

# CERT RESUBMITTAL

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <u>request</u> <b>Z-2014-1016-02</b>	REGULATORY ACTION NUMBER <b>2015-0611-03CR</b>	EMERGENCY NUMBER
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**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

2015 JUN 11 PM 2:23  
OFFICE OF  
ADMINISTRATIVE LAW

JUL 15 2015  
2:16 PM

For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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**AGENCY WITH RULEMAKING AUTHORITY**  
Board of State and Community Corrections

AGENCY FILE NUMBER (if any)

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <u>2014, 442</u>	PUBLICATION DATE <u>10/31/2014</u>

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Local Youthful Offender Rehabilitative Facilities	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <del>Z-2014-1016-02</del> ; 2014-0804-01E, 2015-0306-EE, <u>2015-0203-03C</u> <i>per agency request</i>
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT See Attached
	AMEND See Attached
TITLE(S) 15	REPEAL See Attached

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)  
5/21/2015 to 6/5/2015 *per agency request*

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON

Ginger Wolfe	TELEPHONE NUMBER (916) 341-7325	FAX NUMBER (Optional) (916) 327-3317	E-MAIL ADDRESS (Optional) ginger.wolfe@bscc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kathleen T. Howard</i>	DATE <u>6/11/15</u>
TYPED NAME AND TITLE OF SIGNATORY Kathleen T. Howard, Executive Director, Board of State and Community Corrections	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 15 2015

Office of Administrative Law

ATTACHMENT TO NOTICE PUBLICATION/REGULATIONS SUBMISSION  
(STD. 400)

Title 15, Division 1, Chapter 1, Subchapter 7

**Adopt:**

Sections 1830.1, 1840.1, 1847.1, 1848.5, 1849.1, and, 1850.1

**Amend:**

Sections 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, and, 1892

**Repeal:**

Section 1857

**TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 7  
LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY  
CONSTRUCTION FINANCING PROGRAM**

**ARTICLE 1. GENERAL PROVISIONS**

**§1800. Purpose.**

The purpose of these regulations is to implement and specify Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977 and 1978, Welfare and Institutions Code.

**§1806. Definitions.**

The following words, where used in this subchapter, shall have the meaning hereafter ascribed to them in this article, unless the context of their use clearly requires a different meaning.

“Administrative work plan” means a comprehensive plan for designing, performing and managing the proposed project.

“Applicant” means the participating county that is applying for financing through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Architectural drawings” means full-size architectural renderings that shall be prepared at least 1/8” scale.

“Board” means the State Public Works Board.

“Board of State and Community Corrections agreement,” also known as the BSCC agreement, means the written agreement and any amendments thereto which outline roles and responsibilities between the participating county and the BSCC as it relates to the oversight of the project.

“Board of Supervisors’ resolution” means a written resolution by a County Board of Supervisors.

“BSCC” means Board of State and Community Corrections, which acts by and through its Executive Director and representatives.

“CCR” means California Code of Regulations.

“CDCR” means the California Department of Corrections and Rehabilitation.

“Cash match” and “hard match” are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1814 of these regulations.

“Concept drawings” means, with respect to a design-build project, any drawings or architectural renderings that may be prepared, in addition to performance criteria, in such detail as the participating county determines necessary to sufficiently describe the participating county’s needs.

“Conditional award” means the maximum amount of state reimbursement a participating county may receive for a project through the Local Youthful Offender Rehabilitative Facility Construction Financing Program subject to or conditioned upon certain requirements, including, but not limited to: 1) each participating county’s project must be approved by the BSCC and the Board at various stages throughout planning and construction as required by these regulations; 2) each participating county must enter into the state/county agreements as required by these regulations; and 3) the financing mechanism of lease-revenue bonds are able to be sold for each selected project.

“Construction bid” means a construction bid price received [from a qualified contractor](#) for a design-bid-build project as a result of a publicly advertised request for bid ~~from a qualified contractor~~.

“Construction documents” means architectural plans and specifications that are one hundred percent (100%) complete and generally include: completed specifications with bid proposal documents; completed construction drawings; and special interest items (corrections, modifications, or additions made to the documents).

“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 through all phases of delivery of the construction project.

“County” means a legal subdivision of the State of California as defined in subsection (a) of Section 1 of Article XI of the California Constitution.

“Design-bid-build” means a construction procurement process independent of the design process and in which the construction of a project is procured based on completed construction documents.

“Design-build” means a construction procurement process in which both the design and construction of a project are procured from a single entity.

"Design capacity" includes all housing areas, even those specialized units that are not included in the rated capacity. It does not, however, include temporary holding rooms, such as those in the reception and booking areas of the facility. Design capacity is used in calculating costs per bed and square foot.

"Design development" means architectural plans and specifications that are fifty percent (50%) complete and generally include: outline specifications (detention hardware, equipment, and furnishings); floor plans (to scale with dimensions, room designations, references, wall types, and ratings); building sections (heights and dimensions); interior elevations; and preliminary structural, mechanical, and electrical drawings.

"Detention alternatives" means programming efforts designed to reduce juvenile facility crowding as well as recidivism among local offenders.

"EIR" means environmental impact report; a report as defined in the California Environmental Quality Act (CEQA) as implemented in Title 14, CCR, Public Resources Code, Sections 21000-21177.

"Evaluation and rating process" means the method by which each county's proposal will be evaluated using the criteria stipulated in these regulations.

"Facility administrator" means the chief probation officer or other official charged by law with the administration of a local youthful offender rehabilitative facility.

