

COUNTY REAL ESTATE DUE DILIGENCE

PACKAGE SUBMISSION CHECKLIST

This checklist is intended for use as a guide when researching for and preparing real estate due diligence review submission packages in support of the Board of State and Community Corrections (BSCC) SB 1022 Request for Proposals (RFP), Construction of Adult Local Criminal Justice Facilities, issued July 2013. (A separate and distinct checklist is to be used by counties that are seeking funding preference under the real estate due diligence criterion for their proposal submittal. See the Real Estate Due Diligence Preference Criterion checklist on the BSCC website.)

This checklist corresponds to the real estate due diligence review and the land-only appraisal review components of the Real Estate Due Diligence review addressed within the RFP and required in order for a county to be considered eligible to participate in the Adult Local Criminal Justice Facilities Construction Financing Program. The real estate due diligence review and the land-only appraisal review will be performed by the California Department of General Services (DGS) on behalf of the State Public Works Board (SPWB).

Additional documentation, documentation updates, and assurances may be requested by the State in support of its review requirements.

PACKAGE SUBMITTAL INSTRUCTIONS

Within 120-days of the BSCC conditional award, two (2) complete sets of documentation packaged in 3-ring binders are required for each proposed project submitted to DGS. Binder tabs should separate each section according to the Package Submission Checklist. Completed packages should be mailed to:

Department of General Services
RESD/PSB/RPSS
707 3rd Street, 5th Floor
West Sacramento, CA 95605

Attn: Transaction Review Unit
(916) 375-4010

INITIAL COUNTY PACKAGE SUBMISSION DOCUMENTS

Preliminary Report

- Preliminary Report Provide a preliminary report prepared by a title company authorized to issue title insurance within the State of California. The preliminary report should be dated within three (3) months of the RFP package submission.

The area covered by the preliminary report, i.e., its legal description, should be that of the proposed project site. However, if the proposed project site is only a portion of a greater county campus (i.e., the proposed project site is not an existing stand-alone legal parcel fronting a public road and public utilities) then the area covered by the preliminary report should be that of the greater county campus.

Additionally, if vehicular access and or all public utility access, to the proposed project site or greater county campus, are not by way of direct frontage on a public road and or public utility easement(s), then the area and interests covered by the preliminary report

should also include any additional adjacent parcels and/or appurtenant easements that facilitate the vehicular and or public utility access.

Fulfilling these requirements provides for a preliminary report covering the, "Greater Parcel Area".

- Title Documents When ordering the preliminary report require the title company to provide copies of all Greater Parcel Area vesting documents and vesting reference documents. They should also provide copies of all preliminary report exceptions to coverage documents including reference documents and maps of record.
- Updated Preliminary Report Request(s) Provision of preliminary report updates in support of the State's review process may be necessary (e.g., upon mitigation of an issue, to correct an error, etc.).

The county is required to provide an updated preliminary report prior to the actual bond sale. Timing for the update will be as directed by SPWB staff.

Appraisal of the Proposed Project Site

- Appraisal Report Provide an independent real estate appraisal identifying land-only value for the proposed project site. The appraisal must be completed by an appraiser with a valid Certified General License issued by the State of California Office of Real Estate Appraisers.

Submit a copy of the proposed project site appraisal prepared for the county's RFP response. If an independent real estate appraisal was not prepared for the county's RFP response, submit a new appraisal that provides an effective date of value for the proposed project site that is within one year prior to, and including, October 24, 2013.

The appraisal will be reviewed by DGS and should conform to DGS Appraisal Specifications (revised 01/01/2008). The DGS Appraisal Specifications are available on-line at <http://www.dgs.ca.gov/resd/AboutUs/AppraisalReview.aspx>.

A DGS approved appraisal is required to maintain eligibility in the Adult Local Criminal Justice Facilities Construction Financing Program.

Records Search

- Documents Provide copies of all recorded or unrecorded vesting documents, mineral interests, deeds, easements, quit claims, purchase contracts, real estate agreements, title insurance policies, maps, legal descriptions, leases, memorandums of lease, lease termination statements, contracts, Uniform Commercial Code filings, and other legal documents affecting the Greater Parcel Area from sources such as:
 - The title company for documents filed with the County Recorder's Office;
 - County files (search all potential areas where files may be stored such as county facility headquarters, local jail facility offices, county archives, pending/active/closed project files, etc.).
Additionally, provide copies of all Greater Parcel Area recorded documents found, outside of and in addition to, those recorded documents provided by the title company (e.g., these could be documents that were not identified by or are not considered as exceptions to coverage by the title company).
- Assessor's Map Provide copies of Greater Parcel Area Assessor's Parcel Maps (these are typically included with the preliminary report).

