete the project at less than the amount of state financing, excess financing allocations may be returned to the state and redistributed and used for other projects.

## **ELIGIBLE PROJECTS**

Counties may apply for and receive state financing to build new or expand existing Type II, III and IV county adult detention facilities, as defined in Titles 15 and 24, CCR. (Type I jail facilities and temporary and court holding facilities projects are not eligible.) Renovation of existing facilities may be permissible if it is necessitated by adding beds, or to provide rehabilitative program space to support the population to be served by the added beds. Projects for deferred maintenance only, or renovation not resulting in added beds, are not eligible under this financing program. Counties may build for needs meeting year 2013 projections, and no further.

For new construction that is physically attached to an existing facility, the SPWB requires that the scope of the proposed project include all work necessary for the existing facility to meet current seismic and fire and life safety standards. These improvements may qualify as necessary renovation.

Applicants must state in the project proposals the number of beds that will be added by the project; the number of beds that will be eliminated (if any) as a result of the project; and the net gain in jail beds (county-wide adult detention system) that will result after the project is completed.

"Beds" mean CSA-rated beds that are dedicated to housing offenders in a jail facility's single and double occupancy cells/rooms or dormitories, including special use beds for medical, mental health and disciplinary purposes, that are planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, CCR (state standards for county detention facilities). Temporary holding cells, sobering cells and safety cells may be constructed under this program as needed, but are not considered as cells/rooms with beds.

Counties must ensure that construction plans also include all necessary ancillary space to enable the facility to comply with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, CCR (e.g., dining, showers, recreation, medical exam). Ancillary space included in the financed project must be reasonable and necessary for facility operations, including administrative space and rehabilitative program space.

## **EXECUTIVE STEERING COMMITTEE/CORRECTIONS STANDARDS AUTHORITY BOARD**

The CSA has appointed an Executive Steering Committee (ESC) to guide this process; develop recommendations on elements of the RFP and proposal evaluation criteria; review and rate proposals; and make conditional financing award recommendations to the CSA Board (see lists of CSA and ESC members). The ESC role is advisory to the CSA Board. The CSA Board makes certain preliminary policy and preliminary project financing decisions. The RFP timeline and process may be changed at any time by the CSA Board. Counties will be notified if changes or modifications occur. The CSA Board will have final determination of the ranking of the projects and will issue conditional financing decisions. The CSA Board may reject any or all proposals. After CSA's decision, CDCR must certify the project and SPWB must determine whether the project may proceed in this financing program.

In order to maintain objectivity and impartiality, members of the ESC and the CSA Board request that applicants do not contact them about proposals at any time during this process. Any member of the ESC will abstain from participation in discussions or evaluations of proposals submitted by their county of employment or in situations where they have an actual or potential conflict of interest.

## **LIMIT ON NUMBER OF PROJECTS AND FINANCING REQUESTS**

Total Phase I state lease-revenue financing availability is \$750 million, of which approximately \$194,426,779 is unallocated and remains for this current RFP process. Therefore, in order to fund as many projects as possible, it has been determined that each county is limited to one project proposal for a single facility construction or expansion project. Counties already holding a Phase I conditional award are not eligible to submit another proposal in this second Phase I RFP process.

To ensure that large, medium and small counties each have the opportunity to share in the available funding, the \$194,426,779 million has been divided as such: up to \$164,426,779 has been set aside for large and medium counties combined, and up to \$30 million has been set aside for small counties. Either of these set-aside amounts may increase should additional financing authority become available during this RFP process.

The maximum amount of state financing that can be requested by individual counties is up to 75 percent of total eligible project costs (except for small counties that request and receive a reduction of in-kind match and therefore may request more than 75 percent), not to exceed a maximum state financing amount of \$100 million per project for large counties; \$80 million per project for medium counties; and \$30 million per project for small counties. Subject to these maximum state financing limits, the state has no overall limit on the total cost of

an eligible county project, so long as the county demonstrates adequate local funding for the local match and ongoing operational costs of the facility.

<b>Large Counties (pop. 700,001 +)</b>	<b>Medium Counties (pop. 200,001-700,000)</b>	<b>Small Counties (pop. 200,000 or fewer)</b>	
Alameda	Butte	Alpine	Modoc
Contra Costa	Marin	Amador	Mono
Fresno	Merced	Calaveras	Napa
Kern	Monterey	Colusa	Nevada
Los Angeles	Placer	Del Norte	Plumas
Orange	San Joaquin	El Dorado	San Benito
Riverside	San Luis Obispo	Glenn	Shasta
Sacramento	Santa Barbara	Humboldt	Sierra
San Bernardino	Santa Cruz	Imperial	Siskiyou
San Diego	Solano	Inyo	Sutter
San Francisco	Sonoma	Kings	Tehama
San Mateo	Stanislaus	Lake	Trinity
Santa Clara	Tulare	Lassen	Tuolumne
Ventura	Yolo	Madera	Yuba
		Mariposa	
		Mendocino	

**PROPOSAL DUE DATE AND SUBMITTAL REQUIREMENTS**

The proposal must be made and formatted pursuant to the *2007 Local Jail Construction Financing Program Proposal Form – 2009 Edition*, including any exhibits and/or attachments, complete with signature from a designated county official, along with the proposal narrative (to be attached as described later in this RFP). Additionally all proposals must include:

- The original proposal and 11 copies (stapled or clipped, three-hole punched on the left side and two-hole punched at the top) are required to be submitted to the CSA.
- A fully executed Board of Supervisors’ resolution, and City Council resolution if applicable (as described in this RFP), must accompany the proposal. A single resolution is acceptable, although multiple resolutions may also be submitted so long as the document(s) contains all required points (basic proposal submittal resolution requirements, plus specific points addressing preference issues, if applicable).
- One copy of a formal needs assessment study (as described later in this RFP) must also accompany the proposal, unless a county is proposing to add less than 25 beds.

Project proposals must be received at the CSA office, 600 Bercut Drive, Sacramento, CA 95811 no later than 5:00 PM on October 8, 2009. Late proposals will not be considered. A time-stamped copy of your first page will be available at the CSA front desk on/or before October 8, 2009.

All proposals received under this program will be: 1) reviewed by CSA staff for technical compliance with CSA proposal submittal requirements (with opportunity given to counties to correct technical compliance deficiencies before proposals are sent to the ESC for review); 2) reviewed and rated by the ESC; and 3) ranked by the ESC with conditional award recommendations provided to the CSA Board. The CSA Board may accept, reject, or change any ESC recommendations before providing its recommendations to the SPWB.

CSA staff's review of the technical compliance requirements will include verifying the following:

- project eligibility (county jail Type II, III or IV facility; and adding beds)
- state financing requested is within project cap limits
- state financing requested does not exceed 75 percent of total project costs (unless proposal indicates a match reduction petition)
- minimum match percentage requirements are met
- cost and budget summaries and net gain in beds computations are free of mathematical errors
- proposal form is in original format, signed, and each section is addressed
- font size, number of narrative pages and spacing format is consistent with requirements
- Board of Supervisors' resolution contains necessary components
- City Council resolution provided, if applicable
- a formal needs assessment study is submitted with the proposal if 25 beds or more are being added

During the ESC proposal review process, each applicant will be invited to make a brief scheduled presentation of their proposal to the ESC in Sacramento on November 4 – 5, 2009. Although not required, this presentation period is intended to provide applicant counties with the opportunity to answer any questions the ESC may have about the proposed project. Presentations shall be done by county officials and not by consultants.