"Facility lease" means a lease-revenue bond financing document in which the Board leases the site and the Board-financed local youthful offender rehabilitative facility to CDCR for the term of the bonds and, subject to availability for use and occupancy, the CDCR agrees to pay rent and other related obligations.

"Facility sublease" means a sublease of the Board-financed local youthful offender rehabilitative facility from CDCR, with the consent of the Board, to a participating county, for its use, operation and maintenance, as described in Section 1854.

"Ground lease" means a lease between a participating county and CDCR, with the consent of the Board, to place possession and control of the real property upon which the Board-financed local youthful offender rehabilitative facility will be constructed with CDCR as described in Section 1852.

"Hard match" and "cash match" are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

"In-kind match" and "soft match" are used interchangeably and mean local funds in the form of property value or management/administrative services dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

"Interim Financing" is a loan or loans that the CDCR and the Board obtain for the state's share of the project and which may be obtained pursuant to: (i) Sections 16312 and 16313 of the California Government Code (Pooled Money Investment Board loans), (ii) Section 15849.1 of the California Government Code (General Fund loans), or (iii) any other appropriate source.

"Large county" means a county with a general county population from 700,001 and above as estimated by the State Department of Finance for July 1, 2007, [for Round One](#) and January 1, 2014, [for Round Two](#).

"Lease-revenue bonds" and "state bond financing" are interchangeable and means lease-revenue bonds issued by the State Public Works Board for local youthful offender rehabilitative facilities as authorized in Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code, as may be amended from time to time.

“Local Youthful Offender Rehabilitative Facility” means a juvenile facility, as defined in Minimum Standards for Juvenile Facilities, California Code of Regulations Title 15, Section 1302, Definitions. This term also applies to county operated/owned facilities meeting applicable Title 15 and Title 24 regulations in which programs take place and/or are provided for the purpose of the rehabilitation of youthful offenders. Local youthful offender rehabilitative facilities may include non-secure program space.

“Local Youthful Offender Rehabilitative Facility Construction Financing Program” means the requirements set forth in Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code to finance the construction of local youthful offender rehabilitative facilities.

“Match” means local funds in the form of cash, property value, or management/administrative services contributed by a county on a state bond financed project in the ratio described in Section 1814.

"Medium county" means a county with a general county population from 200,001 to 700,000 as estimated by the State Department of Finance for July 1, 2007, [for Round One](#) and January 1, 2014, [for Round Two](#).

“Needs assessment study” means a compilation of data that substantiates and justifies the scope of the project proposed to be funded through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Net gain in beds” means the number of beds (rated capacity and special use beds) to be added (if any), minus the number of existing beds (rated capacity and special use beds) to be eliminated in the county (if any) as a result of the project constructed through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Operational program statement” means a description of the intended operation of a local youthful offender rehabilitative facility proposed to be financed through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Participating county” means any county, or regional consortium of counties, within the state that has been certified to the Board by the CDCR as having satisfied all of the requirements set forth in ~~Chapter 1.5, Article 3 of Division 2.5 of the~~ Welfare and Institutions Code [Section 1975](#) for financing ~~of~~ a local youthful offender rehabilitative facility pursuant to ~~that chapter~~ [this article](#).

“Performance criteria” means, with respect to a design-build project, the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the participating county’s needs, including documents prepared pursuant to paragraph (1) of subdivision (d) of Section 20133 of the Public Contract Code.

“Preliminary plans” means 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.

“Project” means the construction, expansion or renovation of a local youthful offender rehabilitative facility proposed to be financed through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Project delivery and construction agreement” means the written agreement and any amendments thereto between the Board, the CDCR, the BSCC, and the participating county supplying the terms, provisions, and conditions governing the delivery of the project, as well as other supplemental terms and conditions that are deemed necessary to the project by the Board as described in Section 1848.

“Proposal” means the document prepared by a county, or two or more counties if a common proposal, by which a request is made to participate in the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Proposal evaluation criteria” means ~~eriterion~~[criteria](#) by which proposals will be rated for financing through the Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“Rated capacity” means the number of detainee occupants, as determined by the BSCC, for which a facility’s single and double occupancy rooms or dormitories (excluding those areas dedicated for medical or mental health care or disciplinary isolation housing), were planned and designed in conformity with the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1, Chapter 12](#), Section 1230.

“Regional consortium of counties” means two or more counties bound together by a memorandum of understanding or a joint powers agreement identifying the terms, conditions, rights, responsibilities, and financial obligations of all parties.

“Renovation” means major upgrading, enhancing, remodeling or reassigning of space with the primary objective to improve safety, security and functional use (including rehabilitative program use) and extend the useful life of the facility.

“Round One” means the process and award of financing within the Local Youthful Offender Rehabilitative Facility Construction Financing Program pursuant to the request for proposals issued July 15, 2008.

“Round Two” means the process and award of financing within the Local Youthful Offender Rehabilitative Facility Construction Financing Program pursuant to the request for proposals issued September 12, 2014.

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

“Scope of work and project impact” means a description of the project and the impact the project will have on the county’s juvenile detention system.

“Site” means the property on which the Board-financed local youthful offender rehabilitative facility is located, including a buffer zone. Roadways or areas serving functions other than the local youthful offender rehabilitative facility shall not be considered part of the site.

"Small county" means a county with a general county population of 200,000 or fewer as estimated by the State Department of Finance for July 1, 2007, [for Round One](#) and January 1, 2014, [for Round Two](#).

“Soft match” and “in-kind match” are used interchangeably and mean local funds in the form of property value or management/administrative services dedicated to the project by the applicant for eligible expenditures as defined in Section 1814.

