

**State of California  
Office of Administrative Law**

**In re:**  
Board of State and Community Corrections

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:** 1712.4, 1714.4, 1730.4,  
1740.4

**Amend sections:** 1700, 1706, 1731, 1747,  
1747.1, 1748, 1748.5, 1749,  
1749.1, 1750, 1750.1, 1751,  
1752, 1753, 1754, 1756,  
1760, 1766, 1767, 1768,  
1770, 1772, 1776, 1778,  
1788, 1790, 1792

**Repeal sections:**

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2017-0922-02**

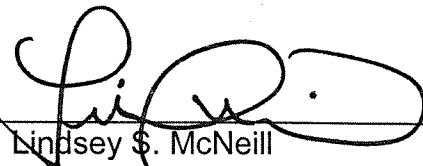
**OAL Matter Type: Certificate of Compliance  
Resub (CR)**

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This certificate of compliance submitted by the Board of State and Community Corrections makes permanent the prior emergency actions (OAL File Nos. 2016-1223-03ER and 2017-0622-02EE) that amended twenty seven sections and adopted four sections in title 15 of the California Code of Regulations. The regulations add eligibility requirements, matching fund requirements, a proposal process, and evaluation criteria for the construction financing program for adult local criminal justice facilities pursuant to Senate Bill 844.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

**Date:** November 3, 2017

  
Lindsey S. McNeill  
Attorney

**For:** Debra M. Cornez  
Director

**Original:** Kathleen T. Howard  
**Copy:** Lindsay Tu

# CERT RESUBMITTAL

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATORY ACTION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER 2017-0406-01	REGULATORY ACTION NUMBER 2017-0922-02CR	EMERGENCY NUMBER
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**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

NOV 03 2017  
11:45 P.M.

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2017 SEP 22 A 9:43  
OFFICE OF  
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY Board of State and Community Corrections	AGENCY FILE NUMBER (if any)
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### 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)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2017-16-2	PUBLICATION DATE 4-21-17

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

1a. SUBJECT OF REGULATION(S) Construction Financing Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2016-1205-02E; 2016-1223-03ER; 2017-0622-02E E,
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	2017-0615-03C

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT See Attachment	per agency LM request 10/21/2017
	AMEND See Attachment	
	REPEAL N/A	

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)	per agency LM request 10/21/2017

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. 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)

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 Lindsay Tu, Associate Capital Outlay Analyst	TELEPHONE NUMBER (916) 324-1959	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Lindsay.Tu@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 9/11/17
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
NOV 03 2017
Office of Administrative Law

**ATTACHMENT TO NOTICE PUBLICATION/REGULATIONS SUBMISSION**

**(STD. 400)**

**TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 6**

**ADOPT:**

Sections 1712.4, 1714.4, 1730.4, and 1740.4

**AMEND:**

Sections 1700, 1706, 1731, 1747, 1747.1, 1748, 1748.5, 1749, 1749.1, 1750, 1750.1, 1751, 1752, 1753, 1754, 1756, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, and 1792

**TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 6  
BOARD OF STATE AND COMMUNITY CORRECTIONS**

**CONSTRUCTION FINANCING PROGRAM**

**ARTICLE 1. GENERAL PROVISIONS**

**§ 1700. Purpose.**

The purpose of these regulations is to implement and specify Chapters 3.11, 3.12, 3.13, 3.131, and 3.132 of Title 2, Division 3, Part 10b of the California Government Code.

Note: Authority cited: Sections 15820.906, 15820.916, 15820.925, 15820.935 and 15820.945, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.90, 15820.901, 15820.902, 15820.903, 15820.905, 15820.906, 15820.907, 15820.91, 15820.911, 15820.912, 15820.913, 15820.915, 15820.916, 15820.917, 15820.92, 15820.921, 15820.922, 15820.923, 15820.924, 15820.925, 15820.926, 15820.93, 15820.930, 15820.931, 15820.932, 15820.933, 15820.934, 15820.935, 15820.936, 15820.94, 15820.940, 15820.941, 15820.942, 15820.943, 15820.944, 15820.945, 15820.946 and 15820.947, Government Code.

**§ 1706. 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.

“Local Jail Construction Financing Program” means the requirements set forth in Chapters 3.11 and 3.12 of Title 2, Division 3, Part 10b of the California Government Code to finance the construction of local jails.

“Adult Local Criminal Justice Facilities Construction Financing Programs” means the requirements set forth in Chapters 3.13, 3.131, and 3.132 of Title 2, Division 3, Part 10b of the California Government Code to finance the construction of adult local criminal justice facilities awarded under SB 1022, SB 863, and SB 844.