Unrecorded Rights Certification Letters

- Letters from County Provide Unrecorded Rights Certification letters identifying the existence, or lack thereof, of any and all unrecorded rights that potentially impact the Greater Parcel Area.

Two (2) Unrecorded Rights Certification letters are required for each Greater Parcel Area. One (1) letter is to be prepared and signed by the local facility property manager and one (1) letter is to be prepared and signed by the county property manager.

A site-inspection of the Greater Parcel Area must be personally performed by each county staff member authorized to prepare and sign the certification letters.

When preparing the local facility and headquarters letters, if unrecorded rights are not identified, state so. If unrecorded rights do exist, identify them and supply any applicable documentation.

Some examples of “unrecorded rights” that encumber or may otherwise affect the property interests of the Greater Parcel Area are: contracts, leases, licenses, agreements, memorandums of understanding with public or private entities or persons that affect the use and/or occupancy of the Greater Parcel Area. We are looking for any potentially enforceable right another entity or person may claim allows them to use, occupy, or cross the Greater Parcel Area.

Sometimes conditions exist in real property that one assumes are recorded legal uses, i.e., roadways, irrigation/flood control facilities, ditches, encroachments, or utility lines. However, a visually identified or known periodic use may not appear in the property’s preliminary report. Compare your records and knowledge of site conditions with the preliminary report and identify any conflicting property uses.

Title Exceptions Map

- Map

The title exceptions map of the Greater Parcel Area shall reflect the following information found in the preliminary report, discovered during the county’s unrecorded rights on-site inspection, and real property encumbrances discovered during the county’s search of its files:

- Plot and label all Greater Parcel Area geographically locatable exceptions reflected on the preliminary report, encumbrances discovered during the on-site inspection, and real property encumbrances discovered during the county’s search of its files;
- Locate the proposed project site within the Greater Parcel Area;
- Prepare on 8 ½” x 11” white bond;
- Stamped by a Land Surveyor licensed in the State of California and wet signed;
- Electronic copy in .pdf format.

ADDITIONAL COUNTY DELIVERABLES AFTER THE DGS’S INITIAL REVIEW

Legal Descriptions and Plat Map

- Additional Deliverables

Upon completion of DGS’s initial review of recorded and unrecorded rights affecting the Greater Parcel Area, the county will need to provide the deliverables described below.

To more efficiently manage project costs, it is recommended that counties coordinate with BSCC and DGS staff prior to preparing or contracting for deliverables identified within this section.

The legal description and accompanying legal description plat map (as described below) of the proposed project site are intended to be utilized as exhibits within multiple lease-revenue bond documents and are subject to specific production standards. The final

determination as to the sufficiency of the legal description and legal description plat map will be made by SPWB staff.

The following general requirements apply to each legal description and legal description plat map:

- Submit one (1) electronic copy in .pdf format each individually for the legal description, legal description plat map, and title exceptions map (as described below);
 - Prepare on 8 ½" x 11" white bond;
 - Do not include company logos, title blocks, shrubbery, trees, contour lines, or "Exhibit" labels on any of the documents;**
 - Labeling format:
 - Legal description – labeled simply, "Legal Description";
 - Legal description plat map – labeled simply, "Plat Map to Accompany Legal Description";
 - Provide wet signed and stamped documents for the legal description (newly written legal descriptions for the proposed project site), and legal description plat map.
- Legal Description Existing previously recorded legal descriptions of the proposed project site may be utilized without being wet signed and stamped.