“Special use beds” means beds for the purpose of appropriately housing detainees in medical, mental health or disciplinary rooms or units that are planned and designed in conformity to the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1, Chapter 12](#), Section 1230.

“Staffing plan” means an assessment and identification of staffing levels needed to operate the proposed project.

“State bond financing” and “lease-revenue bonds” are used interchangeably and mean lease-revenue bonds issued by the State Public Works Board for local youthful offender rehabilitative facilities as authorized in Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code, as may be amended from time to time.

“State reimbursements” are payments made to the county by CDCR to reimburse the county for project costs which were deemed eligible for state financing.

“Working drawings” means 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.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977 and 1978, Welfare and Institutions Code.

## **ARTICLE 2. ELIGIBILITY REQUIREMENTS**

### **§ 1812. Eligibility Requirements.**

- (a) To be eligible for participation in the Local Youthful Offender Rehabilitative Facility Construction Financing Program, a county shall:
- (1) Submit the required proposal described in Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;



- (2) If building a new local youthful offender rehabilitative facility or expanding the rated capacity of a current facility, complete or update a needs assessment study as prescribed in Section 1831 of these regulations;
  - (3) Provide match as specified in Section 1814 of these regulations; and
  - (4) Provide a copy of a signed Board of Supervisors' resolution as specified in Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two.
- (b) If the conditions in subsection (a) of this regulation are met counties may apply for reimbursement for the following:
- (1) Costs of construction of the BSCC-approved local youthful offender rehabilitative facility project including site preparation, fixed equipment and fixed furnishings, and installation of fixed equipment and fixed furnishings necessary for the operation of the facility, not to exceed seventy five percent (75%) of the total project costs. Costs in excess of these levels, including higher than expected construction bids, unanticipated costs, cost overruns, and costs of moveable equipment and moveable furnishings, shall be funded by the county.
- (c) Projects or items not eligible for state reimbursement under these regulations shall include, but not be limited to, the following:
- (1) Temporary holding or court holding facilities.
  - (2) Juvenile facilities or portions thereof operated by jurisdictions other than counties. City, state and federal facilities are not eligible.
  - (3) Purchase, lease, or rent of land; personnel or operational costs; construction management; architectural programming and design; environmental reports; soil and/or water contamination assessment/mitigation; excavation of burial sites; moveable equipment and moveable furnishings; public art; off-site costs including access roads, power generation and utilities development; costs attributable to county building permit fees and/or building code inspection fees; supplies; bonus payments; and debt service or interest payments on indebtedness required to finance the county's share of project costs.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1975 and 1976, Welfare and Institutions Code.

#### **§ 1814. Matching Fund Requirements.**

- (a) Participating county matching funds for projects proposed to be financed under these regulations shall be a minimum of twenty-five percent (25%) of the total project costs pursuant to Welfare and Institutions Code Section 1976.
- (b) The BSCC may reduce matching fund requirements for participating counties with a general population ~~of below~~ 200,000 ~~or fewer~~ upon petition by a participating county to the BSCC requesting a lower level of matching funds pursuant to Welfare and Institutions Code Section 1976.
- (c) Cash match must be at least 10 percent (10%) of total eligible project costs for large counties and at least 5 percent (5%) of total eligible project costs for medium and small counties.
- (d) Expenditures eligible as cash match shall include those for:
  - (1) Costs of construction of the BSCC, CDCR and Board-approved local youthful offender rehabilitative facility project;
  - (2) Architectural programming and design by consultants or contractors;
  - (3) Preparation of full or focused environmental reports by consultants or contractors;
  - (4) Construction management by consultants or contractors;

- (5) Costs of real estate due diligence, State Fire Marshal fees, and fees associated with other necessary state services (item(s) eligible for Round Two projects only); and
  - (6) Costs to audit the state bond financed project by consultants or contractors (item(s) eligible for Round Two projects only).
- (e) In-kind match cannot exceed 15 percent (15%) of total eligible project costs for large counties and cannot exceed 20 percent (20%) of total eligible project costs for medium and small counties.
- (f) Expenditures eligible as in-kind match shall include those defined above as eligible cash match expenditures, plus the following:
- (1) Costs to audit the state bond financed project by staff, including salary/benefits of an independent county auditor;
  - (2) A needs assessment study (or studies where applicable);
  - (3) Site acquisition cost or current fair market value supported by an independent appraisal of on-site land cost/value of new facility construction, or on-site land cost/value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. Costs cannot be claimed for land that is under an existing operational county facility;
  - (4) County administration where the staff salary/benefits are directly related to the construction project; and,
  - (5) Transition planning, including staff salary/benefits and consultant activities directly related to the construction project.
- (g) To qualify as match, local expenditures must be directly for the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1975 and 1976, Welfare and Institutions Code.

**ARTICLE 3. PROPOSAL TO PARTICIPATE IN LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY CONSTRUCTION FINANCING PROGRAM**

**§ 1830. Proposal For Round One.**

- (a) The proposal will be submitted on the 2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program Proposal Form, dated July 15, 2008, attached to the Request for Proposals Construction, Expansion or Renovation of County Juvenile Halls and Camps and incorporated into these regulations by reference herein. This is an interactive form to be completed by counties electronically, printed and submitted as the project proposal along with other required documents as attachments. The form can be accessed through the BSCC's website at <http://www.bscc.ca.gov>. It is also available to the public upon request directly from the BSCC's business office in Sacramento, CA.
- (b) Proposals shall consist of, but not be limited to, the following:
- (1) A signed Board of Supervisors' resolution authorizing submission of the proposal for financing with designated state bond financing;
  - (2) A description of the project need;
  - (3) An estimated budget for the project, which must identify the amount of state bond financing requested and the local match to be provided; and,
  - (4) A description of the proposed scope of work for the project including project impact, (i.e., number of beds to be added if any; and how renovation will improve the facility,) a construction and administrative work plan, and an estimated timetable for completion of major phases of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1830.1 Proposal For Round Two.**

