

Senate bill 844

Bidders’ Conference -Frequently asked Questions

***(updated Jan 24, 2017)***

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| **Q1** | What is the Small County cash match requirement? |
| **A1** | Counties shall provide a minimum of ten percent (10%) of the total project costs in matching funds. However, counties with a population below 200,000 may petition for a reduced match during the RFP process. There is no required percentage of match for those who petition, but the county is still responsible for costs not eligible for state financing.  |
| **Q2** | If the County is not proposing to use land as a part of the match, does the Board of Supervisor’s resolution still require the language included in Section 6(H) – the attestation to the current fair market land value for the proposed new facility? |
| **A2** | Yes. |
| **Q3** | Page 8 of the RFP describes the following:“Renovation projects or new construction proposed through SB 844 that is physically attached to an existing facility, requires that the scope of the proposed project include all work necessary for the existing facility to meet current fire and life safety standards, and meet or exceed a seismic level 3 performance standard (State Administrative Manual- FEMA section 301).We would like a definition of “physically attached.”Would this include a separate new-construction facility that is attached with a walkway or enclosed hallway/corridor? |
| **A3** | These decisions are at least partially controlled by SPWB financing requirements, and, among other guiding documents, the California Building Code. Questions of this type must be addressed on a case by case basis. |
| **Q4** | Matching funds: If the total project cost is 105 million and the award received is 75 million…will 30 million be sufficient for the matching fund requirement? |
| **A4** | For counties with a population of 200,000 or more, the minimum matching fund requirement is 10% of the total project cost. If total project cost is $105 million the minimum match required is $10.5 million. |
| **Q5** | Funding source: Is a special account specifically marked SB844 needed? Does the BOS resolution meet the funding source mandatory criterion? |
| **A5** | No, a special account is not required. The BOS funding resolution could meet the criterion. See Government Code Section 15820.946(b)(1) states, “Counties providing a board of supervisors’ resolution authorizing an adequate amount of available matching funds to satisfy the counties’ contribution and approving the forms of the project documents deemed necessary, as identified by the board to the BSCC, to effectuate the financing authorized by this chapter, and authorizing the appropriate signatory or signatories to execute those documents at the appropriate times. The identified matching funds in the resolution shall be compatible with the state’s lease revenue bond financing.” |
| **Q6** | Is it necessary to include in the BOS resolution the counties commitment to staff and operating the facility as per the RFP on page 21? Or how does the Commitment need to be stipulated and where in the documents? |
| **A6** | The county is required to provide a staffing plan and cost projections, consistent with Government Code section 15820.945 (c ) (4), which states: Submission of a staffing plan for the adult local criminal justice facility, including operational cost projections and documentation that the adult local criminal justice facility will be able to be safely staffed and operated within 90 days of completion, as may be applicable. |
| **Q7** | If the project is a design-build project when does the three years for completion of construction begin? When the contract is awarded to the design-build team? When any construction begins at the site – even demolition? |
| **A7** | Three years from the date of DOF approval of Notice of Award. |
| **Q8** | On the list of items required in our Board Of Supervisors’ Resolution, item “B” states: “Approving the forms of the project documents deemed necessary, as identified by the board (SPWB) to the BSCC, to effectuate the financing authorized by the legislation.” How can our Board of Supervisors approve documents that have yet to be drafted? |
| **A8** | This statement refers to "Form of” agreements that are standard form agreements approved by DOF for use on Lease-Revenue Bond projects. They include the BSCC/participating county agreement, PDCA agreement, Right of Entry, Facility Lease and Sublease and Ground Lease and Ground Sublease agreements. The template “Form of” documents will be available on the BSCC website and will be customized with the specifics when the successful applicant is chosen. |
| **Q9** | The RFP asks for statistics such as Average Daily Population, arrests, Bookings, etc. What time frame are we to use? |
| **A9** | P. 19 of the RFP, Special Factors Mandatory Criterion, Sect A, states in part, “… documentation that states the percentage of its inmates on pretrial status between January 1, 2015 and December 31, 2015 in the narrative of question 3.” For the other information, the county should determine the appropriate time frame for reporting and should indicate the date or timeframe on which they are reporting. |
| **Q10** | Proposal Instruction Section 2 / Form Page 5, a. 10, County Administration – “Define the county staff salaries/benefits directly associated with the proposed project.”Verification that this is only required if a county is claiming county administration for in-kind match? |
| **A10** | Yes. This level of detail only applies if a county is claiming county administration for in-kind match.  |
| **Q11** | Page 20, Needs Assessment: Question: Verification as to whether or not a Needs Assessment is required if a renovation project results in a decrease in rated beds, but an increase in special use beds? |
