



SENATE BILL 844

Regulation Revision Workbook

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

§ 1706. Definitions.

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

“**Performance criteria**” means, with respect to a design-build project, the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, [the desired](#) design character of the [project, performance specifications covering the quality of materials](#), equipment, workmanship, [preliminary plans or building layouts, or](#) any other information deemed necessary to describe [adequately](#) the participating county’s needs; including documents prepared pursuant to paragraph (1) of subdivision [\(a\)](#) of Section [22164](#) of the Public Contract Code.

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

“**Small county**” means a county with a general county population of 200,000 or fewer as estimated by the State Department of Finance on January 1, 2007 for Phase I; January 1, 2011 for Phase II; May 1, 2013 for SB 1022, and July 1, 2014 for SB 863, [and May 1, 2016 for SB 844](#).

Note to ESC Members: The definition for “Performance criteria” referenced above was revised in the Public Contract Code.

1. **Suggested edits to the above recommended text**
2. **Summary of Intent**
3. **Operational Impact to Counties and State (if any impact exists, please explain)**
4. **Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of §1706 Worksheet)

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

§ 1712.4. Eligibility Requirements for SB 844.

- (a) To be eligible for participation in the SB 844 Adult Local Criminal Justice Facilities Construction Program, a county shall:
- (1) Submit the required proposal described in Section 1730.4 of these regulations;
 - (2) Complete or update a needs assessment study as prescribed in Section 1731 of these regulations; a county shall not be required to submit a new needs assessment if the county previously submitted a needs assessment for a request under the financing program described in Section 1712.3;
 - (3) Provide match as specified in Section 1714.4 of these regulations;
 - (4) Provide documentation of the percentage of pretrial inmates in the county jail from **January 1, 2015 to December 31, 2015**, inclusive, and a description of the county's current risk assessment-based pretrial release program;
 - (5) Include all work necessary for the existing facility to meet current fire and life safety standards and meet or exceed building standard seismic level 3 performance standards, applicable only to renovation projects or new construction that is physically attached to an existing facility.
 - (6) Include a description of efforts to address sexual abuse in its adult local criminal justice facility constructed or renovated pursuant to Division 3 of Title 2 of the Government Code.
 - (7) Include space to provide onsite, in-person visitation capable of meeting or surpassing the minimum number of weekly visits required by state regulations for persons detained in the facility constructed or renovated with the state funding awarded under the SB 844 program.
- (b) If the conditions in subsection (a) of this regulation are met counties may apply, up to their award amount, for reimbursement of the following:
- (1) Costs for the design and construction of the BSCC-approved Adult Local Criminal Justice Facility project, incurred after establishment of the project by the Board, including site preparation, fixed equipment and fixed furnishings, installation of fixed equipment and fixed furnishings necessary for the operation of the facility, costs for real estate due diligence review, preparation of full or focused environmental reports necessary for compliance with CEQA by consultants or contractors, moveable equipment, and moveable furnishings necessary for the activation and operation of the facility. Reimbursable costs cannot exceed ninety percent (90%) of the total project costs or the county's award amount. Costs in excess of ninety percent (90%), including higher than expected construction bids, unanticipated costs, and cost overruns, shall be funded by the county.
- (c) Projects or items not eligible for state reimbursement under these regulations shall include, but not be limited to, the following:
- (1) Temporary holding or court holding facilities.
 - (2) Local jail facilities or portions thereof operated by jurisdictions other than counties. City, state and federal facilities are not eligible.

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

- (3) Purchase, lease, or rent of land; personnel or operational costs; excavation of burial sites; public art; off-site costs (outside of the encumbered project area) including access roads, power generation and utilities development; supplies; bonus payments; and debt service or interest payments on indebtedness required to finance the county's share of project costs.

Note: Authority cited: Section 15820.95, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.94, 15820.942, 15820.945 and 15820.946, Government Code; and Section 3073, Penal Code.

Note to ESC Members: Regarding Section 1712.a(4), as highlighted in the text, this requirement and dates of required reporting shall not be changed as they were defined as mandatory funding criteria pursuant to Government Code 15820.946(b), which states, *"The BSCC shall determine the funding and scoring criteria consistent with the requirements of this chapter. Financing shall be awarded only to those counties that have previously received only a partial award or have never received an award from the state within the financing programs authorized in Chapters 3.11 (commencing with Section 15820.90) to 3.131 (commencing with Section 15820.93), inclusive. Notwithstanding this restriction, twenty million dollars (\$20,000,000) of the amount authorized in Section 15820.942 shall be set aside and awarded to Napa County. The funding criteria shall include, as a mandatory criterion, documentation of the percentage of pretrial inmates in the county jail from January 1, 2015, to December 31, 2015, inclusive, and a description of the county's current risk assessment based pretrial release program."*

As highlighted in Section 1712.4 (a)(6) and (a)(7), any eligible county applying for SB 844 is required by the legislation to provide (1) in-person, on-site visitation for inmates and (2) include in its lease revenue bond application a description of efforts to address sexual abuse in its adult local criminal justice facility.