~~(a) The proposal will be submitted on the Senate Bill 81, Round Two Local Youthful Offender Rehabilitative Facility Construction Funding Program Proposal Form, dated September 12, 2014, incorporated into these regulations by reference herein, and attached to the county's request for proposal documents as specified in the Senate Bill 81, Round Two Construction of Local Youthful Offender Rehabilitative Facilities, Fiscal Year 2014/2015, Request for Proposals, released on September 12, 2014, and incorporated into these regulations by reference herein. The proposal form is an interactive form to be completed by counties electronically, printed and submitted as the project proposal along with other required documents as attachments. The form can be accessed through the BSCC's website at <http://www.bscc.ca.gov>. It is also available to the public upon request directly from the BSCC's business office in Sacramento, CA.~~

~~(a)~~(b) Proposals shall consist of, but not be limited to, the following:

- (1) A signed Board of Supervisors' resolution authorizing submission of the proposal for financing with designated state bond financing, including the set aside of matching funds;
- (2) A description of the project need;
- (3) Documentation evidencing compliance with the California Environmental Quality Act, or status of CEQA certification including a Notice of Determination or Notice of Exemption;
- (4) An estimated budget for the project, which must identify the amount of state bond financing requested and the local match to be provided; and,
- (5) A description of the proposed scope of work for the project including project impact, (e.g., number of beds to be added, if any; how renovation will improve the facility) a construction and administrative work plan, and an estimated timetable for completion of major phases of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1831. Needs Assessment Study.**

Any county or regional consortium of counties intending to construct a local youthful offender rehabilitative facility or expand the rated capacity of a current facility shall complete a needs assessment study pursuant to Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201(c)2. The needs assessment study shall be submitted with the proposal.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1840. Round One Proposal Evaluation Criteria.**

Pursuant to Welfare and Institutions Code Section 1975, the criteria by which the proposals shall be rated shall include the following:

- (a) Approach to the rehabilitation of juvenile offenders;
- (b) Documentation of need for the project;
- (c) Relationship between construction plan and rehabilitation of juvenile offenders;

- (d) Detention alternatives;
- (e) Scope of work and project impact;
- (f) Administrative work plan;
- (g) Cost effectiveness/budget review;
- (h) Overall quality of written proposal;
- (i) Cash match; and,
- (j) Proposed regional facilities.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### § 1840.1 Round Two Proposal Evaluation Criteria.

Pursuant to California Welfare and Institutions Code Section 1975, the factors by which proposals will be assessed shall include the following:

- (a) The proposed project;
- (b) Need for new and/or renovated facility and/or program space;
- (c) Method of youthful offender rehabilitation;
- (d) Cost effectiveness;
- (e) Readiness to proceed;
- (f) Administrative work plan; and,
- ~~(g)~~(g) Overall project evaluation.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### § 1847. Steps to Proceed with Construction for Design-Bid-Build Projects.

- (a) Prior to a participating county receiving state bond financing, the BSCC shall ensure that the county is ready to proceed with ~~construction~~the design-bid-build process. A participating county shall be deemed ready to proceed with ~~construction~~the design-bid-build process when it has done all of the following:
  - (1) Met all the requirements in the proposal pursuant to Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;
  - (2) As required in Section 1849, obtained compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, Chapter 13, Section 13-201 and Part 2, Volume 1, Chapter 12, Section 1230 and the fire and life safety requirements in Title 24, CCR, Part 2, Volume 1, Chapter 4, Section 408;
  - (3) Obtained confirmation that CDCR has received the following:
    - (A) Establishment of the scope, cost, and schedule of the project by the Board;
    - (B) Approval of preliminary plans by the Board ~~and the State Department of Finance~~;
    - (C) Approval of working drawings by the ~~State Department of Finance~~Board;
    - (D) Approval of proceed to bid by the ~~State Department of Finance~~Board; and,
    - (E) Approval of ~~construction~~design-bid-build bid award by the ~~State Department of Finance~~Board.
  - (4) Filed with the BSCC a schedule of values of expected state reimbursements, cash match, and in-kind match and other budget items, along with a construction schedule,

- project management plan, and names, roles and contact information of key county personnel;
- (5) Filed with the BSCC a financial plan detailing arrangements to provide its portion of project costs, including reserves for cash flow, source of matching funds, and a schedule of anticipated match expenditure that is at least proportional to the expenditure of costs that are proposed to be reimbursed by the state;
  - (6) Filed with the BSCC a statement citing any exemptions from federal laws, state or local laws, regulations, ordinances, standards, or requirements;
  - (7) Filed with the BSCC documentation of California Environmental Quality Act compliance; and,
  - (8) Filed with the BSCC a written certification, that the county has control of the site, either through fee-simple ownership or comparable long-term possession, and right of access to the facility sufficient to assure undisturbed use and possession.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1847.1. Steps to Proceed with Construction for Design-Build Projects.**