| **A11** | Needs assessments are required for all new facilities or when adding 25 beds or more to an existing facility. See CCR, Title 24, Part 1, Chapter 13, sec 102 (c) 2. |
| **Q12** | Does the County need to include in its Board Resolution the intent to eliminate the beds in a facility it will be closing to build the new jail facility? |
| **A12** | No. The BSCC does not require a BOS resolution intent to eliminate beds; whether or not the County requires such an action to be documented in a BOS resolution is up to the County counsel. |
| **Q13** | Is the occupancy within 90 days of construction satisfied with opening the facility only partially? If so, can the transition be one floor at a time? |
| **A13** | Occupancy is determined on a case by case basis by the State Fire Marshal and local building officials. |
| **Q14** | How long do counties have to provide corrections of any technical compliance deficiencies noted by the BSCC? |
| **A14** | BSCC Technical review begins February 28, 2017. Counties will have until March 10, 2017 to provide corrections as described on page 13 of the RFP. |
| **Q15** | Can the County Auditor (who is a CPA) perform the fiscal audit due within 90 days of the SFM certificate of occupancy? She is not the project financial officer or project manager. |
| **A15** | A county employee who may be a CPA may be able to prepare the final audit, provided that the audit techniques used conform to requirements of the RFP and Generally Accepted Accounting Principles. In addition, the CPA, if also a county employee, must certify the audit in accordance with standard accounting practices and must have been certified to be free of conflicts and not have been involved financially with the project except to perform the audit. |
| **Q16** | What does "must translate the proposal into formal architectural plans and specifications that are submitted to, and approved by, the SPWB, DOF and the BSCC." Please explain what this means. |
| **A16** | The RPF Proposal is a narrative of the County's proposed project, and is not in a form that can be constructed, as is. Upon receipt of a conditional award, the County agrees to have architecture/engineering plans and specifications prepared that define the project in the standard format used by the building construction industry so the project can be constructed by licensed contractors. |
| **Q17** | If a county is using cash match to fund through schematics, can they work on project while awaiting project establishment? |
| **A17** | Work by the county prior to Establishment is entirely county-funded. |
| **Q18** | If CEQA document and related letter from County Counsel are separate from narrative and list of attachments (limited to 4 attachments). Are these CEQA related documents to be presented as Section 6 of proposal? |
| **A18** | Include these documents in Section 6 of the Proposal. |
| **Q19** | If a county’s cash match is applied to construction, what is the expectation from DOF regarding reimbursement after NTP? In other words, cash match first? |
| **A19** | The Applicant will make a significant up-front expenditure of county resources during the schematic design phase and establishment of the project before the first reimbursement payment is made to the Applicant during the construction phase of the project. During construction, the reimbursement will be based on the earned value of the construction project at each monthly pay estimate. |
| **Q20** | What constitutes “Site assurance” to BSCC, after conditional award? |
| **A20** | Site Assurance is described on page 20 in the RFP, and on the BSCC website. Please refer to these sources for information. |
| **Q21** | How does the BSCC evaluate a county’s ability to afford on-going staffing and operating costs incurred by new construction facilities? And at what point does this evaluation occur? |
| **A21** | The BSCC will review the proposed staffing and operating costs plan presented by the Applicant during the preliminary plan review process. |
| **Q22** | If you are not claiming land value as in kind match can you reflect zero on resolution? |
| **A22** | Yes. |
| **Q23** | Does the pretrial program have to be recognized by the BSCC or is it that you have to only have something in place? |
| **A23** | The Applicant is only required to describe pre-trial programs. If there are no pre-trial programs the county would just need to state that there are no programs. |
| **Q24** | Would a transitional housing count as beds? (inmate w/in 30 days of release – transition unit) |
| **A24** | Yes. |
| **Q25** | Regarding in-kind match and the language on page 24 can you please clarify what County administration costs can be included? Seems clear that County staff hired specifically for the SB 844 project can be. What about existing staff that are assigned to work on the project in a full or part time capacity? What is meant by the statement that “these costs can only be claimed as a project cost if all applicable county administration costs are claimed.” Is overhead allowed to be included, and if so, is there a limit to the overhead rate? And what sort of backup documentation is needed? |
| **A25** | Eligible County administration costs are those costs that are directly related to county staff work on the SB844project, either full-time or part-time. “Staff must have been hired specifically for the SB 844project. Existing staff salary/benefits may be eligible as match if the county reports information such as the number of positions, salaries, and benefit costs. Detailed, itemized back up documentation must be provided to support these costs if they are claimed as in kind match.”For costs to eligible, the County must provide clear, accurate accounting records that show all county staff time charged to the project was necessary for work on the SB844project and are an appropriate charge for work performed. Records provided should meet general accounting standards, and will be required for the project final audit.Documentation of in-kind and cash match will be provided by the County after the award. |