### **TECHNICAL REQUIREMENTS REVIEW OF DRAFT PROPOSAL**

It is anticipated that CSA staff will be available to provide a limited technical review of the draft proposals anytime up to two weeks before the submittal deadline to determine if the draft proposal complies with the technical requirements. Draft proposal reviews are not required. Reviews are informal in nature, non binding, and limited to staff assessment of compliance with state requirements. Staff can make no judgment as to the merit of draft proposals or how proposals will be evaluated or ranked by reviewers.

## **GENERAL CONSIDERATIONS**

**Preferences:** The Public Safety and Offender Rehabilitation Services Act of 2007 requires that a preference be given when distributing state funding to counties that:

1. assist the CDCR in siting CDCR reentry facilities;
2. assist the CDCR in siting mental health day treatment and crisis care for parolees; and/or
3. provide a continuum of care so that parolees with mental health and substance abuse needs can continue to receive services at the conclusion of parole.

Preference #1 above: Assisting CDCR in siting reentry facilities is a requirement of this jail construction program. In order to be eligible to participate in the program, following each of the steps outlined in this RFP related to siting reentry facilities is mandatory. Each proposal submitted and accepted must include the requisite documentation and will automatically receive the associated 300 preference points (see Sections 5 and 6 of the Proposal Form).

Counties must indicate their willingness to assist CDCR with the siting of a reentry facility in the Board of Supervisors' resolution which is part of the funding proposal (see Section 6: Board of Supervisors' Resolution). Counties must identify in the Board of Supervisors' resolution a specific site location(s) for the state reentry facility. If the site(s) is owned by a city located within the applicant county, or the site is within any city's limits, a resolution from the City Council must accompany the Board of Supervisors' resolution as part of the proposal. Siting state reentry facilities on city-owned property located within the applicant county is acceptable. Additionally, each county agreeing to assist the state in siting a regional state reentry facility will be eligible to participate in this program, and will be individually qualified for the preference points afforded for that assistance.

All counties submitting a proposal shall, within 90 days upon receiving the notice of conditional award, sign a Siting Agreement with CDCR. This Siting Agreement will require that the county identify up to three sites agreeable to CDCR. Failure to meet the 90-day time limit to sign a Siting Agreement will result in bringing the county's jail construction proposal back before the CSA Board. (See CSA website for [Siting Agreement](#).)

Preferences #2 and #3 above: With regard to the maximum preference points available for counties related to parolee mental health services, those counties willing to assist the state with siting mental health day treatment and crisis care for parolees must identify a physical location at which the mental health day treatment and crisis care services may be provided.

Counties that have issued a resolution as specified in this RFP, agreeing to assist CDCR with parolee services, will receive preference points based upon a graduated scale in the evaluation process (see Section 5 of the Proposal Form: Financing Program Preferences). Counties that do not provide a Board of

Supervisors' resolution agreeing to the preferences stated above will not be entitled to receive the preference points as determined by the specific preference. Since the total amount of points received on all evaluation factors will determine county placement on the rank-ordered list, counties that do not agree to assist CDCR with parolee services may be eligible for jail construction financing if they receive greater points on other evaluation factors that in total outweigh the points received by counties that are awarded preference points.

**"Green" Building is Encouraged:** Sustainable or "green" building is the practice of designing, constructing, operating, maintaining, and removing buildings in ways that conserve natural resources and reduce their overall impact on the environment. Compliance is voluntary, but will be one factor considered in the evaluation of proposals when assessing proposed scope of work and project impact. For more information on green building, consider the information provided by the following sources:

[California's Integrated Waste Management Board](#)

[Green California DGS](#)

[U.S. Green Building Council](#)

**Regional Jail Facilities:** Counties desiring to construct a regional jail facility for the purpose of housing county inmates from multiple counties must submit one single proposal from the lead county in which the project is being constructed. The proposal must include a county Board of Supervisors' resolution from each respective county in the partnership and a copy of a Memorandum of Understanding (MOU) or Joint Powers Agreement (JPA) between the partner counties. The agreement must clearly identify the terms, conditions, rights, responsibilities and financial obligations of all parties in sufficient detail that demonstrates that the regional facility will confine offenders from all partner counties.

Although the state will require partnering counties to enter into an MOU or JPA, the lead county will be considered the operator of the site/facility and will be the designated participant in the state financing program. All counties in a regional facility will potentially be subject to any and all requirements of the lead county, including but not limited to, state agreements and leases pursuant to the lease-revenue bond process administered by the SPWB, with the obligation to perform and complete construction, and provide the required match. The county under state/county agreements may enter into legal arrangements, as it deems appropriate, to ensure that its regional partners provide a portion of cash to meet its match requirements as outlined in the MOU or JPA. Notwithstanding any provision of any contract, agreement, MOU or JPA, the failure of any partner county to provide cash to the county under state/county agreements does not relieve the lead county under state/county agreements from its construction and match performance obligations.

**Pilot Projects:** CSA does not grant "variances" to state regulations. However, "pilot projects" and "alternate means of compliance" (both defined in Titles 15 and 24, CCR), may be proposed if counties seek CSA approval to test a process that will meet or exceed the intent of a regulation in an innovative way. There is no

guarantee that the CSA will approve any pilot project or alternate means of compliance request. If counties have any concerns about their ability to meet standards, or intend to request a pilot project or alternate means of compliance, please contact your county's CSA-assigned facility inspector at the earliest possible time to discuss feasibility issues and options for proceeding before a proposal is submitted.

**Needs Assessment Study/Letter of Intent:** One copy of a formal needs assessment study, containing all required data elements as defined in Title 24, CCR, Section 13-102 (c) 2, must be submitted concurrent with the funding proposal form and proposal narrative if a county proposes to construct a new facility or add beds (25 beds or more) to an existing facility. Proposals fitting this description that are submitted without a needs assessment study will be rejected. The needs assessment study must reflect current needs; this can be an update of a previous needs assessment study. Adding fewer than 25 beds to existing facilities does not require a separate needs assessment study, but does require a comprehensive targeted summary of need to be provided in the proposal narrative (see Section 4 – B of the Proposal Form). Proposals submitted to the CSA will be considered a Letter of Intent to build, expand or remodel a facility as required by Title 24, CCR, Section 13-102 (c) 1.

**Site Assurance For Local Jail Facilities:** Counties must possess a suitable project site (fee simple land title or comparable long term possession) and provide assurance by Board of Supervisors' resolution at the time a proposal is submitted, or not later than 90 days following the date of notification by CSA of the intent to conditionally award suitability for financing (expected to be made on or about November 19, 2009). This means that any land purchase options must be exercised (and escrow closed) within 90 days following the notification of intent to conditionally award. The project site must be suitable for lease-revenue financing as determined by the SPWB.

**Real Estate Due Diligence:** The State will conduct its own real estate due diligence review of a county's proposed project site. This includes, but is not limited to, all work related to establishing site ownership and title absent liens, encumbrances, property easements, etc., ground/soil analysis, topography, hydrography, environmental impacts and other identified site related issues. This review will confirm that the county's property interest in the site is sufficient to support bond financing and that no exceptions or limitations exist (either recorded or unrecorded) that would interfere with the state's right to beneficial use and occupancy of the facility so long as the bonds are outstanding. Any necessary costs incurred by the state for appropriate title review will be charged to the county. (See CSA website for [County Due Diligence Checklist.](#))

**Environmental Requirements:** For purposes of this financing program, counties are the lead or responsible agencies for ensuring that the project complies with the necessary provisions of the California Environmental Quality Act (CEQA) process prior to the start of construction.



