

# **BOARD OF STATE AND COMMUNITY CORRECTIONS**

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600 Bercut Drive, Sacramento, CA 95811

916.445.4677 **PHONE**

916.327.3317 **FAX**

[bscc.ca.gov](http://bscc.ca.gov)

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## **Senate Bill 81, Round Two Construction of Local Youthful Offender Rehabilitative Facilities Fiscal Year 2014/2015**

### **REQUEST FOR PROPOSALS**

**Released September 12, 2014**

***Proposals due by December 19, 2014 at 5:00 PM***

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*In addition to the application, this Request for Proposals (RFP) packet includes important information about financing provisions and proposal submission requirements.*

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## CONTACT INFORMATION

This Request for Proposals (RFP) provides the information necessary to prepare a proposal to the Board of State and Community Corrections (BSCC) for the remainder of the financing to counties from the Local Youthful Offender Rehabilitative Facility Construction Funding Program as authorized by Welfare and Institutions Code Sections 1970-1978.

This program provides up to \$79.2 million in remaining state-funded lease-revenue bond financing for acquisition, design, renovation or construction of county juvenile facilities in California.

Prior to developing and submitting a proposal, applicants should carefully review the entire RFP package. Applicants are encouraged to access the BSCC website for helpful information related to Frequently Asked Questions, standards and construction issues.

The BSCC staff cannot assist applicants with the actual preparation of the proposal. Any questions concerning the RFP, the proposal process, or programmatic issues must be submitted in writing, fax, or email to:

Counties	Project Director	Contact Information
Alameda, Amador, Colusa, Kings, Monterey, Sacramento, San Bernardino, San Luis Obispo, Tuolumne, Yuba	Lenard LaChappell	<a href="mailto:Lenard.LaChappell@bscc.ca.gov">Lenard.LaChappell@bscc.ca.gov</a> (916) 445-6023
Alpine, Butte, Del Norte, El Dorado, Glenn, Inyo, Lassen, Los Angeles, Marin, Mariposa, Mendocino, Mono, Nevada, Placer, Plumas, Riverside, San Diego, Sierra, Sonoma, Sutter, Trinity	Robert Oates	<a href="mailto:Robert.Oates@bscc.ca.gov">Robert.Oates@bscc.ca.gov</a> (916) 445-5806
Calaveras, Humboldt, Lake, Modoc, Napa, Orange, San Benito, San Joaquin, Shasta, Siskiyou, Stanislaus, Tehama, Tulare, Ventura	Michael Scott	<a href="mailto:Michael.Scott@bscc.ca.gov">Michael.Scott@bscc.ca.gov</a> (916) 341-7327
Contra Costa, Fresno, Imperial, Kern, Madera, Merced, San Francisco, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Yolo	Sebastian Cosentino	<a href="mailto:Sebastian.Cosentino@bscc.ca.gov">Sebastian.Cosentino@bscc.ca.gov</a> (916) 445-6027
Allison Ganter, Deputy Director Facilities Standards and Operations Division <a href="mailto:Allison.Ganter@bscc.ca.gov">Allison.Ganter@bscc.ca.gov</a> (916) 323-8617		

## TIMELINE OF KEY EVENTS

September 12, 2014	BSCC issues final RFP
October 14, 2014	Bidders' conference in Sacramento
December 19, 2014	Proposals due to BSCC
December 20 – January 9, 2015	BSCC Technical Review
January 8, 2015	Raters' Training
February 5, 2015	Scheduled county presentations on proposals to ESC in Sacramento. ESC makes final rating and ranks proposals for financing recommendations.
February 6 – 13, 2015	BSCC staff finalizes ESC recommendation package. ESC recommendations will be communicated to counties.
April, 2015	ESC recommendations presented to BSCC for financing action/intent to make a conditional award at BSCC regularly scheduled meeting.

## PROPOSAL DUE DATE

One original of the "wet signature" and 14 copies of the proposal must be received by the BSCC's Facilities Standards and Operations Division - County Facilities Construction (CFC) by **5:00 p.m., December 19, 2014, at:**

Board of State and Community Corrections  
County Facilities Construction Programs  
600 Bercut Drive  
Sacramento, CA 95811  
Attn: Lenard LaChappell, Project Director

**Proposals received after 5:00 p.m., December 19, 2014, will be deemed ineligible.**

**BIDDERS' CONFERENCE REGISTRATION  
YOUTHFUL OFFENDER REHABILITATIVE FACILITY PROJECTS**

A bidders' conference will be held in Sacramento at the BSCC Office, 660 Bercut Drive, on October 14, 2014 from 1:00 PM to 4:00 PM. The intent of the bidders' conference is to provide counties and other interested parties with the opportunity to ask questions regarding the RFP and receive clarification on the RFP process. Attendance is optional. Following the conference, questions and answers from the session will be posted on the BSCC website.

**Pre-registration for the conference is requested. Please submit the completed registration form by October 10, 2014 to:**

**BOARD OF STATE AND COMMUNITY CORRECTIONS  
COUNTY FACILITIES CONSTRUCTION PROGRAMS  
660 Bercut Drive  
Sacramento, CA 95811**

**Or by e-mail to: [ConstructionProgram@bscc.ca.gov](mailto:ConstructionProgram@bscc.ca.gov)**

**BIDDERS' CONFERENCE REGISTRATION E-FORM**

**DATE:** TUESDAY, OCTOBER 14, 2014  
**TIME:** 1:00 P.M. UNTIL 4:00 P.M.  
**LOCATION:** BOARD OF STATE AND COMMUNITY CORRECTIONS  
660 BERGUT DRIVE  
SACRAMENTO, CA 95811

**DIRECTIONS:** [\(insert link to the map\)](#)

Please provide the following information:

**County Name:**

**Number of Persons Attending:**

**Name of County Contact Person:**

**Title:**

**Mailing Address:**

**City, State, Zip Code:**

**Telephone:**

**Fax:**

**E-mail:**

Please indicate any specific questions you have about information in the Request for Proposals (RFP) or other questions about the RFP process. Your questions will be used to assist BSCC staff in preparing for the Bidders' Conference.

- 1.
- 2.
- 3.

Please submit e-form by Friday, October 10, 2014  
Click here to [SUBMIT](#)

For questions concerning this form,  
please contact BSCC staff at (916) 445-5073

Or by e-mail to: [ConstructionProgram@bscc.ca.gov](mailto:ConstructionProgram@bscc.ca.gov)



## BACKGROUND INFORMATION

The Local Youthful Offender Rehabilitative Facility (LYORF) Construction Financing Program authorized \$300 million<sup>1</sup> in state-issued lease-revenue bond for the acquisition, design, renovation or construction of LYORFs to support the rehabilitation of youthful offenders at the local level. Among its provisions, the State Public Works Board (SPWB), California Department of Corrections and Rehabilitation (CDCR) and the Board of State and Community Corrections (BSCC) are authorized to enter into agreements with participating counties to acquire, design, renovate or construct a LYORF.