- (a) Prior to a participating county receiving state bond financing, the BSCC shall ensure that the county is ready to proceed with the design-build process. A participating county shall be deemed ready to proceed with the design-build process when it has done all of the following:
  - (1) Met all the requirements in the proposal pursuant to Section 1830 of these regulations for Round One, and Section 1830.1 for Round Two;
  - (2) As required in Section 1849.1(a), obtained the BSCC’s approval of the performance criteria or performance criteria and concept drawings. The performance criteria or performance criteria and concept drawings shall specify the project will meet the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1, Chapter 12](#), Section 1230 and the fire and life safety requirements in Title 24, CCR, Part 2, Volume 1, Chapter 4, Section 408;
  - (3) Obtained confirmation that CDCR has received the following:
    - (A) Establishment of the scope, costs, and schedule of the project by the Board;
    - (B) Approval of performance criteria or performance criteria and concept drawings by the Board;
    - (C) Approval of proceeding to design-build proposal solicitation by the ~~State Department of Finance~~Board; and,
    - (D) Approval of design-build contract award by the ~~State Department of Finance~~Board.
  - (4) Filed with the BSCC a schedule of values of expected state reimbursements, cash match, and in-kind match and other budget items, along with a construction schedule, project management plan, and names, roles, and contact information of key county personnel;
  - (5) Filed with the BSCC a financial plan detailing arrangements to provide its portion of project costs, including reserves for cash flow, source of matching funds, and a schedule of anticipated match expenditure that is at least proportional to the expenditure of costs that are proposed to be reimbursed by the state;

- (6) Filed with the BSCC a statement citing any exemptions from federal laws, state or local laws, regulations, ordinances, standards, or requirements;
- (7) Filed with the BSCC documentation of California Environmental Quality Act ~~C~~compliance;
- (8) Filed with the BSCC a written certification, that the county has control of the site, either through fee-simple ownership or comparable long-term possession, and right of access to the facility sufficient to assure undisturbed use and possession; and
- (9) Filed with the BSCC conceptual drawings for the proposed facility.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1848. Requirements for the Project Delivery and Construction Agreement.**

The project delivery and construction agreement between the Board, CDCR, the BSCC, and a participating county shall be executed after the Board establishes the scope, cost, and schedule of the project. The project delivery and construction agreement shall include the roles, responsibilities and performance expectations of the parties.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1848.5. Requirements for the Board of State and Community Corrections Agreement.**

The ~~Board of State and Community Corrections~~ agreement between the BSCC and the participating county shall be executed concurrently, or as concurrently as practicable, with the execution of the project delivery and construction agreement. The ~~Board of State and Community Corrections~~ agreement shall include the roles and responsibilities of the participating county and the BSCC as it relates to the oversight of the project.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1849. Submittal of Architectural Drawings and Specifications for Design-Bid-Build Projects.**

- (a) Architectural drawings and specifications [for design-bid-build projects](#) shall be submitted to the BSCC at the schematic design phase, the design development phase, and the construction document phase, pursuant to Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201(c)5.
- (b) The BSCC will review the drawings and specifications as soon as practicable, but no later than thirty (30) calendar days, and in the event of any major deficiencies, the BSCC will notify the county in writing. Deficiencies may be identified as either failures to comply with the Minimum Standards for Local Juvenile Facilities or as design features that may pose serious safety, security, operational, or management problems if left uncorrected, even where the Minimum Standards for Local Juvenile Facilities are not violated.
- (c) Pursuant to Welfare and Institutions Code Section 1975, to enhance safety and security, the BSCC may require changes in construction materials if the materials proposed with the final plans and specifications are not essential or customary, as used statewide for same security level facilities.
- (d) Deficiencies in compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1](#),

[Chapter 12](#), Section 1230 and construction materials shall be corrected by the county prior to advertising for bids.

- (e) Architectural drawings and specifications shall be submitted to the State Fire Marshal for review and approval.
- (f) The Board will have final approval of all projects and Board approval or disapproval of any project is not subject to the appeal process as described in Article 5.
- (g) No state moneys shall be encumbered in contracts let by a participating county until construction document plans and specifications have been approved by the BSCC and subsequent construction bids have been received.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 6029, Penal Code; and Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1849.1. Submittal of Performance Criteria and Architectural Drawings and Specifications for Design-Build Projects.**

- (a) Performance criteria or performance criteria and concept drawings shall be submitted to the BSCC for review and approval before the county issues a request for proposals for the services of a design-build entity.
- (b) Construction documents shall be submitted to the BSCC and the State Fire Marshal for review and approval.
- (c) The BSCC will review the construction documents as soon as practicable, but no later than thirty (30) calendar days, and in the event of any major deficiencies, the BSCC will notify the county in writing. Deficiencies may be identified as either failures to comply with Minimum Standards for Local Juvenile Facilities or as design features that may pose serious safety, security, operational, or management problems if left uncorrected, even where Minimum Standards for Local Juvenile Facilities are not violated.
- (d) Pursuant to Welfare and Institutions Code Section 1975, to enhance safety and security, the BSCC may require changes in construction materials if the materials proposed with the construction documents are not essential or customary, as used statewide for same security level facilities.
- (e) Deficiencies in compliance with the operational and physical plant requirements in the Minimum Standards for Local Juvenile Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1](#), [Chapter 12](#), Section 1230 and construction materials shall be corrected prior to completion of construction.
- (f) The Board will have final approval of all projects, and Board approval or disapproval of any project is not subject to the appeal process as described in Article 5.
- (g) No state moneys shall be encumbered in contracts let by a participating county until performance criteria or performance criteria and concept drawings have been approved by the BSCC pursuant to subsection (a) and a design-build contract has been awarded.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 6029, Penal Code; and Sections 1971 and 1975, Welfare and Institutions Code.

**§ 1850. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Bid-Build Projects.**

- (a) Pursuant to Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201(c)3., an operational program statement [for design-bid-build projects](#) shall be submitted with the schematic design drawings and specifications.

