



March 5, 2014

Ms. Kathleen Howard  
Executive Director  
Board of State and Community Corrections  
600 Bercut Drive  
Sacramento, CA 95811

**RE: County of Monterey SB 1022 Appeal**

Dear Ms. Howard,

We are in receipt of the SB 1022 appeal from Monterey County. The County states the following as the issue on appeal:

"We contend we met (and continue to meet) at least three of the four preference criteria, including Preference Criteria One: Adequate County Contribution Funds; Preference Criteria Two: Real Estate Due Diligence; Preference Criteria Three: Authorization of Project Documents; and that additionally we now substantially meet Preference Criteria Four, CEQA."

You have requested an explanation of what the Department of Finance (Finance) considered and analyzed in determining whether Monterey County should be awarded the Preference Criterion points. We understand that the County is also appealing on issues related to the Executive Steering Committee process, and we understand that the BSCC will be responding on that issue separately.

Analysis.

All submittals for SB 1022 funding were submitted to the BSCC by October 25, 2013. Finance reviewed all requests for Funding Preference Criterion #1 based on the requirements of the Request for Proposal (RFP).

Page 16 of the RFP explains the requirements for Adequate County Contribution Funds as follows:

**Adequate County Contribution Funds (mandatory criterion):** All proposals seeking the funding preference must include all documentation necessary to evidence that the Board of Supervisors has authorized an adequate amount of available funds to fully satisfy the entire amount of the county's cash contribution (match) from a source or sources that are compatible with the state financing authorized in this program. The adequacy of county contribution funds will be determined by the SPWB, in its sole discretion. Determination of adequacy will include whether the county has provided all necessary documentation, whether the amount of funds authorized and available satisfies the county cash contribution

amount (as reflected in the Budget Summary Table in the Proposal Form), and whether the source of funds is deemed compatible with the SPWB's lease-revenue bond financing.

...

The documentation provided must include, but is not limited to, the following:

- The name of each specific fund source to be used, the amount of county cash contribution funds attributed to each source, documentation evidencing the Board of Supervisors has authorized the required amount of funds from each identified source specifically for the proposed project, (emphasis added) and documentation demonstrating the authorized funds are available for use solely on the proposed project. (emphasis added)
- Citation of the legal authority for each identified fund source evidencing the fund source is legally available and the proposed use is a lawful use of the funds.
- Authorization from the Board of Supervisors to proceed with the proposed project in its entirety if a conditional award of state financing is received.

All county contribution funds documentation shall be submitted in duplicate, in a separate packet, accompanying the proposal submittal to BSCC. The Board of Supervisors' resolution that accompanies the proposal submittal must include the required language for this specific preference criterion, as outlined in the Board of Supervisors' Resolution section of the Proposal Form.

The county's submittal contained no specific accounting information on the \$800,000 cash match. There was not a fund identified when, as was explicitly stated, the request "must show required amount of funds from each identified source specifically for the proposed project", Further there was not documentation demonstrating that the funds had been set aside for the proposed project while the RFP required that "documentation demonstrating the authorized funds are available for use solely on the proposed project)." Since there was no documentation submitted to support an allocation of a preference point, there was no "technical review or clarification" requested by Finance. In other words, in order for the Department to conduct a technical review and clarification of information provided, there would have needed to be some modicum of information to review as well as some information to have been provided.

Only recently, in County Administrative Officer Lew Bauman's letter of February 26, 2014, (see Exhibit 1) was it disclosed that the funding was from the county's General Fund. Even if this information had been submitted timely, it would not have been adequate. The County needed to provide specific accounting evidence that the funding was set aside specifically for this purpose (must show documentation demonstrating the authorized funds are available for use solely on the proposed project). By only showing a fund balance it is not clear whether other commitments have been made against this balance.

Finance did receive adequate funding documentation from 18 counties. Please see Exhibit 2, which is an example of adequate funding documentation provided by another county. It clearly shows the amount the county set aside " . . . specifically for the SB 1022 project."

Related to the Preference Criteria, Monterey County has requested the following remedy in its appeal:

"Reevaluate our compliance with the preference criteria requirements. Give us the preference criteria credits where we are deemed substantially and adequately in compliance . . . "

Monterey County did receive credit for the Preference Criterion on Authorization of Project Documents.

With respect to Preference Criterion on Real Estate Due Diligence, the RFP required:

Each proposal seeking to satisfy this criterion must include all documents required in the initial county real estate due diligence submission package. Two separate and duplicative copies of this complete package must accompany the proposal submittal to BSCC. Incomplete packages will result in this preference criterion not being met.

Monterey County did not receive the point because there were no documents submitted showing the required real estate due diligence requirements noted above.

With respect to the Preference Criterion on CEQA, the RFP required:

Two separate and duplicative copies of the CEQA documentation package must accompany the proposal submittal. The package shall include either the final Notice of Determination (NOD) or final Notice of Exemption (NOE) stamped as received by the entity with which it was filed for public review; the stamp must include the date received. Related back-up information and CEQA documents filed previous to the final NOD or NOE are not requested and should not accompany this submittal, but must be retained by the county. The submittal shall also include a written certification by county counsel that states the final NOD or NOE was filed, the entity with which it was filed, when it was filed, and further certifies that all related statutes of limitation have expired without challenge.

Monterey County contends that they now meet the CEQA requirement, but because the County could not provide evidence of a final NOD or NOE at the time of the proposal, the Finance is not in a position to reconsider this preference criterion. Given that this is a competitive funding process, the same consideration must be uniformly applied to all counties.