1. **Suggested edits to the above recommended text**
2. **Summary of Intent**
3. **Operational Impact to Counties and State (if any impact exists, please explain)**
4. **Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of §1712.4 Worksheet)

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

§ 1714.4. Matching Fund Requirements for SB 844.

- (a) County matching funds for projects proposed to be financed under these regulations shall be no less than the minimum amounts specified in Section 1714.4(a)(1) and (2), pursuant to California Government Code Section 15820.946. County matching funds may be any combination of cash and/or in-kind match.
- (1) Counties with a general population of 200,000 and above shall provide a minimum of ten percent (10%) of the total project costs in matching funds.
 - (2) Upon petition to the BSCC, counties with a general population below 200,000 may request to reduce the required match to an amount not less than the total non-state reimbursable project costs as defined in Section 1712.4.
- (b) Expenditures eligible as cash match for Adult Local Criminal Justice Facilities may include the following:
- (1) Items eligible for state financing;
 - (2) Project and construction management by consultants or contractors, prior to the establishment of the project by the Board;
 - (3) Architectural programming and design by consultants or contractors, prior to the establishment of the project by the Board;
 - (4) Preparation of full or focused environmental reports necessary for compliance with CEQA by consultants or contractors, prior to the establishment of the project by the Board;
 - (5) Off-site costs which are outside the encumbered project area but are related to or required for project development and which are within the greater parcel area; (examples: easements, power generation, utilities development);
 - (6) Public art;
 - (7) Real estate due diligence review costs, prior to the establishment of the project by the Board;
 - (8) State Fire Marshal fees as billed to the county by the State;
 - (9) Costs for appraisals and/or land valuation fees and services by consultants or contractors, prior to the establishment of the project by the Board;
 - (10) Audit of state interim or permanent financing at the conclusion of the project by a contracted auditor;
 - (11) Needs assessments performed by consultants or contractors;
 - (12) Transition planning performed by consultants or contractors after **June 27, 2016**.
- (c) Expenditures eligible as in-kind match for Adult Local Criminal Justice Facilities shall be limited to any of the following:
- (1) Audit of state interim or permanent financing at the conclusion of the project as performed by an independent county auditor;
 - (2) A needs assessment study as performed by county personnel;
 - (3) Current fair market value supported by an independent appraisal of on-site land value only of new facility construction, or on-site land value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. Land value cannot be claimed for land that is under an existing operational local jail facility. Multiple appraisals may be required during the course of a project and the county is responsible for any and all appraisals and/or land valuation fees and services. Additional services may be used as in-kind match;
 - (4) County administration costs for staff salary/benefits associated only with staff work directly related to the design and construction of the project, for activities after **June 27,**

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

2016. These costs may only be claimed as a project cost if all applicable county administration costs are claimed. Staff must have been hired specifically for the SB 844 project. Existing staff salary/benefits may be eligible as match if the county reports information such as the number of positions, salaries, and benefit costs. Detailed, itemized back-up documentation must be provided to support these costs if they are claimed as in-kind match; and,
- (5) Transition planning, including staff salary/benefits directly related to the design and construction of the project, for activities after June 27, 2016. Staff must have been hired specifically for the SB 844 project. Existing staff salary/benefits may be eligible as match if the county reports information such as the number of positions, salaries, and benefit costs. Detailed, itemized back-up documentation must be provided to support these costs if they are claimed as in-kind match.
- (d) To qualify as match, local expenditures must be directly for the SB 844 project.

Note: Authority cited: Section 15820.945, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.945 and 15820.946, Government Code.

Note to ESC Members: Government Code Section 15820.946(a) states *“The participating county contribution for adult local criminal justice facilities financed under this chapter shall be a minimum of 10 percent of the total project costs. The BSCC may reduce contribution requirements for participating counties with a general population below 200,000 upon petition by a participating county to the BSCC requesting a lower level of contribution.”*

This ESC may choose to keep the same match amount, or set another one that is more appropriate for the current needs and financial capabilities of small counties.

Please note that all dates in this section (b(12), c(4), and c(5)) reflect the date SB 844 was approved by the Governor and filed with the Secretary of State. This ESC will confirm the appropriate start date for background documents.