**Commitment to Staff and Operate the Facility:** Counties must commit to staffing and operating the facility in accordance with state standards within 90 days of construction completion (when a notice of completion has been accepted by the county) and agree to operate the facility at least until the state bonds are repaid.

## **STATE FINANCING AND COUNTY MATCHING REQUIREMENTS**

**Eligible Project Costs:** The state has identified specific types of costs as eligible for financing under this program. In general, eligible project costs will consist of on-site costs of facility construction and the purchase and installation of fixed furnishings and fixed equipment (within a reasonable buffer zone surrounding the security fence, detention facility and parking lot). Spaces shall be sized to state standards, and all reasonable and necessary facility ancillary, administrative, and program space may be included.

**State Financing:** State financing can be used for construction activities that occur after the SPWB has approved the project's scope and cost, among other steps, and the CSA has approved a project's final architectural plans and specifications. Project costs eligible for state financing may include:

1. Construction of the CSA-approved detention facility project, including site preparation.
2. Fixed equipment items; e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc., as necessary for the operation of the detention facility.
3. Fixed furnishings; e.g. built-in and permanently-affixed counters, tables, cabinets and seats, etc., as necessary for the operation of the detention facility.
4. Installation of fixed equipment and fixed furnishings as necessary for the operation of the detention facility.

Examples of ineligible costs for which state financing cannot be used include, but are not limited to: purchase, lease or rent of land; personnel or operational costs; construction management; architectural programming/design; environmental reports; soil and/or water contamination assessment/mitigation; excavation of burial sites; moveable furnishings and moveable equipment; public art; off-site costs such as access roads, power generation and utilities development; all costs attributable to county building permit fees and/or building code inspection fees; supplies; bonus payments and debt service or interest charges.

Costs to be attributed to state financing must be identified in the project proposal. The maximum amount of financing that can be requested by individual counties is up to 75 percent of total eligible project cost (except for small counties that request and receive a reduction of in-kind match and therefore may request more than 75 percent), not to exceed a maximum proposed state financing amount of \$100 million per project for large counties; \$80 million per project for medium counties; and \$30 million per project for small counties (see previous population

chart). State financing cannot be used to supplant (replace) funds otherwise dedicated or appropriated by counties for construction activities.

**County Matching Fund Requirements:** A minimum of 25 percent match of total eligible project costs is required (with the exception of the stipulated difference for small counties). This local match may be a combination of cash match and in-kind match, subject to the following limitations:

**Cash (Hard) Match:** Cash match must be identified in the proposal and must be at least 10 percent of total eligible project costs for large counties and at least 5 percent of total eligible project costs for medium and small counties (see previous population chart). Counties may provide an unlimited amount of cash match above the required minimum. Cash match cannot be used to supplant (replace) funds otherwise dedicated or appropriated by counties for construction activities. Cash match cannot be claimed for salaries/benefits of regular employees of the county workforce, but may be claimed for the services of consultants or contractors engaged to perform project related services as described below. Eligible cash match expenditures only include costs of:

1. Items eligible for state financing as previously indicated.
2. Architectural programming and design (by consultants or contractors).
3. Preparation costs for full or focused environmental reports (for activities by consultants or contractors).
4. Construction management (for activities by consultants or contractors).

Examples of ineligible costs for which cash match cannot be used include, but are not limited to: needs assessments; and, construction management and administrative services provided by regular employees of the county work force.

**In-Kind (Soft) Match:** In-kind match must be identified in the proposal. In-kind match cannot exceed 15 percent of total eligible project costs for large counties and cannot exceed 20 percent of total eligible project costs for medium and small counties (see previous population chart). In-kind match may be kept at the maximum allowable or reduced for each dollar that cash match is increased beyond the required minimum (see cash match above). In-kind match may be claimed for project related costs for activities performed by staff or consultants. Eligible in-kind match only includes:

1. Items eligible for state funding and cash match as previously indicated.
2. Audit of state interim or permanent financing at the conclusion of the project (staff salary/benefits of independent county auditor or services of contracted auditor).
3. Needs assessments (staff salary/benefits and/or consultant costs directly related to the project).
4. Site acquisition cost or current fair market land value supported by independent appraisal (on-site land only regardless of acquisition date). This can be claimed for on-site land cost/value for new facility construction, on-site land cost/value of a closed facility that will be renovated and reopened, or on-site land cost/value used for expansion

- of an existing facility. It cannot be claimed for land cost/value under an existing operational detention facility.
5. County administration (staff salary/benefits directly related to the project for activities after May 3, 2007).
  6. Transition planning (staff salary/benefits and consultant activities directly related to the project for activities after May 3, 2007).

The CSA Board may reduce in-kind match requirements for small counties with a general population below 200,000 upon petition by counties. Small counties intending to request CSA Board approval of a reduction of in-kind match must indicate so on the funding proposal form.

Costs which may not be attributed to local matching requirements include, but are not limited to, on-site costs such as moveable equipment and moveable furnishings or the construction of other non-detention facility space such as courtrooms, department offices and county administrative complexes. Off-site costs such as constructing access roads or utilities development are also not eligible, nor are construction items/activities outside of a reasonable buffer zone surrounding the perimeter of the security fence, detention facility and parking lot.

Counties must pay for ineligible cost items with supplemental funds not included in county match. Supplemental county funds to pay for off-site and other ineligible cost items should not be included on the attached project proposal form which applicants will use to schedule requested state financing, matching funds and total estimated eligible project costs. If applicants are unsure if an item is eligible as match, please contact CSA staff before submitting a proposal. Any project costs that are ineligible for purposes of this proposal, but necessary for the beneficial use and occupancy of the jail facility (i.e., access roads), shall be funded by the county through other means, and in such timely manner, so as not to interrupt or delay the occupancy and use of the jail facility.

**Timing and Nature of Local Match Requirements:** SPWB will not be able to establish the scope, cost, and schedule of a project until a county demonstrates to the state's satisfaction that local matching requirements will be available as necessary for the timely completion of the project. State interim financing will only reimburse county costs attributable to identified eligible state project costs. State interim financing will not be provided to cover local match requirements during construction of the project. In addition, local matching funds cannot be provided through any local bonding authority which would use the project facility or its revenues as security for the local bonds. As any local financing mechanism will have varying terms and conditions that govern the security, fiscal and disclosure obligations associated with that financing, it is possible that those obligations may be incompatible with SPWB lease-revenue bonds. A SPWB financing cannot proceed if there is a prior superior security interest in all or part of the proposed facility. An analysis of the specifics of the local financing mechanism by the SPWB will determine if the local financing mechanism is compatible with SPWB lease-revenue bonds.

**Total Eligible Project Cost:** The total eligible project cost shall be a combination of eligible items as specified above that comprise the state share, cash match and in-kind match. The county may determine which eligible project components to include as part of the total project for purposes of this proposal. In the proposal the county shall provide a precise description of the exact project, or that portion or phase of a project, to be completed with the state share and the required county matching funds.