If you have further questions, please call me at 916-324-0043



Karen Finn  
Program Budget Manager

Attachments

EXHIBIT 1

# MONTEREY COUNTY



## COUNTY ADMINISTRATIVE OFFICE

LEW C. BAUMAN  
COUNTY ADMINISTRATIVE OFFICER

168 West Alisal St., 3<sup>rd</sup> Fl  
Salinas CA 93901-2680  
(831) 755-5115  
FAX (831) 757-5792  
www.co.monterey.ca.us

February 26, 2014

Kathleen T. Howard  
Board of State and Community Corrections  
600 Bercut Drive  
Sacramento, CA 95811

Re: Matching Funds for the Sheriff's SB 1022 Grant Application

Dear Ms. Howard:

On October 22, 2013, the Monterey County Board of Supervisors passed Resolution 13-1107 authorizing the Sheriff's Office to apply for up to \$22.8 million in SB 1022 grant funding and approving the allocation of up to \$3.7 million in cash (\$800,000) and in-kind (\$2.9 million) funding for the required 10% match. The purpose of this letter is to advise your board that the county's cash contribution of \$800,000 is funded with available General Fund monies held in the CAO Capital Designation Account #3123. The current balance in this General Fund designation is \$7,769,594, which is currently designated solely for Monterey County Jail projects. The use of these General Fund monies is compatible with the SPWB's lease-revenue bond financing.

In discussing the SB 1022 grant process with Sheriff Miller, I understand that the BSCC and the State Department of Finance are looking for "shovel ready" projects. Please let me assure you that the Board of Supervisors and County administrative staff are fully supportive of the SB 1022 project, which will help us meet critical mental health and programming space needs at the jail. As you are aware, Monterey County is currently well underway on a 576-bed jail expansion project, which is funded through the AB 900 program. We are committed to moving quickly on this project once a conditional award is granted. We have the project team, required funding and can quickly amend the EIR that is nearing completion for the AB 900 jail expansion.

If you have any questions or require additional information, please don't hesitate to contact Mr. John Guertin at 831-755-3754.

Sincerely,

Lew C. Bauman  
County Administrative Office

cc: Scott Miller, Sheriff - Coroner  
Chair Louis R. Calcagno, District 2 Supervisor

"Example of Adequate Funding Documentation provided by another county"

Exhibit 2

ATTACHMENT E

**TOBACCO SECURITIZATION BOND PROCEEDS**

**Reconciliation:**

Beginning balance 4-12-06	\$	37,794,190.29	
Deposits	\$	74,520.86	
Dividends	\$	2,917,461.07	
<b>Total Tobacco Proceeds</b>			\$ 40,786,172.02
Paid Claims through 10/1/13			
<b>Total Paid Claims</b>			\$ (29,476,229.33)
<b>Current Balance (Reconciled to GLSF001-1 as of 10/1/13)</b>			\$ 11,309,942.69
Pending Claims			
Remaining Original Commitments	\$	(792,611.13)	
Less: Release of Unneeded Committed Funds (BOS 10/22/13 Item Addendum 1)	\$	(17,901,706.54)	
<b>Outstanding Committed Tobacco Proceeds</b>			\$ (10,294,317.67)
<b>REMAINING UNCOMMITTED TOBACCO PROCEEDS</b>			<u>1,015,625.02</u>

**List of Capital Projects, Amount Committed, Current Status, and Reconciliation by Project:**

Project	Amount Committed	Status	Total Paid	Unspent Funds
MENDOTA LANDFILL CLEANUP 9/28/06	\$ 9,114,919.00	Completed/Closed	9,114,919.00	-
SOUTH JAIL ANNEX DOORS/CONTROLLERS 10/03/06	\$ 281,150.00	Completed/Closed	281,140.98	9.02
MAIL JAIL ENROUTER & DOOR OPERATORS 10/03/06	\$ 11,900.00	Completed/Closed	11,862.11	47.89
COURTHOUSE/SOUTH ANNEX JAIL GARAGE 10/03/06	\$ 116,500.00	Completed/Closed	110,434.67	6,065.33
NORTH ANNEX/MAIN JAIL SHOWER FLOORS 10/03/06	\$ 162,250.00	Completed/Closed	153,022.45	9,227.55
ELKHORN WATER WELL 10/03/06	\$ 125,000.00	Completed/Closed	108,355.65	16,644.35
ELECTIONS WAREHOUSE 10/31/06	\$ 1,230,059.00	Completed/Closed	1,229,743.26	315.74
PURCHASE CENTER FOR AG and FOOD SAFETY 8/14/07	\$ 4,640,500.00	Completed/Closed	4,635,778.13	4,721.87
MENDOTA LANDFILL ADDITIONAL 8/12/08	\$ 72,000.00	Completed/Closed	72,000.00	-
MORGUE 8/11/09	\$ 19,547,710.00	Completed/Closed	10,761,559.23	8,786,150.77
MORGUE COUNTY MATCH MEDICAL EQUIPMENT 8/11/09	\$ 346,232.00	Not Used/Closed	0.00	346,232.00
CROCKER BUILDING 6/28/2010	\$ 3,701,327.00	Completed/Closed	3,701,327.00	-
JJC WASTEWATER TREATMENT PLANT - LIFT STATION SCREEN 12/31/11	\$ 744,000.00	Open	88,707.98	655,292.02
JJC CENTRAL PLANT - BOILER ROOM VENTILATION 12/13/11	\$ 109,000.00	Open	0.00	109,000.00
WEST ANNEX JAIL PROJECT (related to SB 1022) 10/22/13	\$ 7,969,000.00	New	0.00	7,969,000.00
<b>Funds Committed for Capital Projects</b>	\$ 48,170,547.00			
Less: Release Unneeded Committed Funds 10/22/13	\$ 8,400,000.00			
<b>Net Funds Committed for Capital Projects</b>	\$ 39,770,547.00		30,268,840.46	17,901,706.54