

FREQUENTLY ASKED QUESTIONS
AB 900 Jail Construction Funding
Updated December 2007

- 1. How much money is available to counties for jail construction and will there be one or more Request for Proposals (RFPs) used to solicit county project proposals?** (Updated December 2007)

AB 900 provides a total of \$1.2 billion in jail construction funding -- \$750 million in Phase I and \$470 million in Phase II. Although the Corrections Standards Authority (CSA) foresees issuing a second and separate RFP, counties should be aware that it is possible that the rank-ordered funding list established in response to the final RFP issued December 20, 2007 may be used for Phase II funding determinations. At the time of the issuance of the December 20, 2007 final RFP, it is uncertain how expeditiously Phase II can and will be implemented.

- 2. What is meant by Phase I and Phase II?**

AB 900 splits the jail construction funding into two phases, with specific milestones required to be met before the second phase of funding can be disbursed. The milestones for beginning Phase II funding are: at least 4,000 of the local jail beds from Phase I funding are under construction or sited; and at least 2,000 reentry beds are under construction or sited.

- 3. What is the timeframe to build the 4,000 jail beds required in Phase I?** (Updated December 2007)

The AB 900 legislation requires that Phase I funding be expended by June 30, 2017.

- 4. How does AB 900 differ from previous jail construction funding allocations and processes?** (Updated December 2007)

There are two fundamental differences with AB 900 that have not previously been experienced with state-administered jail construction funding – 1) lease-revenue bond financing, and 2) legislated funding preferences forming a linkage to state prison reentry facility construction and community mental health services for the parolee population. Note: Funding for the reentry program facility construction and parolee services is not part of the \$1.2 billion allotted for jail construction.

- 5. Is there funding available for operating costs of the jail facilities?**

No, the operating costs of the jail facilities are strictly a county expense.

6. How were the components/rules established for the jail construction proposals process? (Updated December 2007)

A Jail Construction Executive Steering Committee convened on September 24, 2007 to determine various aspects of the RFP, including rating criteria and funding parameters. Initial drafts, and a preliminary RFP that was released to the field, were reviewed and revised by the California Department of Corrections and Rehabilitation (CDCR), State Public Works Board (SPWB) and the Office of the Attorney General. Comments from the field on the preliminary RFP and from the feedback session held November 14, 2007 were considered in the revisions as well. The final recommendations of the Executive Steering Committee were brought before the CSA Board on December 13, 2007 for their review and approval. With revisions, the final RFP was disseminated.

7. When will the Executive Steering Committee meet? (Updated December 2007)

The Executive Steering Committee met in Sacramento on September 24, 2007. The committee will continue its work in spring 2008 when proposals are submitted.

8. Is there an estimate of when the RFP will be issued and when proposals will be due? (Updated December 2007)

CSA released the final RFP to the field on December 20, 2007. The final RFP instructions and proposal form can be accessed via the CSA website at http://www.cdcr.ca.gov/Divisions_Boards/CSA/CFC/index.html. The proposals are due March 18, 2008 at 5:00 PM.

9. Will a county be penalized for having proceeded with the planning process for meeting jail construction needs (i.e., needs assessment, determining a site, architectural drawings, etc.)? (Updated December 2007)

No, a county will not be penalized for proceeding with the planning process. Much of the costs incurred can be submitted as match as specified in the RFP. A county that completes the planning process and commits construction funding from another source, and proceeds to bid for construction, would not be qualified for funding under this program.

10. Is the 25% match requirement broken down into a combination of cash (hard) and in-kind (soft) match? (Updated December 2007)

The AB 900 legislation requires that counties provide a minimum of 25% match of total eligible project costs. Based on the general county population size as estimated by the State Department of Finance for January 1, 2007,

large counties must provide cash match of at least 10 percent of total eligible project costs and medium and small counties at least 5 percent of total eligible project costs. In-kind match cannot exceed 15 percent of total eligible project costs for large counties and cannot exceed 20 percent of total eligible project costs for medium and small counties.