To date, a total of thirteen projects have been awarded conditional financing under SB 81; two have been completed. \$79.2 million remains available for financing the acquisition, design, renovation or construction of LYORFs under SB 81 Round Two. SB 81 Round Two projects must be commenced by June 30, 2017<sup>2</sup>.

### **BSCC BOARD/EXECUTIVE STEERING COMMITTEE**

The BSCC Board appointed an Executive Steering Committee (ESC) to develop recommendations on elements of the RFP and proposal evaluation criteria; review and rate proposals; and make conditional award recommendations to the BSCC Board (see lists of BSCC and ESC members). The ESC's role is advisory to the BSCC Board, which makes all policy and conditional award decisions. A letter of Intent to Award conditional financing will be sent to each of the selected counties. Projects that are given a conditional award will be required to be certified by the BSCC, and then obtain final approval of financing eligibility (ability to sell lease-revenue bonds on the project) by the SPWB. The timeline and process may be changed at any time by the BSCC Board. Counties will be notified if changes or modifications occur.

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

As an attachment to this RFP, the ESC has included a summary of best practices in juvenile justice and detention, as identified by subject matter experts. Reliance on best practices will be one factor considered when assessing the overall proposal evaluation, this summary is intended to be used as a resource for applicants. The best practices summary includes research informed and widely accepted practices in juvenile justice and detention programs and may serve as a resource for applicants. Contained in the summary is an extensive, but not exhaustive, list of resources for further and more detailed information on contemporary trends and accepted practices in juvenile justice.

<sup>1</sup> Senate Bill (SB) 81, Chapter 175, Statutes of 2007

<sup>2</sup> Welfare and Institutions Code, Section 1973 (d)

## REQUEST FOR PROPOSALS DETAIL

### SUMMARY

The purpose of this financing program is to support the rehabilitation of youthful offenders at the local level with lease-revenue bonds for the acquisition, design, renovation or construction of LYORFs. Counties have flexibility to define the project scope to meet local rehabilitative needs which may include, but are not limited to, construction, expansion and/or renovation of an existing facility or building to include programming or treatment space; expansion of an existing facility to meet population demands; and building a new facility. Financing cannot be used for the operational costs of facilities or programs; such costs are solely the responsibility of the counties.

LYORF financing will be administered by the SPWB from the issuance of lease-revenue bonds. This financing mechanism requires the SPWB, on behalf of the State of California, to hold ownership interest of the LYORF acquired, designed, renovated or constructed with lease-revenue bonds subject to the bonds being sold and paid off (approximately 25-35 years). The SPWB will lease the LYORF to CDCR, which will in turn sublease the facility to the participating county for their use and operation in the care, custody and rehabilitation of local youthful offenders during the period of bond indebtedness. Once the bonds are paid in full, the facility ownership will then vest with the participating county.

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

It is anticipated that counties selected for financing through this RFP process will be issued a conditional Intent to Award by the BSCC at the April 2015 Board meeting. These awards are "conditional" in that they are predicated, at a minimum, on the requirements that: 1) each county's project be approved by the BSCC and the SPWB at various stages throughout planning and construction, as defined in this RFP; 2) each selected county enters into the state/county agreements as required; and, 3) lease-revenue bonds are sold for each selected project. The lease-revenue bonds provide the necessary funding mechanism to repay all state debt in interim financing for the selected LYORF acquisition, design, renovation or construction projects up to that point. Counties are not responsible for debt service or rent payments to the state.

Accurate scope, cost and time estimates are needed before a county responds to the RFP. After receiving a conditional award notification, successful applicant counties must translate the proposal into formal architectural plans and specifications that are submitted to, and approved by, the SPWB and BSCC (see the State Public Works Board/Board of

State and Community Corrections Processes and Requirements section). Counties that proceed with architectural plans and specifications prior to SPWB approval of the project's scope, schedule and preliminary plans do so at their own risk. Counties must acquire, design, renovate or construct the LYORF to enable conformance with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24 CCR.

For planning purposes, please note that although federal tax laws requires that acquisition, design, renovation or construction be substantially completed (approximately 90 percent) within three years after the participating county begins construction/expansion/renovation and the Notice to Proceed (NTP) is issued, Welfare and Institutions Code Section 1973 requires that all projects be commenced by June 30, 2017.

The BSCC will not increase financing amounts after a conditional award notification, or approve a reduction in the proposed and accepted scope of work, if counties receive higher than expected construction bids. Counties are solely responsible for the payment of higher than anticipated project costs. If counties receive project bids that are less than the estimated amount of state financing, or if they are able to complete the project at less than the amount of state financing, excess funds will be redistributed and used for other projects.

## ELIGIBLE PROJECTS

\$79.2 million is available in financing to acquire, design, renovate, or construct a LYORF. Eligible projects include the following:

1. Renovation of an existing facility or building. This may include conversion of existing beds into program/treatment space.
2. Expansion of an existing facility to include program/treatment space or new beds.
3. Construction of a new juvenile detention facility to include program/treatment space and/or new beds.
4. Construction of non-secure program/treatment space, provided that such space:
  - a. Is operated by the county.
  - b. Is compliant with applicable fire and life safety and Titles 15 and 24 regulations, including, but not limited to: Physical Activity and Recreation Areas, Dayrooms, Academic Classrooms, and in Camps, Program and Activity Areas.

**Compliance with Titles 15 and 24, California Code of Regulations (CCR):** Beds must be planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, CCR. Temporary holding rooms and safety rooms within the facility may also be constructed under this program as needed.

Counties must ensure that the construction plans for any eligible project include all necessary ancillary space to enable the facility to comply with operational, fire and life safety, and physical plant standards as contained in Titles 15 and 24, CCR (e.g., dayrooms, education classrooms, dining, showers, recreation, medical exam, visiting, attorney visitation, mental health conferences. Ancillary space paid for, in whole or in part,

with these state funds and/or county matching funds must be reasonable and necessary for facility operations, including administrative support space and rehabilitative program space.

### **LIMIT ON NUMBER OF PROJECTS**

Due to the limited amount of available state financing, each county is restricted to submitting one project proposal for one designated facility project. However, those counties that are partnering for a proposed regional facility project may also submit one separate project proposal for one county specific facility project if desired.

### **PROPOSAL DUE DATE AND TECHNICAL REQUIREMENTS REVIEW**

The proposal must be made and formatted pursuant to the *SB 81, Round Two Local Youthful Offender Rehabilitative Facility Construction Financing Program Proposal Form* including any exhibits and/or attachments, complete with signature from a designated county official, along with the proposal narrative to be attached as described in Section 4 of the Proposal Form. For complete submittal requirements, please see Section 6 of the Proposal Form.

Project proposals must be received at BSCC offices, 600 Bercut Drive, Sacramento, CA 95811 no later than 5:00 PM on December 19, 2014. Late proposals will not be considered. A time-stamped copy of your first page will be available at the BSCC front desk at the time of drop off.