- (b) At the time the county submits the design development plans and specifications for review and approval [with respect to a design-bid-build project](#), it shall also submit a preliminary staffing plan, along with an analysis of other anticipated operating costs, for the facility. At a minimum, this plan shall include the following:
- (1) Staffing requirements under the proposed design capacity;
  - (2) Shift and post identification of staff for the proposed facility, delineated by custody and support staff;
  - (3) Transition team costs;
  - (4) Analysis of a thirty (30) year lifecycle operating costs and maintenance and energy costs for the proposed facility; and,
  - (5) Identification of, and revenue sources for, sufficient county funds needed to support the staffing levels and operating costs for the proposed facility.
- (c) Following BSCC determination that the preliminary staffing plan complies with regulations, the facility administrator or designee shall submit the preliminary staffing plan and operating cost analysis to the Board of Supervisors for review and approval.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

#### **§ 1850.1. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Build Projects.**

- (a) At the time the county submits the performance criteria or performance criteria and concept drawings for review and approval with respect to a design-build project, it shall also submit an operational program statement, and a preliminary staffing plan, along with an analysis of other anticipated operating costs, for the facility. At a minimum, this plan shall include the following:
- (1) Staffing requirements under the proposed design capacity;
  - (2) Shift and post identification of staff for the proposed facility, delineated by custody and support staff;
  - (3) Transition team costs;
  - (4) Analysis of a thirty (30) year lifecycle operating costs and maintenance and energy costs for the proposed facility; and,
  - (5) Identification of, and revenue sources for, sufficient county funds needed to support the staffing levels and operating costs for the proposed facility.
- (b) Following BSCC determination that the preliminary staffing plan complies with regulations, the facility administrator or designee shall submit the preliminary staffing plan and operating cost analysis to the Board of Supervisors for review and approval.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

#### **§ 1851. General County Requirements.**

- (a) Pursuant to Welfare and Institutions Code Section 1971, a participating county may acquire, design, and construct the local youthful offender rehabilitative facility in accordance with its local contracting authority.
- (b) Pursuant to Welfare and Institutions Code Section 1971, a participating county may assign an inspector during the construction of the project, notwithstanding California Government Code Section 14951.



- (c) Pursuant to Welfare and Institutions Code Section 1971, the participating county is the lead agency responsible for compliance with the California Environmental Quality Act.
- (d) With the consent of the Board, the CDCR and a participating county are authorized to enter into leases, subleases, contracts, or other agreements pursuant to Welfare and Institutions Code Section 1974.
- (e) In all agreements related to this program, the participating county shall indemnify, defend, and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's acquisition, design, construction, operation, maintenance, use and occupancy of the local youthful offender rehabilitative facility.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1974, Welfare and Institutions Code.

**§ 1852. Ground Lease.**

- (a) A ground lease between the participating county and CDCR, with Board consent, will be entered into after the county has entered into the project delivery and construction agreement and the Board has determined the site is adequate for purposes of financing in accordance with Welfare and Institutions Code Section 1971(a).
- (b) An easement (documented in a separate easement agreement) over adjacent county property for project access, utilities and repairs may also be required at the time the ground lease is initiated.
- (c) Attached to the ground lease will be a legal description of the site.
- (d) The ground lease shall not be terminated as long as the lease-revenue bonds are outstanding, even in the event of default.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1974 and 1975, Welfare and Institutions Code.

**§ 1853. Right of Entry for Construction and Operation.**

- (a) A right of entry for construction and operation between CDCR and the participating county will be entered into concurrently with the ground lease.
- (b) The right of entry for construction and operation authorizes the participating county and their contractors to use the site that has been leased to CDCR via the ground lease for construction related activities and operation of the project upon substantial completion of construction.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1974, Welfare and Institutions Code.

**§ 1854. Facility Sublease.**

- (a) If the facility lease between the Board and CDCR is executed, CDCR and the participating county shall enter into a facility sublease of the facility lease with Board consent. The facility sublease will describe the county's responsibilities, obligations, and other terms and conditions for the county's occupancy of the facility during the term of the facility sublease.
- (b) The facility sublease is subject to and subordinate to the facility lease.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1974, Welfare and Institutions Code.

## ARTICLE 4. ADMINISTRATION OF REIMBURSEMENTS AND PROJECT MONITORING

### § 1856. Disbursement of State Reimbursements.

- (a) No state moneys shall be encumbered in contracts let by a participating county until either (i) construction document plans and specifications have been approved by the BSCC pursuant to Section 1849 and subsequent construction bids have been received, or (ii) performance criteria or performance criteria and concept drawings have been approved by the BSCC pursuant to Section 1849.1(a) and the design-build contract has been awarded.
- (b) Upon approval of the participating county's proposal by the BSCC and execution of the BSCC agreement, a state reimbursement schedule will be established by the BSCC.
- (c) Requests for state reimbursements shall include such supporting documentation as may be required by the BSCC and/or CDCR and, in the event of deficiencies in the request, the participating county shall be notified by the BSCC of the deficiencies as soon as practicable.
- (d) State reimbursements shall be made in arrears on a schedule mutually agreed to by the BSCC and the participating county and established in the BSCC agreement.
- (e) No state reimbursements will be made until the participating county has complied with all applicable state requirements.
- (f) Participating counties including any design costs as state reimbursed costs, for one or more phases of design, may not proceed with that phase of design process until after the project scope, cost, and schedule are established by the Board.
- (g) If a design-bid-build project budget includes any state reimbursements for working drawings/construction documents phase costs, the Board ~~and the State Department of Finance~~ must approve preliminary plans/design development drawings before the participating county can commence work on the working drawings and/or construction documents phase. If a participating county commences any working drawings and/or construction documents phase activities before obtaining approval of preliminary plans and/or design development drawings from the Board ~~and State Department of Finance~~, the entire state portion of the project financing shall be forfeited and the state will not reimburse any participating county project costs.
- (h) If a design-build project budget includes any state reimbursements for design-build phase costs, the Board ~~and State Department of Finance~~ must approve performance criteria or performance criteria and concept drawings before the participating county can commence work on the design-build phase. For any project that includes any state reimbursement of the design-build phase costs, if the participating county commences any design-build phase activities before obtaining approval of performance criteria or performance criteria and concept drawings from the Board ~~and State Department of Finance~~, the entire state portion of the project financing shall be forfeited and the state will not reimburse any participating county project costs.
- (i) At such time as the balance of anticipated total state reimbursements reaches five percent (5%), for ~~Adult Local Criminal Justice Facility~~ Local Youthful Offender Rehabilitative Facilities projects, the BSCC shall withhold that amount as security. When a participating county is unlikely or ineligible to draw 100 percent (100%) of the conditional award amount, the state shall withhold the final 5% of eligible state reimbursements. The withheld amount will be released to the participating county upon compliance with all of the applicable terms in the BSCC agreement, project delivery and construction agreement, other agreements applicable to the financing, and applicable conditions and requirements of law and regulation. These requirements of law and regulations include:
  - (1) Final completion of the project;