Please note that any and all costs attributable to the planning and construction of a state secure reentry program facility are ineligible for purposes of this program and in the determination of jail construction total eligible project costs.

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**PROPOSAL EVALUATION FACTORS**

The evaluation factors to be used, some of which are computed, and the maximum points that will be allocated to each factor, are shown in the table below.

<b>EVALUATION FACTOR</b>	<b>MAXIMUM POINTS</b>
Project Need	250
Detention Alternatives	100
Scope of Work and Project Impact	100
Administrative Work Plan	100
Net Gain in Beds	200
Cost Effectiveness	150
Cash Match	25
Preference Points for Assisting the State in Siting a Reentry Facility ( <u>required county participation</u> )	300
Preference Points for Assisting the State with Mental Health and Crisis Care Services for State Parolee and Ex-Offender Population	100
<b>TOTAL POINTS</b>	<b>1325</b>

Evaluation of Project Need, Detention Alternatives, Scope of Work/Project Impact, and Administrative Work Plan will be based on an assessment of the degree to which a proposal adequately addresses the minimum discussion points in a clear and comprehensive manner, and the extent to which overall statement of need is persuasive. (Information to be evaluated is provided in the proposal form – Section 4).

Evaluation of Net Gain in Beds will be based on a computed factor that is the number of CSA-rated beds and special use beds to be added, minus the number of existing CSA-rated beds and special use beds to be eliminated in the county (if any) as a result of the project.

Evaluation of Cost-Effectiveness will be based on a computed factor that is the state dollar cost per net gain in beds, to be computed as the total amount of state funds requested divided by the total net gain in beds.

State Dollar Cost Per Net Gain in Bed = Total State Financing Requested ÷ Total Net Gain in Beds

Evaluation of Cash Match will be based on a computed factor that is cash match as a percentage of the total state financing requested (i.e., cash match ÷ total

state financing requested). (Note: This percentage will differ from the minimum percentage cash match required to be eligible for state financing, which is computed by dividing cash match by total eligible project costs.) The specific point value to be assigned to specific percentages of cash match will be determined by the proposal raters during the proposal evaluation period when the full range of cash match percentages are known.

Evaluation of the Preference Points for Assisting the State in Siting a Reentry Facility will be based on mandatory participation and the necessity for a proposal to meet the 300 point criteria as follows:

The county has signed an Agreement to Cooperate with the California Department of Corrections and Rehabilitation; and in Board of Supervisors' resolution, stipulates that a Reentry Planning Team is planned or existing, and is evidenced through providing copies of local meeting/planning documents with the county's proposal submittal (i.e., letters providing notification of meeting dates and team membership). The identified reentry facility site location(s) is stipulated in the Board of Supervisors' resolution, and in City Council resolution if applicable. (Note: Each county participating in a regional state reentry facility siting would be qualified for the preference points afforded for that assistance.)

A Siting Agreement must be entered into between the participating county/counties and CDCR within 90 days of when the county was notified of the intent to conditionally award state financing for the construction of a jail facility. The Siting Agreement will be the first agreement (to be followed by a land acquisition or purchase option agreement) signed by a conditionally awarded county.

The signed Siting Agreement will be necessary prior to the CDCR providing certification of funding to the SPWB where a preference for reentry has been awarded. If a county is unable to enter into a Siting Agreement within the 90-day timeframe, the county's project shall be scheduled for review by the CSA Board.

Evaluation of the Preference Points for Assisting the State with Mental Health and Crisis Care Services for State Parolee and Ex-Offender Population will be a gradation of points available within the 100 point range as follows:

1. 50 points (minimum) – The county agrees to assist the state in siting mental health day treatment and crisis care for parolees, and/or the county agrees to provide a continuum of care for mental health and substance abuse treatment so that parolees can continue to receive services at the conclusion of their period of parole.
2. 100 points (maximum) – The county has identified a physical location at which the mental health day treatment and crisis care services may be provided to parolees; and includes the components of number 1 above.

**CORRECTIONS STANDARDS AUTHORITY  
CONSTRUCTION FINANCING PROGRAM**

**REQUIREMENTS AFTER NOTIFICATION OF INTENT TO MAKE A  
CONDITIONAL AWARD FOR FINANCING**

All construction proposed to be financed under this program must meet all of the requirements as identified in this RFP and enable facilities to: maintain compliance with safety and security considerations in facility operational standards as contained in Title 15, CCR; fire and life safety standards as contained in Title 24, CCR; and physical plant requirements, as contained in Title 24, CCR. If for any reason the proposed project is exempted from any state or local laws, regulations, ordinances, standards or requirements, counties must provide the CSA a statement citing the appropriate exemption.

In addition to customary CSA and State Fire Marshal reviews and requirements, the SPWB administrative oversight process and requirements play a significant role in the financing of these construction projects with respect to approval and long-term possession of the facilities. This is addressed in detail in the following State Public Works Board/Corrections Standards Authority Processes and Requirements section.

**CSA Staff:** A designated CSA staff person will be assigned to each county/project after counties receive notice of conditional award of suitability for financing. The assigned CSA staff is the primary point of contact for county officials and is responsible for addressing questions or coordinating state responses to issues. The CSA requires that all county communication with the CSA staff be done by county designated officials, not county contractors or consultants.

**Pre-Design Meeting:** After a county receives notice of its conditional award to proceed in the state financing program, county officials and their architects are strongly encouraged to meet with CSA staff and State Fire Marshal staff at the CSA offices in Sacramento for a pre-architectural design meeting in order to review CSA and SPWB requirements and answer any questions specific to the county's proposed project.

**Architectural Plan Submittals and Acceptance:** Sets of full-size (at least 1/8" scale) architectural drawings must be submitted to the CSA for review at three sequential stages: 1) two sets at schematic design (30 percent complete and accompanied by an operational program statement as defined in Title 24, CCR); 2) five sets at design development (50 percent complete and accompanied by a preliminary staffing plan and operational and staffing cost statement); and 3) five sets at construction documents (100 percent complete).

At each submittal stage, CSA staff and State Fire Marshal staff (located at the CSA offices) conduct independent architectural plan reviews for safety, security

and compliance with regulations. Counties are encouraged to meet with CSA and/or State Fire Marshal staff for an on-site review meeting following each plan submittal. At each submittal stage, written responses are sent to the county, usually within 30 days.

Sometimes counties may be required to make design changes necessary to comply with regulations or to remedy safety or security defects. The CSA may also require changes in construction materials to enhance facility safety and security if materials proposed at the time of the final construction plans and specifications are not reasonable and customary (as used statewide) for facilities of the same security level.

The schematic design submittal (with operational program statement) is the first formal, official review point of construction plans. Any response to general or conceptual inquiries before schematic design and program statement submittal and review does not constitute formal plan review or official acceptance by the CSA or State Fire Marshal.

SPWB staff will review preliminary plans (design development) and working drawings (construction documents) for consistency with the SPWB's previously approved project scope and cost. Preliminary plans are defined as 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. Working drawings are defined as 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. Any SPWB concerns will be relayed to the counties by CSA staff.

**Project Bids:** Note that the SPWB must approve working drawings and proceeding to bid as well as the bid award. All bid awards must be within the SPWB established scope, cost, and schedule for the project.