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

It is anticipated that BSCC staff will be available to provide a limited technical review of the draft proposals prior to December 9, 2014 to determine if the draft proposal complies with the technical requirements. Draft proposals submitted after December 9, 2014 will not be provided a technical review. Draft proposal reviews are not required. Reviews are informal in nature, non binding, and limited to staff assessment of compliance with state requirements. Staff can make no judgment as to the merit of draft proposals or how proposals will be evaluated or ranked by reviewers.

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

- project eligibility (proposed scope of work items for the county youthful offender rehabilitative facility)
- project timetable (including staffing and occupancy within 90 days of construction or renovation completion)
- state funds requested are within set-aside limits

- state funds requested do not exceed 75 percent of total eligible project costs (unless proposal indicates a match reduction petition)
- minimum match percentage requirements are met
- cost and budget summaries and net gain or loss in bed computations (if applicable), are free of mathematical errors
- line item budget descriptions are clear
- Proposal Form is in original format, signed, and each section is addressed, as applicable
- font size, number of narrative pages, margins, and spacing format is consistent with requirements
- Board of Supervisors' resolution contains necessary components, including the set aside of matching funds
- a needs assessment study is submitted with the proposal, if applicable
- a match reduction petition is submitted, if applicable
- for regional facilities, a Memorandum of Understanding or Joint Powers Agreement is submitted
- documentation evidencing compliance with California Environmental Quality Act (CEQA) or status of CEQA certification including a "Notice of Determination" or "Notice of Exemption"

## **GENERAL CONSIDERATIONS**

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

[California's Integrated Waste Management Board](#)  
[U.S. Green Building Council](#)  
[Green California DGS](#)

**Regional County Juvenile Facilities:** Counties desiring to construct a regional youthful offender rehabilitative facility for the purpose of housing juvenile offenders from multiple counties must submit one single proposal from the lead county in which the project is being constructed. The proposal must include a county Board of Supervisors' resolution from the lead county and a copy of a Memorandum of Understanding (MOU) or Joint Powers Agreement (JPA) between the partner counties. The MOU or JPA must clearly identify the terms, conditions, rights, responsibilities and financial obligations of all parties in sufficient detail that demonstrates that the regional facility will provide dedicated housing to juvenile offenders from all partner counties. As such, to be considered as a regional facility for the purposes of this financing program, the MOU or JPA must demonstrate more than the use of vacant beds on a per diem, space available basis. If preliminary MOUs or JPAs are submitted with the proposal, final documents must be submitted within 90 days following the notification to the lead county of conditional Intent to Award state funds.

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

**Pilot Projects:** BSCC does not grant “variances” to state regulations. However, “pilot projects” and “alternate means of compliance” (both defined in Titles 15 and 24, CCR), may be proposed if counties seek BSCC approval to test a process that will meet or exceed the intent of a regulation in an innovative way. There is no guarantee that the BSCC will approve any pilot project or alternate means of compliance request. If counties have any concerns about their ability to meet standards, or intend to request a pilot project or alternate means of compliance, please contact your county’s BSCC-assigned facility inspector at the earliest possible time to discuss feasibility issues and options for proceeding before a proposal is submitted.

**Needs Assessment Study/Letter of Intent:** One copy of a needs assessment study, containing all required data elements as defined in Title 24, CCR, Section 13-201 (c) 2 must be submitted concurrent with the funding Proposal Form and proposal narrative if a county proposes to construct a new juvenile facility or add beds to an existing facility. Proposals fitting this description that are submitted without a needs assessment study will be rejected. The needs assessment study must reflect current needs; but can be an update of a previous needs assessment study. Projects only for renovation or program space do not require a separate needs assessment study, but do require a comprehensive documentation of need to be provided in the proposal narrative (see Section 4 of the Proposal Form). Proposals submitted to the BSCC will be considered a Letter of Intent to build, expand or remodel a facility as required by Title 24, CCR, Section 13-201 (c) 1.

**Site Assurance For LYORF:** Counties must possess a suitable project site (fee simple land title or comparable long term possession) and provide assurance by Board of Supervisors’ resolution at the time a proposal is submitted, or no later than 90 days following the date of notification by BSCC of the Intent to Award conditional financing (expected to be made at the April 2015 BSCC Board meeting). This means that any land purchase options must be exercised (and escrow closed) within 90 days following the notification of conditional Intent to Award. County land subject to this project must meet the approval of the SPWB.

**Real Estate Due Diligence:** The State will conduct its own real estate due diligence review of a county’s proposed project site. This includes, but is not limited to, all work related to establishing site ownership and title absent liens, encumbrances, property easements, etc., ground/soil analysis, topography, hydrography, environmental impacts

and other identified site related issues. This review will confirm that the county's property interest in the site is sufficient to support bond financing and that no exceptions or limitations exist (either recorded or unrecorded) that would interfere with the state's right to beneficial use and occupancy of the facility so long as the bonds are outstanding. Any necessary costs incurred by the state for appropriate title review will be charged to the county.

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

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

## FINANCING

The state intends to provide conditional financing awards to as many meritorious projects as possible. Due to the limited amount of available state financing, **each county is restricted to submitting one project proposal for one designated facility project.** However, those counties that are partnering for a proposed regional facility project may also submit one separate project proposal for one county specific facility project if desired. In such instance, counties must indicate if their ability to proceed with the county specific project is in any way contingent upon or related to the proposed regional facility project.

To ensure that large, medium and small counties each have the opportunity to share in the available financing (see population chart below), the \$79.2 million has been divided as such: up to \$35 million has been set aside for large counties; up to \$25 million has been set aside for medium counties; and up to \$19.2 million has been set aside for small counties. **The maximum amount that can be requested by counties is \$17.5 million for large counties, \$12.5 million for medium sized counties and \$9.6 million for small counties.** All requests must be a minimum of \$3 million to be considered for funding.

For proposed regional facility projects, the size of the lead county determines the maximum amount of funds that can be requested for the entire project (i.e., a large county may request up to \$17.5 million and a small lead county may request a minimum of \$3 million but up to \$9.6 million).

Subject to the above noted maximum state financing limits, the state has no overall limit on the total cost of an eligible county project, so long as the county demonstrates adequate local funding for the local match and ongoing operational costs of the facility.