Please also note that the SB 844 regulation, referenced in Section 1714.4(b)(8), now requires counties to pay the State Fire Marshal’s office directly. BSCC will no longer handle payments on the counties’ behalf or be responsible for State Fire Marshal fees incurred by the counties under the SB 844 lease revenue bond financing program.

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**Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program**

- 1. Suggested edits to the above recommended text**

- 2. Summary of Intent**

- 3. Operational Impact to Counties and State (if any impact exists, please explain)**

- 4. Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of §1714.4 Worksheet)

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

§ 1730.4. Proposal Process for SB 844.

- (a) Proposals for the SB 844, Adult Local Criminal Justice Facilities Construction Financing Program shall be submitted to the BSCC office at 2590 Venture Oaks Way, Suite 200, Sacramento, CA 95833, no later than 5:00pm on February 28, 2017. Proposals received after 5:00pm on February 28, 2017 will be deemed ineligible and will not be reviewed.
- (b) Proposals shall consist of, but not be limited to the following:
- (1) One original signed proposal form, which is the document applicants use to apply for the SB 844 funds, and which contains:
 - (A) Applicant information and proposal type;
 - (B) Brief project description;
 - (C) Scope of work;
 - (D) Beds Constructed;
 - (E) Applicants' Agreement;
 - (F) Designated county Construction Administrator;
 - (G) Designated county Financial Officer, and
 - (H) Designated county Contact Person.
 - (2) One fully executed Board of Supervisors' resolution as referenced in Government Code section 15820.946(b)(1);
 - (3) One original of the formal needs assessment study as prescribed in Section 1731 of these regulations;
 - (4) All necessary documentation related to the criteria as provided in Section 1740.3; and,
 - (5) One electronic copy of the items listed in Section 1730.3(b)(1)-(4), which may be submitted with or before the original signed proposal but no later than the proposal due date, and may be submitted on a compact disk or flash drive to the BSCC office at 2590 Venture Oaks Way, Suite 200, Sacramento, CA 95833, or via e-mail to ConstructionProgram@bscc.ca.gov.
- (c) Following the BSCC technical review, proposing counties shall submit the following upon request:
- (1) One original signed and 12 copies of the proposal, consisting of, but not limited to the items listed in Section 1730.4(b)(1)-(4) and including any changes requested during the technical review; and,
 - (2) One electronic copy, which must be submitted before or with the original signed and 16 copies of the proposal, and may be submitted on a compact disk or flash drive to the BSCC office at 2590 Venture Oaks Way, Suite 200, Sacramento, CA 95833, or via e-mail to ConstructionProgram@bscc.ca.gov.
 - (3) One original redacted copy of the proposal for public review.

Note: Authority cited: Sections 15820.945, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.945 and 15820.946, Government Code; and Section 6030, Penal Code.

Note to ESC Members: The Proposal Form and Background document due date of February 28, 2017, highlighted in Section (a) above, is not the correct date. This ESC will determine the timeline of events for this RFP, including the release date listed above. It is recommended that a redacted copy of the final proposal is submitted for the public review.

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**Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program**

(Please continue to the next page)

- 1. Suggested edits to the above recommended text**

- 2. Summary of Intent**

- 3. Operational Impact to Counties and State (if any impact exists, please explain)**

- 4. Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of §1730.4 Worksheet)

SENATE BILL 844 REGULATION REVISION WORKBOOK

Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

§ 1731. Needs Assessment Study.

- (a) Any county or regional consortium of counties intending to construct or renovate a Type II, III or IV (as defined in Title 15, CCR, Section 1006 and Title 24, CCR, Section 13-102) jail facility, or add 25 beds or more to an existing facility shall complete a needs assessment study pursuant to Title 24, CCR, Part 1, Section 13-102(c)2. The needs assessment study shall be submitted with the Phase I proposal or Phase II application. The needs assessment study for SB 1022 must reflect current needs and needs through the year 2014 and shall be submitted with the SB 1022 proposal. The needs assessment study for SB 863 must reflect current needs and needs through the year 2019; with an emphasis on expanded program and treatment space, and shall be submitted with the SB 863 proposal. The needs assessment study for SB 844 must reflect the current needs and needs through the year 2019; with an emphasis on expanded program and treatment space. A County shall not be required to submit a new needs assessment if the county previously submitted a needs assessment for a request under SB 863. Counties intending to construct beds must justify their determination of housing capacity deficiency which shall include any construction projects for which the county is conditionally awarded by or through the BSCC, and any other construction projects which the county is undertaking.