**State/County Relationship Regarding Construction:** The state's relationship with the county is in the form of the agreements stipulated in the State Public Works Board/Corrections Standards Authority Processes and Requirements section. The county's relationship with its construction contractor is in the form of a county Agreement for Construction contract. As such, the state is not contracting for facility construction. Counties are responsible for compliance with the requirements established by the local contracting authority, as well as compliance with county bidding and construction contracting rules and procedures. Resolution of bid disputes, or subsequent construction contract or consultant disputes, are the sole responsibility of the county.



**Payment and Performance Bonding and Cost Scheduling:** A county that receives state financing shall require its construction contractor to post payment and performance bonds, each of which shall be in an amount not less than 100 percent of the construction contract price. Construction costs shall be scheduled by Construction Specifications Institute (CSI) division. Contractor profit and inflation factors must be included within the CSI divisions. Contingency is limited to 10 percent of state dollars. If applicable, in all requests for payment, the contractor shall separately list work not eligible for payment with state dollars and matching funds, and the county construction administrator shall identify such work for the contractor.

**Payment of Eligible State Share:** Payment will be made to counties in arrears (reimbursement) based on invoices/progress reports submitted to CSA on a quarterly basis. This means counties will pay its construction contractor first and then submit reimbursement requests to CSA. These invoices are processed by CSA upon receipt, and then forwarded to the appropriate state agencies for payment. The typical turn-around time for payment to counties after submittal of an invoice is approximately three weeks. As such, counties should plan for needed cash flow to support the project on a quarterly reimbursement basis. Also, at such time as 80% of the of state funds has been expended, the state shall withhold the remaining 20% as security to be released to counties upon compliance with all state/county agreement provisions including: final construction inspection and approval by appropriate state and local officials; staffing and operating the facility within 90 days of construction completion; and state receipt and approval of the final fiscal audit report.

**Accounting and Audit Requirements:** Adequate supporting documentation must be maintained in accordance with generally accepted accounting principles (see *Accounting Standards and Procedures for Counties*, State Controller's Office, Division of Local Government Fiscal Affairs) and in such detail as will permit the tracing of transactions from support documentation, to the accounting records, to the financial reports and billings.

Counties that receive state financing must perform a fiscal audit of the project within 90 days following conclusion of the construction. The audit must be performed under the direction of a certified public accountant or a county internal auditor that is organizationally independent from the county's project financial officer and project management and accounting functions. The audit is to be performed in accordance with *Generally Accepted Auditing Standards*, as promulgated by the American Institute of Certified Public Accountants, *Government Auditing Standards* (the "Yellow Book"), as promulgated by the Comptroller General of the United States and the contract requirements of the state. 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 if needed, plans for corrective action. Two copies of the final audit report, including management letters and corrective action plans (if applicable) must be filed with the CSA. The state may disallow (that is, deny both use of state financing and any applicable matching credit for) all or part of the cost of the activity or action determined to be ineligible and not in compliance with the terms and conditions of the various state financing agreements.

## **CORRECTIONS STANDARDS AUTHORITY CONSTRUCTION FINANCING PROGRAM**

### **STATE PUBLIC WORKS BOARD/CORRECTIONS STANDARDS AUTHORITY PROCESSES AND REQUIREMENTS**

The SPWB is the principal state entity responsible for the approval and oversight of most capital outlay projects of the state. The SPWB is empowered to issue lease-revenue bonds to finance and refinance the acquisition and construction of public buildings which have been authorized by the state legislature. The legislature authorized the SPWB to issue lease-revenue bonds for these county jail construction projects, subject to SPWB project approval and oversight. This section outlines the SPWB approval and oversight process. Counties must comply with SPWB project requirements. Counties must also be familiar with the various agreements that will be required between the county and state and be authorized to execute these agreements as a condition of receiving state funding. Counties may be required to participate in key SPWB meetings and must provide supporting project documentation as requested by CSA staff at various times throughout the duration of the project.

#### **PROJECT SCOPE**

Counties will be required to incorporate state seismic and fire and life safety requirements into the scope of their projects. For projects attaching new construction to an existing facility, or remodeling an existing facility, both the new construction portion and the existing facility must be brought up to current fire and life safety and seismic standards. The following information should be considered when determining project scope:

A fundamental concept in lease-revenue bond financing is the beneficial use and occupancy of the facility for its intended governmental purpose. The financed facility is identified, in part, through a metes and bounds legal description. Generally, in SPWB financings there is a 5 to 15 foot "buffer" that is part of the legal description of the proposed project. This would be the distance between the financed facility and other buildings on the site. This rule is unrelated to any building code requirement. This is a general rule and may be altered given particular site conditions. A proposed project with less than a 5 to 15 foot buffer will have to be evaluated on a case by case basis.

In addition to a "clean footprint" for inclusion in the financing leases, the issue of shared infrastructure may be a factor, e.g., electrical, water, sewer, HVAC, common areas, phone, etc. If a state

financed jail facility is proposed to be “physically attached” to another structure by, for example, a corridor, there may be an issue of shared infrastructure with an adjacent building. Generally, all infrastructure components needed for the financed facility to fully function should be included in the footprint, i.e. the legal description should include a fully integrated facility.

**PROJECT TIMELINES**

Throughout the project, counties will be required to submit documents and plans to CSA for processing and approval through the CDCR and SPWB. This chart is an attempt to provide counties with an overview of the activities, including the review and approval processes required of the various state agencies, melding typical CSA activities with those of CDCR and SPWB. To the extent possible, counties should build into their project schedules adequate time for these activities and reviews to occur. All timeframes are approximate and will vary based upon the circumstances of each county’s unique project. For activities that require SPWB approval, the SPWB meets monthly and agenda items must be submitted at least 20 calendar days in advance of the scheduled meeting.

ACTIVITY	APPROXIMATE TIMEFRAME FOR COMPLETION OF ACTIVITY IN ORDER OF OCCURRENCE
CSA notifies county of intent to conditionally award project financing.	November 19, 2009
County submits site assurance to CSA.	Within 90 days of notice of intent to award
Preparation of scope and cost documentation and preparation of the Project Delivery & Construction Agreement.	May be accomplished within the first six months
<b>SPWB Meeting: Approval of the proposed project scope, cost and schedule, and authorization and approval of the Project Delivery &amp; Construction Agreement.</b>	May be accomplished within the first six months
County proceeds with CEQA and provides a copy of the determination to CSA.	Accomplished within the first six months
The State will conduct an independent real estate due diligence review of the county’s proposed site.	May be accomplished within the first six months (site complications may require longer duration)
The county submits schematic design drawings with an operational program statement to CSA/State Fire Marshal for plan check/review.	Response to review within 30 days upon submittal