<b>Large Counties (pop. 700,001 +)</b>	<b>Medium Counties (pop. 200,001-700,000)</b>	<b>Small Counties (pop. 200,000 or fewer)</b>	
Alameda Contra Costa Fresno Kern Los Angeles Orange Riverside Sacramento San Bernardino San Diego San Francisco San Joaquin San Mateo Santa Clara Ventura	Butte Marin Merced Monterey Placer San Luis Obispo Santa Barbara Santa Cruz Solano Sonoma Stanislaus Tulare Yolo	Alpine Amador Calaveras Colusa Del Norte El Dorado Glenn Humboldt Imperial Inyo Kings Lake Lassen Madera Mariposa Mendocino	Modoc Mono Napa Nevada Plumas San Benito Shasta Sierra Siskiyou Sutter Tehama Trinity Tuolumne Yuba
<i>Department of Finance, Population Estimates, January 2014</i> <a href="http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php">http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php</a>			

**Eligible Project Costs:** The state has identified specific types of costs as eligible for financing under this program. Eligible project costs consist of items identified in this RFP that may be paid for through these state funds and county matching funds and that are directly related to the proposed scope of work. Items not identified as eligible, known to be ineligible, or that are outside the proposed scope of work cannot be claimed for state dollar reimbursement or as county matching funds. Spaces shall be sized to state standards, and all reasonable and necessary facility ancillary, administrative and program space may be included.

**State Funds:** State funds can be used for construction activities that occur after the SPWB has approved the project's scope and cost and the BSCC has approved the project's final architectural plans and specifications. Project costs eligible for these state funds are:

1. Construction/expansion/renovation of the BSCC-approved youthful offender rehabilitative facility project, including site preparation.
2. On-site construction within a reasonable buffer zone surrounding the site boundary or security fence (if applicable) of the youthful offender rehabilitative facility and parking lot.
3. Fixed equipment items; e.g., heating, ventilation, air conditioning, plumbing, lighting, communications, surveillance, security and life/safety equipment, etc., as necessary for the operation of the youthful offender rehabilitative facility.
4. Fixed furnishings; e.g., built-in and permanently-affixed counters, tables, cabinets and seats, etc., as necessary for the operation of the youthful offender rehabilitative facility.



5. Installation of fixed equipment and fixed furnishings as necessary for the operation of the youthful offender rehabilitative facility.

Examples of ineligible costs for which these state funds cannot be used include, but are not limited to: construction or building of space for future capacity needs beyond the year 2017 (e.g., unused space); purchase, lease or rent of land; personnel or operational costs; construction management; architectural programming/design; environmental reports; soil and/or water contamination assessment/mitigation; excavation of burial sites; moveable furnishings and moveable equipment; public art; off-site costs such as access roads, power generation and utilities development; all costs attributable to county building permit fees and/or building code inspection fees; supplies; bonus payments and debt service or interest charges.

Costs to be attributed to these state funds must be identified on the funding Proposal Form. The maximum amount of funds that can be requested by individual counties is up to 75 percent of total eligible project cost, not to exceed a maximum proposed state financing amount of \$17.5 million for large counties; \$12.5 million for medium counties; and \$9.6 million for small counties (see previous population chart). Note: Small counties only may request a reduction of in-kind match (see In-Kind Match section on the next page) and in such instance the amount of state funds requested may exceed 75 percent of the total eligible project cost, not to exceed the state dollar amounts specified above. These state funds cannot be used to supplant (replace) funds otherwise dedicated or appropriated by counties for renovation or construction activities.

**County Matching Funds:** A minimum of 25 percent match of total eligible project costs is required. This local match may be a combination of cash match and in-kind match, subject to the following limitations:

- a. **Cash (Hard) Match:** Cash match must be identified in the proposal and must be a minimum of 10 percent of the total project cost. Cash match cannot be used to supplant (replace) funds otherwise dedicated or appropriated by counties for construction activities. Cash match cannot be claimed for salaries/benefits of regular employees of the county workforce, but may be claimed for the services of consultants or contractors engaged to perform project related services as described below. Eligible cash match expenditures only include costs of:
  1. Items eligible for state financing as previously indicated.
  2. Architectural programming and design (by consultants or contractors).
  3. Preparation costs for full or focused environmental reports (for activities by consultants or contractors).
  4. Construction management (for activities by consultants or contractors).

Examples of ineligible costs for which cash match cannot be used include, but are not limited to: construction or building of space for future capacity needs beyond the year 2017 (e.g., unused space or “shelled” space); needs assessments; and construction management and administrative services provided by regular employees of the county work force.

- a. **In-Kind (Soft) Match:** In-kind match must be identified in the proposal. In-kind match may be kept at allowable maximum of 15 percent or reduced for each dollar

that cash match is increased beyond the required minimum (see cash match above). In-kind match may be claimed for project related costs for activities performed by staff or consultants. Eligible in-kind match only includes:

1. Items eligible for state financing and cash match as previously indicated.
2. Site acquisition cost or current fair market land value supported by independent appraisal by a licensed appraiser (on-site land only regardless of acquisition date). This can be claimed for on-site land cost/value for new facility construction, on-site land cost/value of a closed county facility or other building or buildings, subject to the approval of SPWB that will be renovated and reopened, or on-site land cost/value used for expansion of an existing facility. It cannot be claimed for land cost/value under an existing operational youthful offender rehabilitative facility.
3. Audit of state funds at the conclusion of the project (staff salary/benefits of independent county auditor or services of contracted auditor).
4. Needs assessments (staff salary/benefits and/or consultant costs directly related to the project).
5. County administration (staff salary/benefits directly related to the project for activities after a conditional award).
6. Transition planning (staff salary/benefits and consultant activities directly related to the project for activities after).

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

Costs which may not be attributed to local matching requirements include, but are not limited to, construction or building of space for future capacity needs beyond the year 2017 (e.g., unused space or “shelled” space); on-site costs such as moveable equipment and moveable furnishings or the construction of other non-facility space such as courtrooms, department offices and county administrative complexes. Off-site costs such as constructing access roads or utilities development are also not eligible, nor are construction items/activities outside of a reasonable buffer zone surrounding the perimeter of the site boundary or security fence (if applicable) of the youthful offender rehabilitative facility and parking lot.

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

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

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

**State Fire Marshal (SFM) Fees:** Counties will be responsible for timely payment of all fees generated by the SFM on the county's project during design and construction. The total fees can vary between projects due to complexities of design and/or construction. Considering this variance, and the need to budget for this cost, counties should consider an approximate cost of \$75,000, recognizing the actual may be more or less than this amount. (This amount was derived from recent fee data.) This project cost must be captured in the county cash contribution (match) within the Budget Summary Table in the Proposal Form (see "State Agency Fees" line item). All SFM fees must be paid in full before BSCC will release the retention being withheld by the State. (See "Payment of Eligible State Share" section for explanation of state's retention.)

## PROPOSAL EVALUATION FACTORS

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

EVALUATION FACTOR		MAXIMUM POINTS
1.	What is your proposed project?	10
2.	Why is this new facility or program change needed?	25
3.	How will this project help the county promote the rehabilitation of youthful offenders?	30
4.	Is the Project Plan cost effective and fiscally sustainable?	20
5.	County's Readiness to move forward with proposed project	5
6.	Describe the Administrative Work Plan and how it aligns with project objectives	10
7.	Overall Evaluation	20
<b>TOTAL POINTS</b>		<b>120</b>

Please reference the evaluation factors and the sub factors listed below in your proposal.