Note: Authority cited: Sections 15820.906, 15820.916, 15820.925, 15820.926, 15820.935, 15820.936, 15820.945, and 15820.946, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.906, 15820.916, 15820.925, 15820.926, 15820.933, 15820.935, 15820.936, 15820.945 and 15820.946, Government Code.

Note to ESC Members: Government Code Section 15820.945 (c)(2) states “[...] A county shall not be required to submit a new needs assessment if the county previously submitted a needs assessment for a request under the financing program described in Chapter 3.131 (commencing with Section 15820.93.” Should the 2019 date remain the same? If it is changed there will be two different standards.

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**Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program**

- 1. Suggested edits to the above recommended text**

- 2. Summary of Intent**

- 3. Operational Impact to Counties and State (if any impact exists, please explain)**

- 4. Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of §1731 Worksheet)

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program

§ 1740.4. SB 844 Proposal Evaluation Criteria.

In order to assist in compliance with California Government Code Section 15820.945 and 15820.946, the criteria by which proposals shall be rated shall include the below listed factors.

Evaluation Criteria		Scoring Method	Max Points	Section Max	Weight	Total
1	Statement of Need SF A: Past Funding SF B: Need expanded program/treatment space					
2	Scope of Work SF A/B: Feasible plan to replace compacted housing/expand program/treatment space					
3	Offender Programming and Services SF A: Documents pretrial inmate percentage SF B: Describes risk assessment-based pretrial release process					
4	Administrative Work Plan					
5	Budget Narrative					
6	A. Readiness: Board Resolution B. Readiness: CEQA Compliance					
TOTAL POINTS						

Note: Authority cited: Section 15820.945, Government Code; and Section 6030, Penal Code. Reference: Sections 15820.945 and 15820.946, Government Code.

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Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6 Construction Financing Program

Note to ESC Members: In addition to the criteria listed in Government Code Section 15820.945 and 15820.946, county proposals will be evaluated based on criteria determined by this ESC.

The above list #1 through #6 was created for SB 863 and was chosen specifically to provide an overall rating of how ready a proposing county may be to proceed with financing in a timely manner.

This ESC will determine rating factors such as the ones listed above, which will create a "Final Rating Form" (referenced above, see Appendix 1 for an example) to be used during the ESC's final rating session. The Final Rating Form name and date are just an example, as are the rating factors listed.

Government Code Section 15820.946(b) states "*The BSCC shall determine the funding and scoring criteria consistent with the requirements of this chapter. Financing shall be awarded only to those counties that have previously received only a partial award or have never received an award from the state within the financing programs authorized in Chapters 3.11 (commencing with Section 15820.90) to 3.131 (commencing with Section 15820.93), inclusive. Notwithstanding this restriction, twenty million dollars (\$20,000,000) of the amount authorized in Section 15820.942 shall be set aside and awarded to Napa County. The funding criteria shall include, as a mandatory criterion, documentation of the percentage of pretrial inmates in the county jail from January 1, 2015, to December 31, 2015, inclusive, and a description of the county's current risk assessment based pretrial release program.*"

Only counties that have received (1) partial award or (2) have never been awarded under AB 900, SB 1022, or SB 863 shall be awarded under SB 844. The SB 844 bill appropriates \$20 million in lease-revenue bond financing for Napa County jail.

This ESC shall mandate documentation of percentage of pretrial inmates as a funding criteria however, it is up to this ESC to determine in what capacity funding criteria shall be evaluated or rated. The rating criteria that the ESC recommends will be added to this regulation.

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**Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program**

- 1. Suggested edits to the above recommended text**

- 2. Summary of Intent**

- 3. Operational Impact to Counties and State (if any impact exists, please explain)**

- 4. Fiscal Impact to Counties and State (if any impact exists, please explain)**

(End of § 1740.4 Worksheet)

SENATE BILL 844 REGULATION REVISION WORKBOOK

Excerpts from Title 15, Division 1, Chapter 1, Subchapter 6
Construction Financing Program

Miscellaneous Notes and Comments

Please use this section to list any miscellaneous notes or comments related to the regulations outlined above or any regulations you believe should be discussed at the ESC's next meeting.

Appendix 1. Final Rating Form (Example)

CONSTRUCTION OF ADULT LOCAL CRIMINAL JUSTICE FACILITIES: FINAL RATING FORM				
<u>Proposal Being Rated:</u>		<u>Proposal #:</u>		
<u>Rater ID:</u>		<u>Initial Rating Date:</u>		
RATING FACTORS		Rating Points	Initial Rating	Revised Rating
1	Project Need			
2	Scope of Work			
3	Offender Management and Programming			
4	Administrative Work Plan			
5	Budget Review			