“Adult local criminal justice facility” means a facility or portion thereof which may include any improved housing with an emphasis on expanding program and treatment space, and which may include any custodial housing, reentry, program, mental health, or treatment space, as are necessary to manage the adult offender population consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code under the jurisdiction of the sheriff or county department of corrections.

“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 Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Financing Programs.

“Application” means the document prepared by a county, or two or more counties if a common application, by which a request is made to participate in Phase II of the Local Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Financing Programs.

“Application assessment factors” means criterion by which applications will be assessed, as stipulated in Sections 1712.1, 1714.1, 1730.1, 1731, and 1740.1 of these regulations, for financing through Phase II of the Local Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Financing Program.

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

“Assist the State in siting mental health day treatment and crisis care, and/or a continuum of care for parolees” means a Board of Supervisors’ resolution outlining the county’s intent to assist the State in siting mental health day treatment and crisis care, pursuant to Penal Code Section 3073, and/or a continuum of care at the conclusion of an offenders parole period in Phase I of the Local Jail Construction Financing Program.

“Assist the State in siting reentry facilities” means a Board of Supervisors’ resolution outlining the county’s intent to assist the State in siting a reentry facility, pursuant to Penal Code Section 6270 in Phase I of the Local Jail Construction Financing Program.

“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 the Board of State and Community Corrections.

“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 1714, 1714.1, 1714.2, 1714.3, and 1714.4 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 Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Financing Programs, 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.

“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.

“Cost effectiveness” means a computed factor that is the state dollar cost per net gain in beds, to be computed as the total amount of state funds requested divided by the total net gain in beds.

“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 cells, 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 jail 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 Sections 1712, 1712.2, 1712.3, 1712.4, 1714, 1714.2, 1714.3, 1714.4, 1730, 1730.2, 1730.3, 1730.4, 1731, 1740, 1740.2, 1740.3, and 1740.4 of these regulations resulting in a rank ordered list for financing consideration.

“Facility administrator” means the sheriff or other official charged by law with the administration of a local jail or Adult Local Criminal Justice Facility.

“Facility lease” means a lease-revenue bond financing document in which the Board leases the site and the Board-financed local jail facility project to CDCR or BSCC. The term of the bonds are subject to availability for use and occupancy. CDCR or BSCC agrees to pay rent and fulfill other related obligations.

“Facility sublease” means a sublease of the Board-financed facility from CDCR and/or BSCC, with the consent of the Board, to a participating county, for its use, operation and maintenance, as described in Section 1754.

“Fixed equipment and fixed furnishings” means furniture, fixtures, and equipment that are physically attached to an immovable object, such as a floor or wall.

“Ground lease” means a lease between a participating county and CDCR or BSCC with the consent of the Board, to place possession and control of the real property upon which the Board-financed project will be constructed with CDCR or BSCC as described in Section 1752.

“Hard match” and “cash match” are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Sections 1714, 1714.1, 1714.2, 1714.3, and 1714.4.

“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 Sections 1714, 1714.1, 1714.2, 1714.3, and 1714.4.

“In-person visit” and “In-person visitation” means a visit or visitation during which an incarcerated person has contact with a visitor, is able to see a visitor through glass, or is otherwise in an open room without physical contact with a visitor.

“Interim Financing” is a loan or loans that the CDCR and the Board, or the BSCC 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 January 1, 2007 for Phase I, January 1, 2011 for Phase II, May 1, 2013 for SB 1022, July 1, 2014 for SB 863 and January 1, 2016 for SB 844.

“Lease-revenue bonds” and “state bond financing” are interchangeable and means lease-revenue bonds issued by the State Public Works Board for jail facilities as authorized in Chapters 3.11, 3.12, 3.13, and 3.131 of Title 2, Division 3, Part 10b of the California Government Code, as may be amended from time to time.

“Local jail” means Type II, III and IV facilities as defined in Title 15, CCR, Section 1006 and Title 24, CCR, Part 1, Section 13-102. Pursuant to Sections 1712, 1712.1, 1712.2, 1712.3, and 1712.4, only county-owned and operated local jails are eligible for state bond financing. Temporary and court holding facilities are not eligible for state bond financing.

“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 Sections 1714, 1714.1, 1714.2, 1714.3, and 1714.4.

“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 January 1, 2007 for Phase I, January 1, 2011 for Phase II, May 1, 2013 for SB 1022, July 1, 2014 for SB 863, and January 1, 2016 for SB 844.

“Moveable equipment and moveable furnishings” means furniture, fixtures, and equipment that are not fixed equipment and fixed furnishings, not including consumable items beyond those included in the initial construction contract.