### 1. WHAT IS YOUR PROPOSED PROJECT?

Applicants must clearly describe their proposed use of SB 81 Round Two funds by addressing the following questions listed below. Objectives should be clear, measurable, researched informed, and in line with best practices.

- A. Describe project eligibility and how your proposal meets the intent of Welfare and Intuitions Code Sections 1970-1978 in that it proposes renovation or construction of facilities in line with the legislative goal to enhance the rehabilitation of youthful offenders through support service spaces or program space; renovation of existing space; new stand-alone facility or replacement facility; and addition of beds.
- B. Provide a description of programming needs and how they will be supported through, and aligned with, specific facility changes and design.

### 2. WHY IS THE NEW FACILITY OR PROGRAM CHANGE NEEDED?

Applicants must clearly demonstrate the need for a new facility or facility renovation by addressing the following:

- A. Include a clear and detailed description of how the proposed new facility or facility change will support the County's vision for rehabilitating youth and providing a continuum of care and overall improvement of its juvenile justice system.
- B. Describe and provide both quantitative and qualitative data which supports the need and enhances the case for the project plan. Qualitative data may include results of interviews and focus groups with youth, families and community stakeholders.
- C. Describe how this project will support and enhance the county's overall approach to juvenile justice, in light of existing services, programs and facilities.

### **3. HOW WILL THIS PROJECT HELP THE COUNTY PROMOTE THE REHABILITATION OF YOUTHFUL OFFENDERS?**

Applicants must clearly describe how this project will help the county promote the rehabilitation of youthful offenders, by addressing the questions below. Objectives should be clearly informed by research and best practices in facility design and programming / treatment model.

- A. How do rehabilitation purposes integrate into project objectives and facility design, including how new construction or renovation will contribute to goals such as: more effective treatment and service delivery, provision of detention alternatives, gender-specific programming and reduction of racial and ethnic disparity.
- B. How do program plans address alignment with key county departments and community based organizations that provide an integrated treatment model, including family involvement, education, health, and mental health services for youth.
- C. How do program plans address need for and alignment with institutional and community partners around family support and involvement, re-entry planning and transitions to school, employment, and community.
- D. Include a description of how new design or facility change will contribute to improved results (e.g., rehabilitation, education, family support), along with a plan for tracking and evaluating change.

### **4. IS THE PROJECT PLAN COST EFFECTIVE AND FISCALLY SUSTAINABLE?**

The proposal must represent a cost-effective request of state funds and the county must demonstrate that the plan is fiscally sustainable. In addition to the budget category descriptions that you provided in the Budget Summary Table, include in your discussion, at a minimum, the following points:

- A. Include a clear rationale for how the expected benefits are worth the costs to be incurred in this project.

- B. Budget proposal reflects effective utilization of state funds, as well as county cash and in-kind match. Address the potential for future funding for design and construction, as well as for design and delivery of new programming, if applicable.
- C. The project plan provides a convincing rationale for proposed utilization of state and county funds.
- D. How will the county support ongoing operational costs? Board item may be attached to support response.

## **5. COUNTY'S READINESS TO MOVE FORWARD WITH PROPOSED PROJECT**

Applicants must clearly describe their readiness to move forward with the proposed project, by addressing the questions below.

- A. Construction elements are clearly described (i.e., site identified, ownership of construction site, site planning, utility services, etc.).
- B. Address your ability to meet the June 30, 2017 deadline, as required by SB 81 legislation.

## **6. DESCRIBE THE ADMINISTRATIVE WORK PLAN AND HOW IT ALIGNS WITH PROJECT OBJECTIVES?**

The proposal must provide a clear and comprehensive administrative work plan for designing, performing, and managing the proposed project. The project timeline must be thorough, reasonable and clearly articulated. Include in your discussion, at a minimum, the following points:

- A. Describe the current stage of the planning process, plan for project design, reasonable project timeline and connection of work inputs to desired project objectives.
- B. Provide a description of project administration and staff, including roles of other county departments and/or non-county partner entities.
- C. The work plan describes elements of "green" construction, if being used.
- D. The work plan describes necessary support for information technology.

## **7. OVERALL EVALUATION**

- A. Overall, how does the proposal address evidence based and promising practices/programs and best practices for the county's juvenile justice program?

- B. Overall, how does the proposal demonstrate the organizational need and readiness for the programmatic changes?

### **ESC PROPOSAL REVIEW**

The evaluation of each factor will be based on an assessment by the ESC about the degree to which a proposal adequately addresses the discussion points in a clear and comprehensive manner, and the extent to which overall statement of need is persuasive (Information to be evaluated is provided in the Proposal Form – Narrative Section). Only proposals rated between 78 and 120 total points and are determined to be in the ‘Very Good’ or ‘Good’ rating category will be considered for financing.

If financing remains after ‘Very Good’ and ‘Good’ proposals within each set aside have been conditionally awarded, the ESC shall reserve the right to take the following steps: 1) combine the balance of available financing from all set aside categories to finance, or partially finance, the next highest rated ‘Very Good’ or ‘Good’ proposal, regardless of its set aside category or; 2) At the ESC’s discretion, if no ‘Very Good’ or ‘Good’ proposals remain, counties with proposals falling within the ‘Fair’ category may be invited to present their proposal in person.

These select counties may be invited to make a brief scheduled presentation specific to their proposal to the ESC in Sacramento in February 2015. Although not required, this presentation period is intended to provide applicant counties with the opportunity to answer any questions the ESC may have about the proposed project. Presentations shall be done by county officials and not by consultants.

## REQUIREMENTS AFTER NOTIFICATION OF INTENT TO AWARD

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

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

**BSCC Staff:** A designated BSCC staff person will be assigned to each county/project after counties receive notice of Intent to Award conditional financing. The assigned BSCC staff is the primary point of contact for county officials and is responsible for addressing questions or coordinating state responses to issues. The BSCC requires that all county communication with the BSCC staff be done by county designated officials, not county contractors or consultants, since the state's relationship is with the participating county and its designated project officials as identified in the Proposal Form and by the Board of Supervisors' project resolution.

**Pre-Design Meeting:** After conditional financing award notification, counties typically have architects begin development of formal drawings and construction plans. County officials and their architects are strongly encouraged to meet with BSCC staff and State Fire Marshal staff at the BSCC offices in Sacramento for a pre-architectural design meeting in order to review the state's requirements and answer any questions specific to the county's proposed project.

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

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

Sometimes counties may be required to make design changes necessary to comply with regulations or to remedy safety or security defects. The BSCC may also require changes



in construction materials to enhance facility safety and security if materials proposed at the time of the final construction plans and specifications are not reasonable and customary (as used statewide) for facilities of the same type and security level.

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

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

**Project Bids:** Regardless of the accepted bid amount, the county's state-accepted proposed scope of work at the time of financing award notification, and the state-accepted project as described in the construction documents, must be able to be completed with the original amount of conditionally awarded state funds.