The county submits design development drawings and specifications (preliminary plans), a preliminary staffing plan and operational and staffing cost statement, with documentation demonstrating commitment of local match funding and verification of cash flow availability when necessary.	Response to review within 30 days upon submittal
<b>SPWB Meeting(s):</b> <b>Approval of preliminary plans.</b> CSA/CDCR prepares a "Preliminary Plan Submittal" agenda item for the SPWB approval. The agenda item includes the results from the real estate due diligence process and CEQA compliance. CSA will verify to the SPWB that the county has demonstrated availability of local match requirements.	Occurs after CSA/SFM approval
The county proceeds with completing construction documents (working drawings).	
<b>SPWB Meeting:</b> <b>Approval of Ground Lease and Right of Entry for Construction and site selection acknowledgement that the selected site is sufficient for financing.</b>	
County submits construction document drawings (working drawings) and specifications for review and approval by CSA/CDCR, State Fire Marshal and SPWB staff.	Response to review within 30 days upon submittal
CDCR certifies to the SPWB that the county has satisfied all of the requirements set forth in Government Code Section 15820.906.	
Department of Finance staff on behalf of the SPWB issues an approval to proceed to bid.	30 days for review and approval
<b>SPWB Meeting:</b> <b>Authorize steps to be taken to seek an interim financing loan.</b>	
The county submits to CSA an estimate of their cash flow projections, month to month, for a twelve month period. Cash flow projections must be submitted annually in order to renew the outstanding loan.	
SPWB staff reviews bid and approves the award to the successful bidder. The county issues a Notice to Proceed and construction begins.	2 weeks
County submits quarterly invoices and progress reports to CSA.	Quarterly
<b>SPWB Meeting: Authorize issuance of lease-revenue bonds, approve and authorize execution of various related agreements including a <u>Site Lease</u>, <u>Facility Lease</u> and <u>Facility Sublease</u>.</b> All leases are executed prior to, and as a condition of, close of bond sale.	

## **AGREEMENTS**

This section provides a framework of details for the various agreements necessary involving county and state entities for the jail construction project. These overviews are provided for the counties' benefit in an effort to better inform counties of the expected contractual nature of the types of agreements that will be required. Depending on the types of proposals and other unknowns, other individual, county specific agreements may be necessary.

### **1. Siting Agreement for a Secure Reentry Program Facility**

**Parties:** CDCR and County

**Purpose:** Sets forth the roles, responsibilities and performance expectations of the parties to establish a Secure Reentry Program Facility (SRPF).

**Consideration:** Initial approval of conditional award by the CDCR to the SPWB where the conditional award was made because of preference points given for the reentry siting preference.

**Terms:** The Siting Agreement will be entered into when the county is selected as a participant (via the competitive RFP process initiated by CSA pursuant to the implementing regulations), and within ninety (90) days following notification to the county by CSA of the intent to award conditional state financing for construction of a jail facility based on a reentry preference. If a county is unable to enter into a Siting Agreement within the 90-day timeframe, the county's project shall be scheduled for review by the CSA Board.

- It is envisioned that the Siting Agreement will be the first agreement signed by a county who has received notice of a conditional award based upon the reentry siting preference. The Siting Agreement will be immediately followed by an agreement to acquire the land (whether by lease, sale or otherwise) for purposes of constructing a SRPF. The land to be acquired for the SRPF shall be reasonably acceptable to CDCR. The signed Siting Agreement will be necessary prior to the CDCR providing certification of funding to the SPWB where a preference for reentry has been awarded.
- The terms of the Siting Agreement will detail the needs of the individual county with respect to the parolee population, as well as the services and programs that will be available and/or necessary for a successful reentry facility. The Siting Agreement will also address the location, design and construction of the SRPF; acquisition of the site; regulatory permitting and environmental compliance; staffing and operations; and such additional terms as the parties deem necessary.

### **2. Option Agreement**

**Parties:** CDCR (or State of California) and County

**Purpose:** Provide CDCR the option to acquire real property identified pursuant to the Siting Agreement on which to locate a Secure Reentry Program Facility (SRPF).

**Consideration:** \$100.00

**Terms:** The Option Agreement will be entered into after CDCR has determined that the real estate identified pursuant to the Siting Agreement constitutes a buildable site for the SRPF. The length of the term and the purchase price will depend on the circumstances of the real property involved. The Option Agreement requires recordation of a memorandum of option and will provide CDCR the opportunity to undertake due diligence, title review and CEQA review of the real property. The County will provide customary representations and warranties regarding the real property. A Property Acquisition Agreement (see below) is attached to the Option Agreement to complete the acquisition of the real property after exercise of the option. The Option Agreement will contain other customary option terms.

### **3. Property Acquisition Agreement**

**Parties:** CDCR (or State of California) and County

**Purpose:** Provide for acquisition by CDCR of real property identified pursuant to the Siting Agreement on which to locate a Secure Reentry Program Facility.

**Consideration:** Purchase price of real property, which will vary depending on the site.

**Terms:** The Property Acquisition Agreement will be entered into after CDCR or the State of California has exercised an option under an Option Agreement to acquire the real property identified pursuant to a Siting Agreement. The Property Acquisition Agreement requires deposit into escrow of the Purchase Price, the Grant Deed and other related closing documents and ultimately requires the County to convey title of the real property to CDCR. The Property Acquisition Agreement will contain other customary property acquisition terms.

### **4. Project Delivery and Construction Agreement**

**Parties:** SPWB, CDCR, CSA and County

**Purpose:** Provides for the necessary framework, agreements, covenants and obligations of the parties in order for SPWB to sell lease-revenue bonds to finance the construction of the facility.

**Consideration:** County's minimum 25 percent match (unless County qualifies for lower match) of the total project in exchange for the State's reimbursement of up to 75 percent of the total project cost, conditioned on requirements of the Project Delivery and Construction Agreement and the CSA Agreement being met by County.

**Terms:** The Project Delivery and Construction Agreement will be entered into when the County is selected as a participant (via the competitive RFP process initiated by CSA pursuant to the implementing regulations) and would terminate at construction completion of the jail facility unless terminated earlier in accordance with its terms. This agreement is authorized in Government Code subsections 15820.90(c) and (d).

- The terms of the Project Delivery and Construction Agreement are driven largely by SPWB regulations and the requirements necessary for SPWB to issue lease-revenue bonds; the terms and conditions do not lend themselves to much negotiation.
- The State parties covenant to facilitate obtaining an interim financing source and the issuance of lease-revenue bonds provided the project meets the funding requirements and the terms and conditions of the Project Delivery and Construction Agreement are met.
- Parties acknowledge the jail project is subject to the approval and administrative oversight of the SPWB.
- CDCR and CSA shall act as a liaison between County and SPWB.
- Each party will make certain representation and warranties necessary for issuance of the bonds.
- County agrees to indemnify and hold harmless the State of California for any all claims and losses arising out of any breach by County of the Project Delivery and Construction Agreement, the operation, maintenance, use and occupancy of the jail facility, and the actions of county's contractors and subcontractors.
- The County's match of total project cost is described as well as its responsibility for construction cost overruns beyond the State's contribution. The State's project allocation is discussed but, is conditioned upon CDCR certification pursuant to the Government Code section 15820.90; SPWB determination the site is adequate for purposes of financing and, the actual issuance of the lease-revenue bonds by the SPWB.
- The scope, costs and schedule for the jail facility project are set forth in an exhibit to the Project Delivery and Construction Agreement.
- County is obligated and assures State parties it will adhere to the terms of the Project Delivery and Construction Agreement as well as the county's own procurement, bidding and constructions laws, regulations and procedures with regards to the construction of the facility.
- Records retention and audit provisions apply as long as the bonds are outstanding plus a minimum of three years.

## 5. CSA Agreement

**Parties:** CDCR and County

**Purpose:** Sets forth the roles, responsibilities and performance expectations of the parties for the construction of the jail facility.

**Consideration:** County's minimum 25 percent match (unless County qualifies for lower match) of the total project in exchange for the State's reimbursement of up to 75 percent of the total project cost, conditioned on requirements of the Project Delivery and Construction Agreement and the CSA Agreement being met by County.