| **Q26** | Section 1 – The plan as it stands is a 2-story program and treatment space directly adjacent to and on the same plot of land as the existing county jail. It will not be physically connected to the jail, but close. Would you say we mark the “New Stand-Alone Facility” box or the “Constructing...? Other Space at Existing Facility” box on Page 1, Section 1? |
| **A26** | The new facility will not be physically connected to the existing building. The “New Stand-Alone Facility” box should be checked. |
| **Q27** | How much of a buffer do we need to provide between the two buildings (existing jail and new program/treatment building)? I know there is a 5-15 foot buffer mentioned in the Due Diligence requirements. Given the small size of the site, as well as for safety and security purposes in transporting the inmates, could we butt these two buildings up closer than 5-15 feet to one another? |
| **A27** | Buffer space between buildings is a complicated issue which must be determined and decided by the SFM and DOF on a case-by-case basis.  |
| **Q28** | On page 20 of the RFP, it states the following: If a county intends to construct a new ALCJF or add beds (25 beds or more) to an existing facility, one copy of a needs assessment study, containing all required data elements as defined in CCR, Title 24, Part 1, Chapter 13, sec. 102 (c) 2 must be submitted concurrent with the funding Proposal Form and proposal narrative.Can you please clarify whether a needs assessment is required for a Programming and Treatment building addition to the existing jail? |
| **A28** | The requirement for a Needs Assessment is defined in Title 24, Part 1, Article 1, sec. 13-102 (c) 2. If the proposed project is a new stand-alone facility which includes special use medical and mental treatment beds, as described on page 20 of the RFP, a Needs Assessment is required to construct a new ALCJF facility. A Needs Assessment is not required if adding a programming and treatment building to an existing facility. |
| **Q29** | Will the State consider the use of a seismic slip joint between the new facility and the existing adjacent jail as sufficiently separate so as to not warrant building code upgrades of the existing facility? The new facility will be a complete and independent building fully functional and operational without any physical connections to the existing facility including any utility systems. |
| **A29** | A seismic joint can be used to physically separate the structures. There may be a requirement to upgrade other elements of the facility depending on how the proposed project will be operated. DOF has determined that structures that will be encumbered in the ground lease must either be constructed to meet seismic level 3 or upgraded to meet seismic level.DOF staff will determine ground lease areas on a case-by-case basis. This determination normally occurs after preliminary plans/design development drawings are completed for a design bid build project or after the performance criteria/bridging documents are completed for a design build project, which is when the project site and easement area are finalized for the Ground Lease and Easement Agreement. |
| **Q30** | Will the State consider an MOU for the continued use of the existing jail ramp and existing grinder pits serving the existing jail in the unlikely event the State takes over the new facility? The new facility will be constructed so as to span one-story above an existing ramp and grinder pit but will not be physically tied into to the existing ramp or grinder pit structure. The new facility will not be serviced by the existing ramp nor the existing grinders. |
| **A30** | If the existing ramp and grinder pit is in the ground beneath the improvements in the proposed project, then those appurtenances will be encumbered by the leases necessary for the authorized state financing. These facilities must be meet seismic level three requirements. With regards to an MOU in case the SPWB has to re-enter and re-let the financed facility, it is premature for the state to commit to any specific MOU agreement. If the facility is re-let by the SPWB, the county will have the first right to replace BSCC as the SPWB’s lessee in the facility. In that case, a new Facility Lease would be executed between the SPWB and the county that would likely address this issue. If the county didn’t end up being the new lessee, then an appropriate arrangement could be worked out at that time. This situation could also be addressed in the Ground Lease and Easement Agreement, however, this will require the more detailed review of the project, and discussion with SPWB counsel to determine the most appropriate approach. The state will consider reasonable measures to ensure the county has appropriate access to the existing ramp and grinder pit for continued operation of the existing jail. |
| **Q31** | The proposal checklist restricts the items and number of pages to be submitted as the SB 844 proposal, and does not include directions regarding the submission of the CEQA readiness compliance documents. How should the CEQA Compliance documents be submitted and do they count against the narrative or one 4-page attachment. |
| **A31** | A single copy of each of the Final NOD or NOE and signed County Counsel letter, as stipulated on page 17 of the RFP, are required for the CEQA compliance, and shall be included as a separate attachment and shall be allowed as part of Item J in the PROPOSAL CHECKLIST. |