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

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

**Payment of State Funds:** Payment will be made to counties in arrears (reimbursement) based on invoices/progress reports submitted to BSCC on a quarterly basis. This means counties will pay its construction contractor first and then submit reimbursement requests to BSCC. These invoices are processed by BSCC upon receipt, and then forwarded to the appropriate state agencies for payment. The typical turn-around time for payment to counties after submittal of an invoice is approximately four weeks. As such, counties should plan for needed cash flow to support the project on a quarterly reimbursement basis. Also, at such time as the balance of state funds reaches 5 percent, the state shall

withhold this amount as security to be released to counties upon compliance with all state/county agreement provisions including: final construction inspection and approval by appropriate state and local officials; staffing and operating the facility within 90 days of construction completion; and state receipt and approval of the final fiscal audit report.

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

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

## STATE PUBLIC WORKS BOARD / BSCC PROCESSES AND REQUIREMENTS

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

## **PROJECT SCOPE**

Counties will be required to incorporate state seismic and fire and life safety requirements into the scope of their projects. For projects attaching new construction to an existing facility, or remodeling an existing facility or building, both the new construction portion and the existing facility or building must be brought up to current fire and life safety standards and meet or exceed a seismic level 3 performance standard as evaluated and determined by qualified licensed structural engineers. The following information should be considered when determining project scope:

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

In addition to a “clean footprint” for inclusion in the financing leases, the issue of shared infrastructure may be a factor, e.g., electrical, water, sewer, HVAC, common areas, phone, etc. If a state-financed youthful offender rehabilitative facility is proposed to be “physically attached” to another structure by, for example, a corridor, there may be an issue of shared infrastructure with an adjacent building. Generally, all infrastructure components needed for the financed facility to fully function should be included in the footprint, i.e. the legal description should include a fully integrated facility.

## **PROJECT TIMELINES**

Throughout the project, counties will be required to submit documents and plans to BSCC for processing and approval through the BSCC and SPWB. This chart provides counties with an overview of activities, including review and approval processes required of the various state agencies, combining typical BSCC activities with those of SPWB. To the extent possible, counties should build into their project schedules (and proposal timetable) adequate time for these activities and reviews to occur. All timeframes are approximate (dates are subject to change) and will vary based upon the circumstances of each county’s unique project. For activities that require SPWB approval, the SPWB meets monthly and agenda items must be submitted at least 30 calendar days in advance of the scheduled meeting.

ACTIVITY	APPROXIMATE TIMEFRAME FOR COMPLETION OF ACTIVITY IN ORDER OF OCCURENCE
BSCC notifies county of Intent to Award conditional project financing.	April 2015
County submits site assurance to BSCC.	Within 90 days of notice of Intent to Award
Preparation of scope and cost documentation and preparation of the Project Delivery & Construction Agreement.	May be accomplished within the first six months
<b>SPWB Meeting: Approval of the proposed project scope, cost and schedule, and authorization and approval of the Project Delivery &amp; Construction Agreement.</b>	May be accomplished within the first six months
County proceeds with CEQA and provides a copy of the determination to BSCC.	May be accomplished within the first six months (CEQA complications may require longer duration)
The State will conduct an independent real estate due diligence review of the county's proposed site.	May be accomplished within the first six months (site complications may require longer duration)
The county submits schematic design drawings with an operational program statement to BSCC / State Fire Marshal for plan check/review.	Response to review within 30 days upon submittal
The county submits design development drawings and specifications (preliminary plans), a preliminary staffing plan and operational and staffing cost statement, with documentation demonstrating commitment of local match funding and verification of cash flow availability when necessary.	Response to review within 30 days upon submittal
<b>SPWB Meeting(s): Approval of preliminary plans.</b> BSCC prepares a "Preliminary Plan Submittal" agenda item for the SPWB approval. The agenda item includes the results from the real estate due diligence process and CEQA compliance. BSCC will verify to the SPWB that the county has demonstrated availability of local match requirements.	Occurs after BSCC / SFM approval
The county proceeds with completing construction documents (working drawings).	
<b>SPWB Meeting: Approval of Ground Lease and Right of Entry for Construction and site selection acknowledgement that the selected site is sufficient for financing.</b>	

County submits construction document drawings (working drawings) and specifications for review and approval by CDCR/BSCC, State Fire Marshal and SPWB staff.	Response to review within 30 days upon submittal
CDCR/BSCC certifies to the SPWB that the county has satisfied all of the requirements set forth in Welfare and Institutions Code Section 1975(a).	
Department of Finance staff on behalf of the SPWB issues an approval to proceed to bid.	30 days for review and approval
<b>SPWB Meeting: Authorize steps to be taken to seek an interim financing loan.</b>	
The county submits to BSCC an estimate of their cash flow projections, months to month, for a twelve month period. Cash flow projections must be submitted annually in order to renew the outstanding loan.	
SPWB staff reviews bid and approves the award to the successful bidder. The county issues a Notice to Proceed and construction begins.	2 weeks
County submits invoices and progress reports to BSCC.	Monthly or Quarterly
<b>SPWB Meeting: Authorize issuance of lease-revenue bonds, approve and authorize execution of various related agreements including a <u>Site Lease</u>, <u>Facility Lease</u> and <u>Facility Sublease</u>.</b> All leases are executed prior to, and as a condition of, close of bond sale.	

## AGREEMENTS

This section provides a framework of details for the various agreements necessary involving county and state entities for the youthful offender rehabilitative facility construction/expansion/renovation project. These overviews are provided for the counties' benefit in an effort to better inform counties of the expected contractual nature of the types of agreements that will be required. Depending on the types of proposals and other unknowns (e.g. operation of a regional youthful offender rehabilitative facility), other individual, county specific agreements may be necessary.

### 1. Project Delivery and Construction Agreement

**Parties:** SPWB, BSCC and participating county

**Purpose:** Sets forth the roles, responsibilities and performance expectations of the parties for participation in and financing through the State's lease-revenue bond program for financing juvenile facilities.

**Consideration:** County's minimum 25 percent match (or 5 percent for small county) of the total project in exchange for the State's issuance of lease-revenue bonds for up to 75 percent of the total project cost, conditioned on eligibility requirements being satisfied.

**Terms:** The Project Delivery & Construction Agreement will be entered into when the County is selected as a participant (via the competitive RFP process initiated by BSCC pursuant to the implementing regulations) and would terminate at construction completion of the youthful offender rehabilitative facility. This agreement is authorized in Welfare and Institutions Code Section 1971(c) and (d).