11. Can the jail site acquisition costs or value of the land be included in the 25% match? (Updated December 2007)

Yes, the cost or current fair market value of the jail site (supported by independent appraisal) is allowed as in-kind match and therefore, could be included in the total required 25% match.

12. What is the process for counties with general populations less than 200,000 to apply for a reduction of the 25% match requirement? (Updated December 2007)

AB 900 allows for counties with general populations below 200,000 to petition the CSA Board for a reduction of the 25% match requirement. Counties have two options for submitting a petition for a reduction in match. Counties may not petition after funding award.

- 1. Advance notice. Counties interested in petitioning the CSA Board at the earliest possible Board meeting date, and prior to submittal of a proposal by the March 18, 2008 deadline, must contact CSA staff as soon as possible to make arrangements.*
- 2. Concurrent with the submittal of the proposal. Counties may submit a petition with their proposal and request that their petition go before the CSA Board at the next possible Board meeting date.*

13. Are counties responsible for any debt repayment on the lease-revenue bonds used to finance county jail construction?

No, the state will pay the debt service on the bonds.

14. Will a county's ownership interest in the jail be changed in some way when state lease-revenue bonds are used for jail construction or expansion? (Updated December 2007)

Under this funding program, the ownership interest of the property will be vested with the state for the period of the bond financing (35 years or longer). The facility will be leased to CDCR by the SPWB, and subleased to the county.

15. Who will own the property and the jail facility after the lease-revenue bond indebtedness is paid in full? (Updated December 2007)

The ownership of the property and the jail facility will revert to the county once the lease-revenue bond indebtedness is paid (in 35 years or longer).

- 16. Since the state will have ownership interest in the property and the jail facility built on the property for the duration of the lease-revenue bond indebtedness, what jail standards will apply to the design and construction of the jail facility? (Added September 2007)**

Local jail facilities will be built to current Minimum Standards for Local Detention Facilities as established in Title 24, California Code of Regulations.

- 17. Will the state pay for the seismic and fire/life safety upgrades as required by the State Public Works Board if the county chooses to construct an addition to or remodel of an existing jail facility? (Updated December 2007)**

For new construction that is added to an existing facility, the SPWB may require that the scope of the proposed project include all work necessary for the existing facility to meet current seismic and fire and life safety standards. These improvements would qualify as necessary renovation and can be funded with state dollars.

- 18. Is a formal needs assessment study required if counties are planning to add beds to an existing jail? (Updated September 2007)**

A formal needs assessment study, containing all required data elements as defined in Title 24, California Code of Regulations, is required for counties proposing to construct a new facility. In addition, counties adding 25 beds or more to an existing facility will require a needs assessment study.

- 19. What are the funding preferences being applied from AB 900? (Updated December 2007)**

Jail construction funding preference shall be given to counties that do the following:

- 1. assist the state in siting reentry facilities; and/or,*
- 2. assist the state in siting mental health day treatment and crisis care for parolees; and/or,*
- 3. provide a continuum of care so that parolees with mental health and substance abuse needs can continue to receive services at the conclusion of their period of parole.*

- 20. How does a county gain the funding preference as stated in AB 900 for assisting the state in siting reentry facilities? (Updated December 2007)**

Counties gain funding preference by earning proposal evaluation points. There is a gradation of points available within the 300 point range as follows:

1. 150 points (minimum) – *The County has signed an Agreement to Cooperate with the California Department of Corrections and Rehabilitation; and in Board of Supervisors’ resolution, stipulates that a Reentry Planning Team is planned or existing, and is evidenced through providing copies of local meeting/planning documents with the county’s proposal submittal (i.e., letters providing notification of meeting dates and team membership).*
2. 300 points (maximum) – *The identified reentry facility site location(s) is stipulated in the Board of Supervisors’ resolution, and in City Council resolution if applicable, and includes those components named in number 1 above.*

21. How does a county gain the funding preference as stated in AB 900 for assisting the state in siting mental health day treatment and crisis care for parolees? (Updated December 2007)

Counties gain funding preference by earning proposal evaluation points. There is a gradation of points available within the 100 point range as follows:

1. 50 points (minimum) – *The County agrees to assist the state in siting mental health day treatment and crisis care for parolees, and/or the County agrees to provide a continuum of care for mental health and substance abuse treatment so that parolees can continue to receive services at the conclusion of their period of parole.*
2. 100 points (maximum) – *The County has identified a physical location at which the mental health day treatment and crisis care services may be provided to parolees; and includes the components of number 1 above.*

22. Must a county offer or provide each of the funding preferences as stated in AB 900 (assist the state in siting a reentry facility, as well as assist the state with mental health services for the parolee population)? (Updated December 2007)

No, the funding preferences are stated separately in the AB 900 legislation and will be applied separately.

23. If two or more counties assist the state in siting a *regional* reentry facility, will all of the counties involved receive funding preference for the AB 900 jail construction funds? (Updated December 2007)

Each county participating in a regional state reentry facility siting would be qualified for the preference points afforded for that assistance.

24. Do the state's reentry facilities have to be under construction or completed before counties will be in the position to access jail construction funds? (Updated December 2007)

No, the reentry facilities will not have to be under construction before funding can be disbursed to counties for jail construction. However, all counties receiving preference points on the graduated scale for assisting the state with siting a reentry facility, shall within 90 days upon receiving the notice of conditional award for jail construction funding, sign a Siting Agreement with CDCR. This Siting Agreement will require naming a specific site agreeable to CDCR. Failure to meet the 90 day time limit to sign a Siting Agreement will result in bringing the county's jail construction proposal back before the CSA Board.

25. How can a county gain more information on the state's reentry facility program as referenced in AB 900, and make contact with appropriate persons to discuss such? (Updated December 2007)

Contact information is as follows:

*CDCR – Division of Reentry
PO Box 942883
Sacramento, CA 94283-0001
(916) 445-9802
FAX (916) 323-2298*

Website: http://www.cdcr.ca.gov/Divisions_Boards/Adult_Programs/DORR.html

26. Who can a county contact to find out further information about mental health day treatment and substance abuse treatment program needs for the parole population in our county? (Added September 2007)

*CDCR – Division of Adult Parole Operations
1515 S Street
Sacramento, CA 95811*

*For mental health services for parolees, contact:
Robert Storms, Staff Services Manager II
(916) 323-0152*

*For substance abuse treatment program needs for parolees, contact:
Rick Winistorfer, Parole Administrator
(916) 323-0264*

27. What is considered a "current" needs assessment? (Added December 2007)

There is some flexibility when defining “current” for purposes of meeting the needs assessment requirement. Counties must have a needs assessment (when adding 25 beds or more) that adequately supports their proposed project, provides up-to-date population and trend data, reflects current county policy on the incarcerated population, and sufficiently justifies the proposal. Specific information from the needs assessment is required as part of the proposal, and must satisfy the proposal raters that the needs assessment information being provided is adequate and fully justifies the proposed project.

28. Why is project build-out limited to the year 2011 bed needs? (Added December 2007)

A fundamental concept of lease revenue bond financing is the beneficial use and occupancy of the facility for its intended governmental purpose, and coupled with this, AB 900 requires counties to staff and operate new or expanded facilities within 90 days of construction completion. Additionally, due to the limited amount of Phase I funding available, the Executive Steering Committee recommended limiting building for future needs in an effort to stretch the state dollars further and allow for a greater number of projects.

29. Are there specific requirements or certifications to meet state expectations for the “green factor” of a county’s proposal? Has a point value been assigned to the “green” factor of the design? (Added December 2007)

There is no legislative requirement to build “green.” However, the extent the county builds “green” is among the six factors to be considered in the county’s proposal under Scope of Work and Project Impact. There are no specific point values assigned to the “green” factor. The evaluation factor for Scope of Work and Project Impact is valued at a maximum of 100 points.