| **Q32** | Can footnotes be added to the bottom of the proposal within the margins? |
| **A32** | Footnotes can be placed within the required 1 inch margin. Footnotes can be a smaller font and can be single spaced. The footnotes must fit within the 1 inch margin. |
| **Q33** | We want to confirm that the County does not need to submit any real estate due diligence materials with the application except for the Resolution confirming we have fee simple ownership and stating the attestation to current land value and the County Counsel letter with the CEQA determination information.I can only find reference to the real estate due diligence process on page 20 of the RFP which seems to refer to the period after award when DGS goes through their full review process. It seemed there was a lot of materials we had to provide with the SB 1022 proposal, so we wanted to confirm that those are not needed in this round |
| **A33** | Yes, you are correct, no other documents required. |
| **Q34** | As part of the construction of the new jail facility can a Day Reporting Center be attached to a new jail facility by a breezeway or will it need to be completely separate from the new jail facility? |
| **A34** | The new facility and the DRC can be connected via a breezeway but may need to have additional security and seismic precautions in place, and is determined on a case by case basis. |
| **Q35** | Please confirm if a county incurred a cost for completing a needs assessment for SB 863 and intends on using the same needs assessment for SB 844 – can they still use that cost incurred as a Cash Contribution or In-Kind Contribution for SB 844? |
| **A35** | Yes as long as the county is not using the same costs as cash or in-kind match for an 863 project. |
| **Q36** | Can funding be increased to handle the additional administration cost of having to manage SB 1022 separate from SB 844? |
| **A36** | No, Funding is prescribed in the RFP based on County size only. |
| **Q37** | Why are there no preference points for partially funded project? |
| **A37** | The Legislature did not request that preference be given to partially funded projects. |
| **Q38** | SB 844 funding - Is there a need to send Scope Statement to BSCC for approval? |
| **A38** | A new scope will be required for all SB 844 projects and must be approved by BSCC. |
| **Q39** | If initially awarded as a medium county, should we now remain as a large county? |
| **A39** | County size for AB 844 funding is determined based on the chart on page 11 of the RFP, which were the existing demographics at the time of the Legislation passage based on DOF’s estimates. |
| **Q40** | 1712.44 Eligibility Requirements for SB 844, (a)(4) Provide documentation of the percentage of pretrial inmates in the county jail from January 1, 2015 to December 31, 2015.Please clarify the following:Do you want the percentage of pretrial inmates from the time of booking? Most inmates come into booking as pretrial and are sentenced during the course of their stay. After that they are not considered pretrial. |
| **A40** | This should be an average percentage of pretrial inmates in the county jail during the requested time frame. |
| **Q41** | We submitted a letter with our application for SB 863 regarding issuing commercial paper (COPs) to meet our 10% match requirement. For SB 844, we are planning on issuing commercial paper (COPs) to meet our 10% match requirement. Would we need to include a letter like that one with our SB 844 application to show that we could easily issue the match requirement in COPs if an award is offered? |
| **A41** | Yes |
| **Q42** | Our application proposes using a Design-Build construction delivery. For Section 2 – Budget Narrative, is the “Construction” cost the place to put the cost for the design-build entity (DBE)? Or should the DBE cost be divided into construction cost and architect’s cost and shown separately in the budget table? If the latter is true, where does the cost of bridging documents go in the table? |
| **A42** | Construction is the place to put the DBE costs in the budget table, the costs for the bridging architect should be included in the “Architectural” section. |
| **Q43** | Please confirm if there is an acceptable date range for the data to be provided for section 4: Fact Sheet (i.e. ADP, Arrest per month, Bookings per month, etc.)? The RFP instructions do not provide a date range for the data that is being requested of the county other than for the percentage of pretrial inmates in the county jail from 01/01/2015 to 12/31/2015? |
| **A43** | See #9 above. |
| **Q44** | By simply naming or referring a housing unit “Mental Health Unit” would that subject the unit to fall under additional regulations that could incur more cost, construction, and operating regulations? |
| **A44** | Generally speaking if this “Mental Health Unit” is designed to provide mental health services, as described by the county, no. However, it is possible that other laws or regulations that pertain to the provision of mental health services in general could apply. |
| **Q45** | For a regional project are counties applying for the funding together as one joint project going to apply for two awards or only one award? |
| **A45** | The joint projects will be applying for one award based on the size of the lead county. The lead county is determined based on which county the facility will be located in. |
| **Q46** | If there are left over funds in one category, based on the awarded counties, will there be statute required to move the extra funds to another funding category? |
| **A46** | It will not require statute. BSCC Board has the authority to reallocate without a statute change. |
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