- The terms of the Project Delivery & Construction Agreement are driven largely by BSCC regulations and covenants to facilitate obtaining an interim financing source and the issuance of lease-revenue bonds; the terms and conditions do not lend themselves to much negotiation.
- County agrees to be the "agent" for BSCC and SPWB for purposes of acquiring, designing and constructing the facility; the goals and expectations related to project delivery are detailed.
- The County's match of total project cost is described as well as its responsibility for construction cost overruns beyond the State's contribution. The State's project allocation is discussed but, is conditioned upon BSCC certification pursuant to Welfare and Institutions Code Section 1970; SPWB determination the site is adequate for purposes of financing and, the actual issuance of the lease-revenue bonds by the SPWB.
- Parties acknowledge the youthful offender rehabilitative facility project is subject to the approval and administrative oversight of the SPWB.
- County agrees to provide via the State's standard Ground Lease, a "clean" site to the BSCC, cooperate with BSCC and SPWB throughout the financing, and enter into a Facility Sublease with BSCC.

- County agrees to indemnify and hold harmless the State of California for any all claims and losses arising out of the acquisition, design or construction of the youthful offender rehabilitative facility.
- Consistent with its submittal of the County's proposal, County agrees to staff, maintain and operate the youthful offender rehabilitative facility and enter into an Operations and Maintenance Agreement with BSCC.
- Federal tax law use restrictions and annual disclosure commitment are discussed.
- Standard State of California contracting provisions to be included.
- Records retention and audit provisions apply as long as the bonds are outstanding plus a minimum of three years.

## 2. Ground Lease

**Parties:** participating county, CDCR with the consent of the SPWB

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

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

**Terms:** The Ground Lease will be entered into after the County has entered into the Project Delivery and Construction Agreement and only after the County has certified the site pursuant to Welfare and Institutions Code Section 1975(b) (1) and the SPWB has determined the site is adequate for purposes of financing in accordance with Welfare and Institutions Code Section 1971(a). These certifications will be based upon thorough research of both recorded and unrecorded interests in the property. The Ground Lease terminates only after all lease-revenue bonds are paid.

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

### 3. Right of Entry for Construction

**Parties:** CDCR and participating county with consent of the SPWB

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

**Consideration:** Facilitation of the County's construction of the SPWB financed youthful offender rehabilitative facility.

**Terms:** The Right of Entry for Construction will be entered into concurrently with the Ground Lease. It will terminate when the construction is complete or until the Facility Sublease is entered into, whichever is earlier.

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

### 4. Site Lease

**Parties:** CDCR and the SPWB

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

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

**Terms:** Entered into when the lease-revenue bonds are issued by the SPWB as part of a bond sale; the bond sale date is selected by the California State Treasurer as agent of sale for the bonds. The timing of the sale is largely driven by federal tax law considerations. The Site Lease expires when all of the lease-revenue bonds issued to finance the youthful offender rehabilitative facility have been paid.

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

### 5. Facility Lease

**Parties:** SPWB and CDCR

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

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



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

- The Facility Lease is entered into when the lease-revenue bonds are issued by the SPWB; the bond sale date is determined by the California State Treasurer and is largely driven by federal tax law considerations.
- Subject to the availability of the youthful offender rehabilitative facility for occupancy, CDCR has the right to occupy and use it and in return agrees to rent. The SPWB has the right to enter and inspect the youthful offender rehabilitative facility subject to customary security procedures.
- CDCR promises it will not abandon the youthful offender rehabilitative facility.
- CDCR has the obligation to maintain (both ordinary and extraordinary) the youthful offender rehabilitative facility during the term of the Facility Lease (including the costs of ordinary wear and tear) and arrange for the payment of all utilities.
- CDCR may make additions, betterments or improvements to the youthful offender rehabilitative facility in a manner that will not result in abatement of rental.
- CDCR is obligated to maintain property casualty insurance and rental interruption insurance.
- CDCR agrees to annually provide the SPWB and the State Treasurer updated information about private activity use within the youthful offender rehabilitative facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.
- CDCR promises not to use or permit the use of the youthful offender rehabilitative facility in any manner which would cause the SPWB bonds to be “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986.
- CDCR promises to obtain the consent of the SPWB to any assignment, subletting or transfer of its interest in the Facility Lease or any part thereof.
- In the event of breach by CDCR that goes uncured, the SPWB may evict CDCR and re-lease the youthful offender rehabilitative facility.
- At the expiration of the Facility Lease (when all bonds are paid), the property and improvements secured by the Facility Lease vest with CDCR. Concurrent with the termination of the Facility Lease, the Ground Lease will also terminate and the property and improvements thereon vest with the County. CDCR will record any documentation necessary or desired to clarify the status of title.

## 6. Facility Sublease

**Parties:** CDCR, participating county with the consent of the SPWB

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

**Consideration:** Benefit to the State’s public safety by addressing youthful offender rehabilitative facility conditions or overcrowding.

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

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

## GENERAL DEFINITIONS

**“Beds”** (see BSCC-rated beds).

**“Best Practices”** are research-informed widely-accepted practices revolving around the construction and development of juvenile justice and detention programs. *(Please see attachment, “Summary of Best Practices in Juvenile Justice Facilities”)*

**“BSCC-rated beds”** means beds that are dedicated to housing offenders for which a facility's single and double occupancy rooms or dormitories were planned and designed in conformance with the standards and requirements contained in Titles 15 and 24, CCR.

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

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

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

**“Construction management”** means a specialized, multidisciplinary function provided by a firm or individual acting as the county's representative with the responsibility to guide the county and reduce risk through all phases of delivery of the construction project. Cash match can be claimed for construction management only by a firm or individual (contract or consultant) outside the regular county workforce. In-kind match can be claimed for construction management provided by regular employees of the county workforce.

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

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

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

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

**“Evidence Based Practices” (EBP)** places an emphasis on achieving measurable outcomes and making sure that the services provided and the resources used are effective. It involves using research-based and scientific studies to identify interventions that reliably produce significant reductions in recidivism, when correctly applied to offender populations through the use of the following four principles of effective intervention:

- Risk Principle: Focuses on attention on the crucial question of who is being served and calls for targeting the higher risk offenders.
- Need Principle: Requires that priority be given to addressing criminogenic risk/need factors with a clear focus on what programs are delivered.
- Treatment Principle: Conveys the importance of using behavioral treatment approaches to achieve the best possible outcomes and requires attention to the questions of how programs are delivered.
- Fidelity Principle: Draws attention to how well programs are delivered and reiterates the necessity that programs be implemented as designed

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

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

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

**“Juvenile Hall”** means a county facility designed for the reception and temporary care of minors detained in accordance with the provisions contained in Titles 15 and 24, CCR.

**“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.

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

**“Medium security bed space”** generally means those areas of a juvenile facility designed with a single building security barrier that may be supplemented by an outside grounds perimeter security system monitored by facility staff. Medium security housing generally holds offenders in double or multiple occupancy rooms or dormitories. County

security definitions vary and applicants should defer to county policy in categorizing bed space.

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

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

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

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

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

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

**“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 at least 35 years from the date of completion of the project.

**“Regional facility”** means a local youthful offender rehabilitative facility serving 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. Such documents must demonstrate that the facility will provide dedicated housing for juvenile offenders from all partner counties and be more than the use of vacant beds on a per diem, space available basis.

