

TO: Chair and Members

DATE: March 13, 2014

**SUBJECT: Senate Bill 1022 Construction Financing
Program Report from Appeals Panel.
Consider Recommendations.**

AGENDA ITEM: L

**ACTION: X
INFORMATION:**

RESOURCE PERSON: Kathleen Howard

Summary:

Following appeals submitted by Humboldt, Stanislaus and Monterey counties regarding the evaluation of preference criterion and ranking of their Senate Bill (SB) 1022 – 2012 Local Jail Construction Funding Program Proposal, an appeal panel will convene on March 11, 2014. The recommendations of the appeals panel will be summarized and presented to the Board.

Background:

In response to the funds authorized by SB 1022, the BSCC appointed an Executive Steering Committee (ESC). It was the responsibility of the ESC to develop a Request for Proposals, as well as rating criteria. Preference criteria were provided by the Department of Finance (DOF) to be used in the evaluation of proposals submitted. The BSCC issued the Request for Proposals – Construction of Adult Local Criminal Justice Facilities – in July 2013. Proposals were due in October 2013. The ESC rated and subsequently ranked each of the 36 submitted proposals, and provided a recommended funding list to the BSCC on January 16, 2014, which was adopted.

Humboldt, Stanislaus and Monterey Counties each submitted timely requests for appeal regarding the evaluation and rating of their SB 1022 Local Jail Construction Funding Program Proposals. The Board has received copies of each county's appeal. The responses from the Department of Finance (DOF) and BSCC are attached as follows:

Humboldt Appeal – Preference Criterion #1. Response from DOF (Attachment A)

Stanislaus Appeal – Preference Criterion #3. Response for DOF (Attachment B)

Monterey Appeal – Preference Criterion #1, 2 & 3, and ESC rating. Responses from DOF and BSCC (Attachment C)

Following regulatory procedures outlined in Title 15, Division 1, Chapter 1, Subchapter 6, Construction Financing Program; Chair Linda Penner designated a hearing panel for this purpose. Excerpts from the regulations follow:

- “If a participating county is dissatisfied with an action of the BSCC’s evaluation and rating process, it may file a request for an appeal hearing with the BSCC...within thirty (30) calendar days...” (Section 1788(a))
- “Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision within sixty (60) days from the date of the request for appeal hearing...” (Section 1790(c))

- “After the hearing has been completed, the hearing panel shall submit a proposed decision in writing to the BSCC at its next regular public meeting.” (Section 1790(g))
- “The decision of the BSCC shall be final.” (Section 1792(d))

Recommendation/Action Needed:

Review the recommendations of the appeals panel and determine next steps consistent with Title 15, Division 1, Subchapter 6, Article 5. Appeal Procedures, Sec. 1792:

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

Attachments:

- A. Humboldt Appeal – Preference Criterion #1. Response from DOF
- B. Stanislaus Appeal – Preference Criterion #3. Response for DOF
- C. Monterey Appeal – Preference Criterion #1, 2 & 3, and ESC rating. Responses from DOF and BSCC