- (2) Payment of State Fire Marshal fees in full;
- (3) Receipt and approval of the final audit and the final project summary report;
- (4) The final construction inspection and approval by appropriate officials; and
- (5) Staffing and operating the facility within ninety (90) days of construction completion.

Note: Authority cited: Section 6030, Penal Code Section; and Section 1975, Welfare and Institutions Code. Reference: Sections 1973 and 1975, Welfare and Institutions Code.

### **§ 1857. Pooled Money Investment Board.**

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 16312 and 16313 Government Code; Section 1972, Welfare and Institutions Code.

### **§ 1860. Record Keeping and Accounting.**

- (a) The participating county shall establish an official file for the project. The file shall contain adequate documentation of all actions that have been taken with respect to the project. The documents to be retained shall include, but are not limited to, contracts, payments of invoices, transfers of funds, and other related accounting records sufficient to reflect properly the amount, receipt, and disposition of all state reimbursements and county funds for contribution. The participating county will provide a copy of the official file to CDCR upon termination of the BSCC agreement.
- (b) The participating county shall protect records from fire or other damage.
- (c) The official project file must be preserved a minimum of three years after the last date on which no lease-revenue bonds are outstanding.
- (d) All state reimbursements received by the participating county shall be deposited into separate fund accounts, which identify the funds and clearly show the manner of their disposition.
- (e) Accounting for state reimbursements shall be in accordance with generally accepted accounting principles and practices. Supporting records must be maintained by the participating county in sufficient detail to demonstrate that the state reimbursements were used for the purpose for which the award was made and in accordance with the provisions of state contracting, and shall be subject to Board and BSCC audit as described in Section 1870.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1866. Monitoring of Process.**

- (a) The BSCC and CDCR shall regularly monitor the administration of the project and the distribution of state reimbursements to a participating county, in order to assess compliance and determine that the project is operating in accordance with the approved proposal, the conditions of the BSCC agreement, these regulations and the law.
- (b) The BSCC, and the Board, ~~and the State Department of Finance~~ shall have administrative oversight of the project.
- (c) Access to the project site, county project files, and contractors' records shall be provided to the BSCC, or other state officials, during all phases of construction throughout the term of the BSCC agreement.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971 and 1975, Welfare and Institutions Code.

### **§ 1867. Completion of Project.**

- (a) The participating county shall agree to proceed with the agreed upon construction schedule and complete the project in accordance with the BSCC agreement and the plans and specifications (with respect to a design-bid-build project) or the performance criteria or performance criteria and concept drawings (with respect to a design-build project) approved by the Board and the BSCC.
- (b) The participating county's failure to proceed with the project on the agreed schedule may be a material breach of the project delivery and construction agreement and the BSCC agreement.
- (c) Upon completion of the project, the participating county shall submit a final project summary and audit to the BSCC [in compliance with Section 1870 of these regulations](#).

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Sections 1971, 1974 and 1975, Welfare and Institutions Code.

### **§ 1868. Project Modifications.**

- (a) Project modifications proposed after the BSCC agreement is signed require advance approval of the Board and the BSCC if the modifications:
  - (1) Are more than minor changes which affect the scope, design, configuration, cost, or schedule of the project;
  - (2) Are more than minor changes to the design, location, size, capacity, or quality of major items of equipment;
  - (3) Cause a delay or change in the date of substantial completion or final completion dates for the project; or
  - (4) Cause any change that would impact the BSCC's operational or construction regulations in Title 15, CCR, Division 1, Chapter 1, Subchapter 5 and Title 24, CCR, Part 1, [Chapter 13](#), Section 13-201 and Part 2, [Volume 1, Chapter 12](#), Section 1230 or the State Fire Marshal's construction regulations in Title 24, CCR, Parts 2 and 9 as adopted by the Office of the State Fire Marshal, a change in the number of beds, or a change which affects the security or fire and life safety of the facility.
- (b) The participating county shall report, in writing, to the BSCC any modifications to the county's agreement for construction with its contractor.
- (c) Summaries of all change orders shall be submitted to the BSCC with each invoice/progress report.
- (d) Neither the approval of the BSCC agreement or any action of staff with respect to project changes, including approval or disapproval thereof, shall commit or obligate the BSCC to any increase in the amount of the financing conditionally awarded, except as expressly provided in writing by the BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1870. Audits.**

- (a) A participating county shall obtain an audit performed in accordance with Government Auditing Standards issued by the Comptroller General of the United States for its project within ninety (90) days following construction completion. The audit shall be performed under the direction of a Certified Public Accountant or a county auditor that is organizationally independent from the participating county's project financial management functions.