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

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

**“Staffing plan”** means an assessment and identification of staffing levels needed to operate the proposed project. A staffing plan must be submitted for BSCC review and acceptance no later than design development.

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

## APPENDIX and REFERENCES

### Summary of Juvenile Justice Best Practices June, 2014

This summary provides prospective SB 81 Round Two applicants with current information and resources regarding best practices to be considered when developing juvenile justice and detention programs. The information outlined below represents widely accepted and nationally recognized practices grounded in up-to-date trends and research in the field of juvenile justice. This information is intended to summarize best practices in the field; it is not intended to impose new regulations, guidelines or requirements in place of minimum standards for the design, construction and operation of juvenile facilities.

#### **Facility type, size and location**

- Facilities should be small centers based in the community, with non-secure, non-residential options. Such options are optimal for low-to-medium risk youth. Secure facilities should be small centers focused on treatment and detention of high-risk youth; smaller facilities may achieve better outcomes (research suggests facilities of no more than 100 youth, and in some cases smaller than 50 youth). Secure facilities should only be utilized for youth determined to be a risk to public safety (which does not include youth who may be a danger to themselves). Because of the different purposes of confinement, new facilities should not be designed to house both pre-disposition and post disposition youth.
- Facilities should be close to youth’s families and communities to encourage and facilitate family and community engagement. This includes being accessible to mass transit and highways for visiting and accessible to courts

#### **Facility design:**

- Facilities should create a homelike and supportive environment that is safe, healthy, humane, caring, and conducive to positive youth development.
- Facilities designed to normalize environment and minimize institutional feel will help encourage positive behavior. This includes: a) small facility and small living units, b) incorporating an individual’s need for personalization of space and self, c) a homelike environment resembling residential buildings; where applicable, utilizing movable, commercial-grade furniture with non-institutional colors and materials that encourages social interaction among youth and allows for multiple uses of spaces, d) acoustic control (achieved through things like carpeting, furnishings and special configurations) to create a reasonably quiet and calm environment, e) less obtrusive hardware g)

rooms (including bedrooms) with windows and ample natural light combined with regular physical and visual access to outdoor spaces, f) the ability to move among locations.

### **Housing Units:**

- Size: Research recommends smaller housing units in juvenile facilities for safety and programming benefits. Facilities should rarely have units that house more than 12 to 16 youth; some research discourages dormitories housing more than 11 youth and some models encourage as few as 8 residents. A variety of sleeping arrangements should be available to meet the needs of individual youth, such as single and double occupancy rooms and dormitories.
- Characteristics / functions: Housing units should support varied activities such as sleeping, counseling, studying, reading, writing, visiting and recreation; multiple activities should be able to proceed at the same time. There should be identified programming areas separate from the living area when possible. Housing units should provide quiet spaces that provide youth with a sense of calm and privacy, where appropriate.
- Bathrooms: Individual toilets and showers are recommended; youth should have regular access to bathrooms.

### **Staffing:**

- Staff to youth ratio: Low staff to youth ratios, which include youth supervision and program staff, allow for more effective interaction and relationship building. Research suggests 1:8 during daytime hours. For certain treatment models, 1:4 or 1:5 enables staff to serve youth more effectively, particularly those with special needs.
- Function of staff: Physical design of facilities and staff office locations should facilitate positive interactions between staff / youth. Staffing schedules, job descriptions, trainings and procedures should also facilitate relationship building between youth and staff.
- Staff should be trained in all treatment modalities being utilized, including positive youth development and trauma-informed care.
- Limit cross-gender supervision in specific circumstances including searches and use of bathroom.

### **Safety, Security and Discipline:**

- Creating safe and secure environments: Facilities should promote residents' need for a setting that provides them with a "safe and supportive homelike environment" (W&I Code 851). Rely primarily on staff (coverage and relationships), providing trauma-informed environment, care, and individualized safety plans, and behavior management systems based on incentives, rewards and positive reinforcement to achieve safety.
- Discipline: Restraints or isolation must not to be used as a disciplinary measure. Agencies must strictly regulate the circumstances in which restraints and lengthier separation are used and how they are used (i.e., the kinds of devices used and reasons for use).

### **Trauma Informed Care:**

- There is a strong relationship between trauma exposure, traumatic stress, and behavior; in many cases, incarceration is a traumatic event in itself. Care in detention,

including intake assessments, staff training and interaction with youth, use of force and housing policies, that takes into account the trauma that youth have been exposed to can create an environment in which youth can regulate their own behavior and benefit from the treatment offered to them.

### **Programming:**

- Overview: Programs provide opportunities for youth to, among other things, enhance individuality and respect, have privacy, exercise judgment, develop intellectual and vocational abilities, retain family and other personal ties, practice religious beliefs, have a choice of recreational activities, have normal social interactions including with peers, and be safe from physical and physiological attack and abuse. Programs should be integrated, gender-responsive, trauma-informed and identity-affirming. A range of programs should be offered to accommodate different youth's needs, interests and strengths. Staff must be adequately trained in treatment modalities and programs whose effectiveness is supported by data.
- Case plans: Case plans should be based on proper assessments, validated for the facility's population, strength-based, trauma-informed and allowing for a systematic chronological evaluation of a youths history to ensure a better case plan and appropriate programs. Case plans should involve family and youth input and be revisited regularly to update a youth's progress, needs, and strengths.
- Space: Separate, adequate and accessible space for dayrooms, indoor recreation (gym, multi-purpose rooms, library, arts / crafts), outdoor recreation, religious programs, visitation, education, and other programs is available, including the capacity to provide multiple activities at the same time. Programming space utilized for therapeutic treatment sessions provide sufficient privacy to ensure confidentiality and youth safety.
- Education / Vocational: Comprehensive, high quality, engaging and culturally relevant year-round educational and vocational program in a physical setting that enhances educational services, meets state education requirements, and is transferable on release. Services available for youth with disabilities and Limited English Proficiency youth. Access to a comprehensive library designed for this population and librarian services.
- Mental health, health, and behavioral skills: Comprehensive, integrated and promising or evidence-based programming to be utilized. This includes: cognitive behavioral training, mental health treatment, therapeutic programs linked to community support for youth with psychiatric / intellectual disabilities, substance abuse programs, parenting skills, violence reduction, delinquency prevention, positive behavior support, self esteem, trauma and loss focused interventions, empathy training, social skills training, behavior management, and positive peer culture. When possible, using the same providers in facilities and after release creates continuity of care.
- Family engagement: Families acknowledged as critical to youth success. Facility space (e.g. visitor center) and facility policies and procedures engage families, accommodating lengthier and more inclusive family visits. Family involvement in treatment and post-release planning. Programs for parents and other family members of detained youth.
- Transition / aftercare services: Transition planning should be at forefront of all programs and education from beginning of stay; youth and supportive adults should be involved in creating their transition plan



- Community involvement: Programs are developed with and support the community. Community-based organizations and services should be incorporated into programming and quality improvement planning.

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