“Needs assessment study” means a compilation of data that substantiates and justifies the scope of the project proposed to be funded.

“Net gain in beds” means the number of beds (rated capacity and special use beds) to be added, 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.

“Operational program statement” means a description of the intended operation of a local jail or Adult Local Criminal Justice Facility.

“Participating county” means any county or regional consortium of counties within the state that has been certified to the Board by the CDCR and/or BSCC as having satisfied all of the requirements set forth in Chapter 3.11, 3.12, 3.13, 3.131, or 3.1312 of Title 2, Division 3, Part 10b of the California Government Code, respectively, for financing the construction or renovation of a local jail facility pursuant to those chapters.

“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, the desired design character of the project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the participating county's needs; including documents prepared pursuant to paragraph (1) of subdivision (a) of Section 22164 of the Public Contract Code.

“Phase I” means the process and awarding of financing pursuant to Chapter 3.11 of Title 2, Division 3, Part 10b of the California Government Code.

“Phase II” means the process and awarding of financing pursuant to Chapter 3.12 of Title 2, Division 3, Part 10b of the California Government 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.

“Program space” means space in which offenders receive services in the form of programming or treatment to reduce recidivism or as an alternative to incarceration.



“Project” means the construction or renovation of a local jail facility or adult local criminal justice facility proposed to be financed through the Local Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Financing Programs.

“Project delivery and construction agreement” also known as PDCA, means the written agreement and any amendments thereto between the Board, the CDCR, or 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 1748.

“Proposal” means the document prepared by a county, or two or more counties if a common application, by which a request is made to participate in Phase I of the Local Jail Construction Financing Program or the Adult Local Criminal Justice Facilities Construction Programs.

“Proposal evaluation criteria” means criterion by which proposals will be rated.

“Rated capacity” means the number of inmate occupants, as determined by the BSCC, for which a facility’s single and double occupancy cells 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 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Section 1231.

“Reentry preference” means preference given to counties in Phase I of the Local Jail Construction Financing Program that agree to assist the State in siting reentry facilities pursuant to Government Code Section 15820.907.

“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.

“SB 844” means the process and awarding of financing pursuant to Chapter 3.132 of Title 2, Division 3, Part 10b of the California Government Code.

“SB 863” means the process and awarding of financing pursuant to Chapter 3.131 of Title 2, Division 3, Part 10b of the California Government Code.

“SB 1022” means the process and awarding of financing pursuant to Chapter 3.13 of Title 2, Division 3, Part 10b of the California Government Code.

“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 detention system.

“Site” means the property on which the Board-financed local jail facility is located, including a buffer zone. Roadways or areas serving functions other than the jail 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 on January 1, 2007 for Phase I; January 1, 2011 for Phase II; May 1, 2013 for SB 1022, July 1, 2014 for SB 863, and May 1, 2016 for SB 844.

“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 Sections 1714, 1714.1, 1714.2, 1714.3, and 1714.4.

“Special use beds” means beds for the purpose of appropriately housing offenders in medical, mental health or disciplinary rooms, cells or units that are planned and designed in conformity to the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Section 1231.

“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 jail facilities as authorized in Chapters 3.11, 3.12, 3.13, 3.131, and 3.132 of Title 2, Division 3, Part 10b of the California Government Code, as may be amended from time to time.

“State reimbursements” are payments made to the county for costs deemed eligible for state financing as provided in Sections 1712 through 1712.4.

“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: Sections 15820.906, 15820.916, 15820.925, 15820.935 and 15820.945, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.90, 15820.901, 15820.902, 15820.903, 15820.905, 15820.906, 15820.907, 15820.91, 15820.911, 15820.912, 15820.913, 15820.915, 15820.916, 15820.917, 15820.92, 15820.921, 15820.922, 15820.923, 15820.924, 15820.925, 15820.926, 15820.93, 15820.930, 15820.931, 15820.932, 15820.933, 15820.934, 15820.935, 15820.936, 15820.94, 15820.940, 15820.941, 15820.942, 15820.943, 15820.944, 15820.945 and 15820.946, Government Code.

## **ARTICLE 2. ELIGIBILITY REQUIREMENTS**

### **§ 1712.4. Eligibility Requirements for SB 844.**

- (a) To be eligible for participation in the SB 844 Adult Local Criminal Justice Facilities Construction Program, a county shall:
- (1) Submit the required proposal described in Section 1730.4 of these regulations;
  - (2) Complete or update a needs assessment study as prescribed in Section 1731 of these regulations. A county shall not be required to submit a new needs assessment if the county previously submitted a needs assessment for a request under the financing program described in Section 1712.3;
  - (3) Provide match as specified in Section 1714.4 of these regulations;