**Terms:** The CSA Agreement will be entered into when the County is selected as a participant (via the competitive RFP process initiated by CSA pursuant to the implementing regulations) and would terminate at construction completion of the jail facility. This agreement is authorized in Government Code subsections 15820.90(c) and (d).

- County agrees to be the “agent” for CDCR and SPWB for purposes of acquiring, designing and constructing the jail; the goals and expectations related to project delivery are detailed.
- County agrees to provide via the State’s standard Ground Lease, a “clean” site to the CDCR, cooperate with CDCR and SPWB throughout the financing, and enter into a Facility Sublease with CDCR.
- County agrees to indemnify and hold harmless the State of California for any all claims and losses arising out of the acquisition, design or construction of the jail facility.
- Consistent with its submittal of the County’s proposal, County agrees to staff, maintain and operate the jail facility and enter into an Operations and Maintenance Agreement with CDCR.
- The County’s match of total project cost is described as well as its responsibility for construction cost overruns beyond the State’s contribution. The State’s project allocation is discussed but, is conditioned upon CDCR certification pursuant to the Government Code section 15820.90; SPWB determination the site is adequate for purposes of financing and, the actual issuance of the lease-revenue bonds by the SPWB.
- The CSA Agreement sets forth the County's reporting and scheduling requirements during the construction period.
- Federal tax law use restrictions and annual disclosure commitment are discussed.
- Standard State of California contracting provisions to be included.

## 6. Ground Lease

**Parties:** CDCR and County with the consent of the SPWB

**Purpose:** To place possession and control of the real property upon which the jail facility will be constructed with CDCR.



**Consideration:** Facilitation of the State's financing of a jail facility to be operated and maintained by County with title to the facility vesting in the County after all lease-revenue bonds are paid.

**Terms:** The Ground Lease 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 Government Code section 15820.906(b)(1) and the SPWB has determined the site is adequate for purposes of financing in accordance with Government Code section 15820.901(a). These certifications will be based upon thorough research of both recorded and unrecorded interests in the property. The Ground Lease terminates only after all lease-revenue bonds are paid.

- The Ground Lease must be adequate to support lease-revenue financing and be in a form agreed to by the State Attorney General and SPWB; by virtue of these limitations, the Ground Lease does not lend itself to much negotiation.
- 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.
- The Ground Lease will be recorded.
- The site should not be encumbered by any liens or debt.
- The recommended term is for 50 years, in no event less than 35 years after construction completion.
- The lease term must be extended beyond the term to cover abatement periods due to abatement events.
- The Ground Lease must not be terminated as long as the lease-revenue bonds are outstanding, even in the event of default.
- Damages for default are limited to specific performance or money damages.
- After all lease-revenue bonds are paid, the Ground Lease will terminate and title to the jail facility will vest in County.

## **7. Right of Entry for Construction**

**Parties:** CDCR and County with consent of the SPWB

**Purpose:** Authorizes County and their contractors to use the site that has been leased to CDCR via the Ground Lease for construction related activities.

**Consideration:** Facilitation of the County's construction of the SPWB financed jail facility.

**Terms:** The Right of Entry for Construction 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.

- County agrees to indemnify and hold harmless the State of California for any and all claims and losses arising out of the construction of the jail facility.
- This is a fairly standard document and should not lend itself to negotiation.

## 8. Site Lease

**Parties:** CDCR and SPWB

**Purpose:** An essential lease-revenue bond financing document that provides control and possession from CDCR to SPWB for the site on which the financed jail is to be located (the “Site”).

**Consideration:** CDCR provides the Site in order to enable the SPWB to issue its lease-revenue bonds to finance the jail facility. In addition, the Site Lease provides for nominal monetary consideration.

**Terms:** The Site Lease is entered into when the lease-revenue bonds are issued by the SPWB as part of a bond sale; the bond sale date 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 Site Lease expires when all of the lease-revenue bonds issued to finance the jail facility have been paid.

- This is a standard financing lease and not subject to negotiation.

## 9. Facility Lease

**Parties:** SPWB and CDCR

**Purpose:** Key to the financing – the SPWB leases the site and the project to CDCR for the term of the bonds and, subject to availability of use and occupancy, the CDCR agrees to pay rent and other related obligations.

**Consideration:** Rent is paid in exchange for the right to use and occupy the jail facility.

**Terms:** The lease term runs as long as the lease-revenue bonds issued for the jail facility are outstanding but not to exceed 35 years.

- The Facility Lease is entered into when the lease-revenue bonds are issued by the SPWB; the bond sale date is determined by the California State Treasurer and is largely driven by federal tax law considerations.
- Subject to the availability of the jail facility for occupancy, CDCR has the right to occupy and use it and in return agrees to rent. The SPWB has the right to enter and inspect the jail facility subject to customary security procedures.
- CDCR promises it will not abandon the jail facility.

- CDCR has the obligation to maintain (both ordinary and extraordinary) the jail facility during the term of the Facility Lease (including the costs of ordinary wear and tear) and arrange for the payment of all utilities.
- CDCR may make additions, betterments or improvements to the jail facility in a manner that will not result in abatement of rental.
- CDCR is obligated to maintain property casualty insurance and rental interruption insurance.
- CDCR agrees to annually provide the SPWB and the State Treasurer updated information about private activity use within the jail facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.
- CDCR promises not to use or permit the use of the jail facility in any manner which would cause the SPWB bonds to be “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986.
- CDCR promises to obtain the consent of the SPWB to any assignment, subletting or transfer of its interest in the Facility Lease or any part thereof.
- In the event of breach by CDCR that goes uncured, the SPWB may evict CDCR and relet the jail facility.
- At the expiration of the Facility Lease (when all bonds are paid), the property and improvements secured by the Facility Lease vest with CDCR. Concurrent with the termination of the Facility Lease, the Ground Lease will also terminate and the property and improvements thereon vest with the County. CDCR will record any documentation necessary or desired to clarify the status of title.

## 10. Facility Sublease

**Parties:** CDCR and County with the consent of the SPWB

**Purpose:** To sublease the SPWB financed jail facility to the County for its use, operation and maintenance.

**Consideration:** Benefit to the State’s public safety by addressing jail overcrowding.

**Terms:** The Facility Sublease is entered into immediately after the Facility Lease is executed and recorded with a lease term running concurrently with the Facility Lease. Subject to the terms of the Facility Sublease, the County may use and occupy the jail facility.

- The Facility Sublease is subject to and subordinate to the Facility Lease.
- County promises it will not abandon the jail facility.
- County has the obligation to maintain (both ordinary and extraordinary) the jail 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. County must annually

- submit to SPWB and CDCR proof of its approved budget detailing the allocation of funds to maintain and operate the jail facility.
- Subject to the availability of the jail facility for occupancy, CDCR continues to pay rent under the Facility Lease.
  - County may make additions, betterments or improvements to the jail facility in a manner that will not result in abatement of rental.
  - CDCR will maintain the insurance policies required under the Facility Lease. County will maintain commercial general liability insurance and other insurance required by the SPWB or maintain an acceptable self-insurance program and provide proof of insurance to the SPWB and CDCR annually.
  - County agrees to indemnify and hold the State harmless for any and all claims and losses accruing, resulting from or arising out of the County's use and occupancy of the jail facility.
  - County agrees not to encumber the jail facility or otherwise subordinate its interest in the jail facility under the Facility Sublease.
  - County agrees to annually provide CDCR, SPWB and the State Treasurer information about private activity use within the jail facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.
  - County promises not to use or permit the use of the jail facility in any manner which would cause the SPWB bonds to be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986.
  - County promises to obtain the consent of the SPWB and CDCR to any assignment, subletting or transfer of its interest in the Facility Sublease or any part thereof.
  - In the event of breach by County that goes uncured, CDCR may evict County and together with the SPWB may relet the jail facility.