When developing a newly written legal description for a proposed project site consider the following guidelines:

- The property boundary being described should generally include at least a 5-to-15 foot buffer between the actual facility being constructed and other buildings on the site (not part of the proposed project). This rule is unrelated to any building code requirement. It is a general rule and may be altered given particular site conditions and/or upon the direction of SPWB staff;
- The basis of bearings shall be established along a record line or between monuments of record either on or directly tied to the property lines of the facility where the property being encumbered is located;
- Establish a legal reference point that can be identified, and label it (ex. Point of Commencement (POC), Point of Beginning (POB), or similar.);
- Horizontal control shall be tied to the California Coordinate System of 1983 (CCS83), unless, otherwise directed by the State. In the event that CCS83 cannot be obtained, Consultant shall request a waiver from the State in writing stating the reasons and documenting a coordinate system that will be used;
- Include any pertinent parcel information of record (ex: book and page numbers, assessor parcel numbers, lot numbers, etc.) in addition to the necessary information to get from the POC or POB to the True Point of Beginning (TPOB);
- The calls for bearing and distance necessary to go from TPOB around the perimeter of the agreed property being encumbered back to the TPOB;
- The square footage and acreage of the property being encumbered;
- Typed on 8 ½" x 11" white bond;

- Stamped by a Land Surveyor licensed in the State of California and wet signed;
 - Electronic copy in .pdf format;
 - **Do not include company logos, title blocks, page numbers or other labeling, including “Exhibit” references on the legal description.**

- Legal Desc. Plat Map The legal description plat map of the proposed project site shall contain the following information:
 - A vicinity map shall roughly locate the proposed project site relative to the overall facility boundary of record, or recorded roads;
 - Show relationship of the property being encumbered to adjacent buildings and/or features;
 - Either be to scale, with scale stated, or have geometric relationship to relationship above;
 - Outline the proposed project structure within the property being encumbered;
 - Detail graphically the TPOB, and all bearings and calls around the perimeter of the property being encumbered;
 - Detail graphically the POC (POB), and all bearings and calls from it to the TPOB;
 - Prepare on 8 ½” x 11” white bond;
 - Stamped by a Land Surveyor licensed in the State of California and wet signed;
 - Electronic copy in .pdf format;
 - **Do not include company logos, title blocks, page numbers, shrubbery, trees, contour lines or “Exhibit” labels on the plat map. All type must be of a size and quality to be clearly readable.**

FUTURE COUNTY DELIVERABLES PRIOR TO THE BOND SALE

Update at Time of Bond Sale

- Future Deliverables Prior to the bond sale and generally on or around the time of completion of construction, an update of the real estate due diligence review is required.

The update is necessary to identify and analyze newly disclosed Greater Parcel Area burdens that impact the proposed project site. Confirmation that the project was built within the property being encumbered is also obtained.

Timing for the update will be as directed by SPWB staff.

The following county deliverables are required at the time of the real estate due diligence update:

- An updated preliminary report covering the Greater Parcel Area. The report should be prepared by the title company providing the original preliminary report;
- Updated Unrecorded Rights letters addressing any changes from the letters originally submitted;
- A letter certifying that the construction project was built within the proposed (or final) project site. The letter should be signed by the county staff responsible for project management.

PACKAGE SUBMISSION NOTES AND RELATED REVIEW PROCESSES

Site Inspections by State

- Site Visits The State will conduct site inspections of the Greater Parcel Area prior to completion of its real estate due diligence review. The site visits will be coordinated by BSCC staff.

Findings and Mitigation

- Real Estate Due Diligence Reports The DGS will submit a written report to SPWB staff outlining all findings of the real estate due diligence review and will identify any outstanding issues.

The report will include recommendations for the mitigation of any known condition on the Greater Parcel Area that may affect the value, desirability or utility of the proposed project site. Copies of the report will also be provided to BSCC, California Department of Corrections and Rehabilitation (CDCR) and the county.

The DGS will submit a written report to SPWB staff of its analysis and conclusions of its proposed project site land-only value appraisal review. Copies of the report will also be provided to BSCC, CDCR, and the county.

The DGS will also submit the real estate due diligence review update summary report to SPWB staff with copies going to BSCC, CDCR, and the county.
- Issue Mitigation The DGS will attempt to clear minor property rights and other real estate due diligence issues during its review process. Clearing substantial issues such as those requiring abandonment or relocation of existing road/utility rights-of-way, recordation of correction deeds to perfect title, establishment of the property's boundary lines, quit claiming surface or mineral rights, quit claiming interests held by outside parties, and condemnation actions is the county's responsibility. The DGS is available on a fee for service basis to provide issue mitigation support.

Depending upon the nature of the issue, it is possible under certain conditions, to proceed with the project while mitigating an outstanding issue. This will be as directed by SPWB staff on a case-by-case basis.