30. At what point will a current project that is already in design phase need to be suspended before jeopardizing the county’s ability to compete for jail construction funding? (Added December 2007)

Counties wanting to compete for jail construction funding should not take action (i.e., proceed to bid) that would indicate their financial commitment to actual construction of the project with other funding. State contracting policies do not allow for utilization of state funds to supplant (replace) funds that are otherwise dedicated or appropriated for construction activities.

31. If at some point it is determined that the state funding provided to a county is not the amount needed to complete the entire project, can the county scale down their project and still receive the allocated funding? (Added December 2007)

No, the county must complete the project that was identified in the county's proposal, and that was accepted by the state as the defined scope of work. Counties are solely responsible for higher than anticipated project costs.

32. Can the county negotiate the 20 percent retention amount that is withheld until project completion and all funding requirements are met?

(Added December 2007)

No, the 20 percent retention amount is not negotiable. While it is recognized that 20 percent is significant, that is precisely the intent. The retention withheld incentivizes the county's completion of contractual obligations related to project completion, including the final audit and staffing and operating the facility within 90 days of completion.

33. The RFP indicates the need for the county to fully staff and operate a project facility within 90 days of construction completion. Does this preclude a phased-in opening that extends beyond 90 days?

(Added December 2007)

Any portion of the jail project involved in the overall project scope would have to be fully staffed and operational within 90 days following construction completion. In other words, if it is necessary for the state to take ownership interest of the entire facility (existing and new addition) for the duration of bond indebtedness, then the entire facility is subject to the requirement of fully staffing and operating within 90 days of construction completion.

34. Are there additional rating points to be gained by a county for a project that is ready to proceed with construction?

(Added December 2007)

While there are not specific points assigned to a readiness to proceed evaluation factor, there is opportunity for a county to identify their readiness within the Administrative Work Plan portion of the proposal. This is one factor of many that will be evaluated in the county's proposal narrative.

35. If a county proposes to build a new jail facility on an existing county-owned parcel that also contains other county-owned buildings, will the entire parcel be part of the Ground Lease or just the portion that the jail is occupying? If it is just the portion that the jail is occupying, will a separate parcel need to be created?

(Added December 2007)

The SPWB financing lease will require a metes and bounds legal description of the property on which the financed facility sits plus up to a 15 foot buffer area. If this is a portion of a larger property and without direct street access, the SPWB will require a right of entry (access) over the portion of the property not directly encumbered in the metes and bounds legal description.

36. When will the actual leases and agreements referenced in the RFP be available for counties to review? (Added December 2007)

The state is in the process of developing these documents. Counties will be advised when they are ready for review. An exact timeline is unknown.

37. One of the terms listed in the Facility Sublease says, "In the event of breach by County that goes uncured, CDCR may evict County and together with the SPWB may relet the jail facility." What is the process the state must follow to evict the county for an alleged breach of contract? Who would make this determination? (Added December 2007)

There is a process that the state must follow for a breach of contract that includes notice, along with other requirements. These will be further delineated in the individual subleases with the counties. It depends on the type of breach involved as to who would make the determination.

38. If the contractual relationship with each county is a sublease, how will liability issues between the counties and state entities be clarified contractually if a major incident (operational or physical disruption) occurs at the facility during the period where title is officially vested in the State? (Added December 2007)

Liability issues will be handled in the same manner that CDCR handles its contractual relationships with out of state facilities, community correctional facilities, and Cal Fire camps. CDCR will not assume liability as the lessor for incidents that happen while the facility is being subleased to the county. Additionally, the state will include indemnification clauses in all subleases with the counties.

CSA Staff Contact Information

Please feel free to contact CSA staff anytime throughout this funding process.

County Facilities Construction Division (AB 900):

Leslie Heller; (916) 323-8618; Leslie.Heller@cdcr.ca.gov

Charlene Aboytes; (916) 324-1914; Charlene.Aboytes@cdcr.ca.gov

Melinda Ciarabellini; (916) 445-9435; Melinda.Ciarabellini@cdcr.ca.gov

Facilities Standards and Operations Division (facility inspectors):

http://www.cdcr.ca.gov/Divisions_Boards/CSA/FSO/FSO_Field-Rep_Assigments.html

(916) 445-5073