## 11. Operations and Maintenance Agreement

**Parties:** CDCR and County

**Purpose:** Sets forth the roles, responsibilities and performance expectations of the parties for the operation and maintenance of the jail facility during the term of the lease and until repayment of all bonds.

**Consideration:** County's minimum 25 percent match (unless County qualifies for lower match) of the total project in exchange for the State's reimbursement of up to 75 percent of the total project cost, conditioned on requirements of the Project Delivery and Construction Agreement and the CSA Agreement being met by County.

**Terms:** The Operations and Maintenance Agreement will commence upon completion of the construction of the jail facility and shall terminate upon repayment of the bonds. The Agreement requires the participating county to operate and maintain the jail facility under the following terms:

- County shall fully staff and commence operation of the facility within 90 days of completion of construction.
- County shall pay for all ordinary and extraordinary maintenance and repair of the facility and all related premises.
- County shall keep the facility in good repair and condition.
- County shall be required to pay all applicable taxes and assessments resulting from the facility and its operation.
- County shall operate the facility in compliance with all applicable laws including all laws and regulations regarding private use of the facility.
- County shall ensure that its operation, maintenance, repair and improvements on the facility shall not cause any mortgage, lien or encumbrance be placed on the facility or related premises.

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**GENERAL DEFINITIONS**

**“Adult detention facility”** means a Type II, III, or IV county detention facility as defined in Title 24, CCR.

**“Beds”** (see CSA-rated beds).

**“Cash (hard) match”** means cash dedicated to the project by the applicant for eligible expenditures as identified in the Request for Proposals and as listed in the state/county funding agreement.

**“Construction bidding”** means the county receiving and accepting a bid to complete the project.

**“Construction documents”** means architectural plans and specifications that are 100 percent complete and generally include: completed specifications, with bid proposal documents; completed construction documents; and, special interest items (any corrections, modifications or additions made to the documents). This term correlates with the SPWB term – “working drawings”.

**“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 and eliminate risk through all phases of delivery of the construction project. Cash match can be claimed for construction management only by a firm or individual (contract or consultant) outside the regular county workforce. In-kind match can be claimed for construction management provided by regular employees of the county workforce.

**“Construction Specifications Institute divisions”** means a specific format of standardized numbers and titles for organizing construction bidding and contract requirements.

**“Construction”** means the building of the CSA approved project by the successful bidder/contractor. Construction generally begins with site preparation/excavation and ends with the completion of the project and acceptance by the county.

**“County Construction Administrator”** is the county official designated by the Board of Supervisors to oversee construction and administer the project agreements with the state.

**“CSA-rated beds”** means beds that are dedicated to housing offenders for which a facility's single and double occupancy cells/rooms or dormitories were

planned and designed in conformity to the standards and requirements contained in Titles 15 and 24, CCR.

**“Design development”** means architectural plans and specifications that are 50 percent complete and generally include: outline specifications (detention hardware, equipment and furnishings); floor plans (to scale with dimensions, room designation, references, wall types and ratings); building sections (heights and dimensions); interior elevations; and, preliminary structural, mechanical and electrical drawings. This term correlates with the SPWB term – “preliminary plans”.

**“Financial plan”** means arrangements by the county to fund its portion of the project cost, including reserves for cash flow during the construction period.

**“Fixed equipment and fixed furnishings”** means those items that are built-in or otherwise permanently affixed.

**“In-kind (soft) match”** means the value of personnel, land, or services dedicated to the project by the applicant for eligible expenditures as identified in the RFP and as listed in the Project Delivery and Construction Agreement.

**“Maximum security bed space”** generally means those areas of a detention facility that are designed with multiple layers of security barriers and constructed for the housing of high security/high risk offenders. Maximum security housing usually holds offenders in single cells/rooms, but may involve double occupancy cells/rooms in certain situations. County security definitions vary and applicants should defer to county policy in categorizing bed space.

**“Medium security bed space”** generally means those areas of a detention facility designed with a single building security barrier that may be supplemented by an outside grounds perimeter security system monitored by facility staff. Medium security housing generally holds offenders in double or multiple occupancy cell/rooms or dormitories. County security definitions vary and applicants should defer to county policy in categorizing bed space.

**“Minimum security bed space”** generally means those areas of a detention facility with the lowest level of security barriers. Minimum security housing usually holds lower-risk offenders, typically in dormitory settings, and may or may not have a grounds perimeter security system monitored by facility staff. County security definitions vary and applicants should defer to county policy in categorizing bed space.

**“Net gain in beds”** means the number of beds (CSA-rated and special use) to be added, minus the number of existing beds (CSA-rated and special use) to be eliminated in the county (if any) as a result of the project constructed through this financing program.

**“Occupancy”** means the placement and continued housing of offenders in a fully staffed and operational detention facility.

**“Off-site”** means outside of a reasonable buffer zone surrounding the perimeter of the security fence, detention facility and parking lot. Off-site costs are not payable with state funds and/or matching funds (e.g., access roads, utilities development, etc.).

**“Operating and staffing cost statement”** means an assessment and identification of costs (utilities, maintenance, staff salary/benefits, etc.) to operate the proposed project for its life cycle.

**“Project Financial Officer”** is the county official designated by the Board of Supervisors to be responsible for all financial and accounting related project activities.

**“Project Contact Person”** is the county official designated by the Board of Supervisors to be responsible for project coordination and day-to-day liaison work with CSA.

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

**“Special use beds”** means beds for the purpose of appropriately housing offenders in medical, mental health or disciplinary rooms, cells or units that are planned and designed in conformity to the standards and requirements contained in Titles 15 and 24, CCR.

**“Staffing plan”** means an assessment and identification of staffing levels needed to operate the proposed project. A staffing plan must be submitted for CSA review and acceptance not later than design development.

**“Supplant”** means the use of state funds and/or cash match to replace funds otherwise dedicated or appropriated for construction activities.



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**TYPICAL CONSTRUCTION PROJECT FLOW CHART**



**Examples of activities which occur at each phase are highlighted below:**

Feasibility/Needs Studies	Schematic Design Plans and Specifications, with Operational Program Statement	Design Development Plans and Specifications, with Staffing Plan and Life-Cycle Cost Analysis	Construction Document Plans and Specifications	Open Bids	Quarterly Invoices and Progress Reports	Punch List Inspection
I.D. Potential Sites and Begin Assessing Environmental Impacts	Continue Environmental Work	Continue Environmental Work	Complete Environmental Impact Procedures	Bid Award	Transition Activities Continue	Final Inspection
Site Selection Formal Project Proposal	Transition Activities Continue	Transition Activities Continue	Transition Activities Continue	County Construction Contract with Contractor		Final Invoice and Progress Report
Pre-transition Planning				Transition Activities Continue		Final Audit
						Occupancy
						Post-transition