- (b) 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 plans for corrective action to any auditor findings and recommendations. Notice that the audit has been delivered to the Board of Supervisors shall be submitted to the BSCC.
- (c) A corrective action plan for each finding and recommendation must be prepared by the county within ten days after notification of the findings and submitted to the BSCC as part of the final audit report. The corrective action plan must include:
  - (1) A description of each finding and recommendation;
  - (2) Specific steps taken to remedy the finding or implement the recommendation;
  - (3) A timetable for performance of each corrective action; and
  - (4) A description of monitoring to be performed and who will perform it to ensure implementation of each corrective action.
- (d) The Board, CDCR, and BSCC reserve the right to audit the accounting records of the project at any time. The CDCR or the BSCC may disallow claims for the state reimbursements and/or applicable matching credit for all or part of the cost of an item determined to be ineligible and/or not in compliance with established terms and conditions.
- (e) Any state reimbursement of an improper expenditure disclosed in such audits will be recovered by the state through withholding future state reimbursements and/or repayment by the participating county, at the discretion of the BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1872. Unused Conditional Awards.**

- (a) In no case shall a participating county receive state reimbursements in excess of the amount of the conditional award approved by the BSCC.
- (b) If a participating county does not use the full amount of the conditional award, the unused amount shall be available for redistribution to other counties and used for other eligible projects.
- (c) Any state reimbursements determined to have been inappropriately or erroneously made, including those resulting from noncompliance as well as overpayments resulting from county plan modifications or other causes, shall, upon written notification, be repaid to the state. Such repayment may be by county warrant and/or may be withheld from subsequent state reimbursements at the discretion of the BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**ARTICLE 5. APPEAL PROCEDURES**

**§ 1876. Purpose.**

The appeal hearing procedures are intended to provide a review concerning the BSCC's proposal evaluation and rating process. A county may appeal on the basis of the BSCC's alleged evaluation criteria misapplication, capricious enforcement of regulations, or substantial differences of opinion as may occur concerning the proper application of regulations or procedures regarding the proposal evaluation and rating process.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1878. Definitions.**

For the purposes of this article, the following definitions shall apply:

“Appeal hearing” means an administrative procedure providing an appellant with an opportunity to present the facts of the appeal for a formal decision concerning matters raised pursuant to the purposes set forth in Section 1876 of these regulations.

“Appellant” means a ~~participating~~ county that files a request for an appeal hearing.

~~“Authority” means Board of State and Community Corrections, which acts by and through its Executive Director and representatives.~~

“Authorized representative” means an individual authorized by the appellant to act as his/her representative in any or all aspects of the hearing.

“BSCC” means the Board of State and Community Corrections, which acts by and through its Executive Director and representatives.

“Executive Director” means the Executive Director of the BSCC.

“Filing date” means the date a request for an appeal hearing is received by the Executive Director’s office at the ~~Corrections Standards Authority~~BSCC.

“Hearing panel” means a panel comprised of three members of the BSCC, who shall be selected by the chairperson of the BSCC at the time the appeal is filed. A fourth member may be designated as an alternate. Members designated to the hearing panel shall not:

- (i) Be employed by, or be residents of, the county submitting the appeal or;
- (ii) Be employed by any other county that has a funded project or is seeking qualification for disbursement of state reimbursements.

“Notice of decision” means a written statement by the Executive Director of the BSCC, which contains the formal decision of the BSCC and the reason for that decision.

“Proposed decision” means a written recommendation from the hearing panel to the BSCC, containing a summary of facts and a recommended decision on the appeal.

“Request for appeal hearing” means a clear written expression of dissatisfaction about a procedure or action taken and a request for a hearing on the matter, and filed with the Executive Director of the BSCC.

Note: Authority cited: Section 6030, Penal Code; and Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

### **§ 1888. Request for Board of State and Community Corrections Appeal Hearing.**

(a) 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. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the county is dissatisfied.

(b) The request shall be in writing and:

- (1) Shall state the basis for the dissatisfaction;
- (2) Shall state the action being requested of the BSCC;
- (3) Shall state the desired remedy; and,
- (4) Shall include as attachments any correspondence related to the appeal to and from the Executive Director.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1890. Board of State and Community Corrections' Hearing Procedures.**

- (a) The hearing shall be conducted by a hearing panel, designated by the Chairperson of the BSCC, at a reasonable time, date, and place, but not later than twenty-one (21) days after the filing of the request for hearing with the BSCC, unless delayed upon mutual agreement by the BSCC and the participating-appellant county. The BSCC shall mail or deliver to the appellant or authorized representative a written notice of the time, date, and place of hearing not less than seven days prior to the hearing.
- (b) The procedural time requirements may be waived with mutual written consent of the parties involved.
- (c) 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, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued upon mutual agreement between the hearing panel and the participating appellant county.
- (d) An appellant may waive a personal hearing before the hearing panel and, under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.
- (e) The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded.
- (f) Neither the Federal Rules of Evidence nor the California Rules of Evidence apply in these administrative hearings.
- (g) 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.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.

**§ 1892. Board of State and Community Corrections' Decision.**

- (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.

Note: Authority cited: Section 6030, Penal Code; Section 1975, Welfare and Institutions Code. Reference: Section 1975, Welfare and Institutions Code.