

INITIAL STATEMENT OF REASONS

LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY CONSTRUCTION FINANCING PROGRAM TITLE 15-CRIME PREVENTION AND CORRECTIONS DIVISION 1, CHAPTER 1, SUBCHAPTER 7

“Corrections Standards Authority” and “Authority” have been replaced throughout these regulations with “Board of State and Community Corrections” and “BSCC”. This amendment is pursuant to Penal Code 6024; the Corrections Standards Authority was replaced by the Board of State and Community Corrections effective July 1, 2012. Updating the agency name will ensure consistency with current statutes.

ARTICLE 1. GENERAL PROVISIONS

Section 1800. Purpose. This regulation specifies the purpose of the following sections in implementing specific financing programs as described in the listed Welfare and Institutions Code. Revisions reflect legislative action, amending the text to include Chapter 1.5, Article 3 of Division 2.5 of the Welfare and Institutions Code, as well as updating the authority and reference citations to reflect the addition of two codes not previously included (1977 and 1978, Welfare and Institutions Code). The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact for these changes.

Section 1806. Definitions. This regulation defines terms used throughout these regulations. To provide clarity and consistency, several regulations have been modified, deleted, or added. Additionally, the terms “Corrections Standards Authority” and “Authority” have been replaced throughout these regulations with “Board of State and Community Corrections” and “BSCC”. In 2012, pursuant to Penal Code Section 6024, the “Corrections Standards Authority” was replaced by the “Board of State and Community Corrections.” Updating the agency name will ensure consistency with current statute.

The definition “2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program” was removed from the beginning of these definitions and inserted farther down the list as “Local Youthful Offender Rehabilitative Facility Construction Financing Program”. Due to the SB 81 Request for Proposals, Round Two financing to be released in September 2014, the inclusion of “2007” in the definition restricted the term to only the original program from that year. No further changes to the definition have been made.

The definition “Authority” was removed to provide clarity and consistency. In 2012, pursuant to Penal Code Section 6024, the Corrections Standards Authority was replaced by the “Board of State and Community Corrections”. Updating the agency name will ensure consistency with current statute.

The definition “Architectural drawings” is proposed to clarify the use of the term in Section 1849, Submittal of Architectural Drawings and Specifications for Design-Bid-Build Projects.

The definition “Board of State and Community Corrections agreement” is proposed to provide clarity to the term used in Section 1848.5, Requirements for the Board of State and Community Corrections Agreement.

The definition “BSCC”, means the Board of State and Community Corrections, this term is proposed to provide clarity and consistency. In 2012, pursuant to Penal Code Section 6024, the Corrections Standards Authority was replaced by the “Board of State and Community Corrections.” Updating the agency name will ensure consistency with current statute.

The definition “Cash match” was modified to clarify that the reference to Section 1814, is a reference to a specific section within these regulations, no previous distinction was made to where or what code Section 1814 was part of.

The definition “Concept drawings” was added to provide a description of a specific type of architectural rendering required during the design-build construction process. The design-build construction delivery method was not outlined in previous versions of these regulations, the process and requirements are different than the more traditional design-bid-build method. The specific requirements must be communicated to participating counties to ensure their successful completion of construction through this financing program.

The definition “Conditional award” was added to provide clarity to a commonly used term used often during the award and construction processes. A county may be awarded, however, such awards are contingent upon certain requirements which are explained in the definition. It is necessary that counties interested in participation in a financing program know that once they are issued an award they must follow through with specific steps to keep that award.

The definition “Conditional award state bond funds” was removed in part because of the addition of the definition “Conditional award”. The two definitions are similar, however the term “Conditional award state bond funds” is not well known or commonly used, and the term on its own is confusing and not well written.

The definition “Construction bid” was added to provide clarification as to what a bid consists of in a construction financing program. Awarded counties need to be aware that their construction bids should be the result of a publicly advertised request for bid process and that they must choose a qualified contractor to award their contract to.

The definition “County juvenile facility” was removed due to changing standards in juvenile corrections and the juvenile realignment effort. As a result of the juvenile realignment, the 2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program and the Youthful Offender Block Grant were created. The previous

commonly-used term “juvenile” is being replaced with “youthful” to provide consistency with statute and to mirror the Board of State and Community Corrections Title 15, Division 1, Chapter 1, Subchapter 5 Minimum Standards for Juvenile Facilities language that replaced “juvenile” with “youth”, effective April 1, 2014.

The definition “Design-bid-build” was added to include necessary information on this type of construction delivery method. The original text of these regulations did not define or outline the fact that there are two acceptable methods of construction delivery, design-bid-build being the more traditional approach.

The definition “Design-build” was added to include necessary information on this type of construction delivery method. The original text of these regulations did not define or outline the fact that there are two acceptable methods of construction delivery, design-bid is the less traditional, but faster construction process.

The definition “Evaluation and rating process” was modified to remove references to specific sections in these regulations and to remove the text “resulting in a rank ordered list for financing consideration” because these items significantly narrowed the applicability of the term and did not allow for a different type of evaluation and rating process as prescribed by the Round Two Executive Steering Committee.

The definition “Facility administrator” was modified to remove the term “county juvenile facility” for consistency with statute and other Youth-related Title 15 regulations promulgated by the Board of State and Community Corrections.

The definition “Facility lease” was modified to remove the term “county juvenile facility” for consistency with statute and other Youth-related Title 15 regulations promulgated by the Board of State and Community Corrections.

The definition “Facility sublease” was modified to remove the term “county juvenile facility” for consistency with statute and other Youth-related Title 15 regulations promulgated by the Board of State and Community Corrections.

The definition “Ground lease” was modified to insert clarifying language that a ground lease applies only to Board-financed properties, and to remove the term “county juvenile facility” for consistency with statute and other Youth-related Title 15 regulations promulgated by the Board of State and Community Corrections. The term “(the “site”)” was removed for grammatical reasons.

The definition “In-kind match” was modified to broaden the meaning by inserting “local funds in the form of property value or management/administrative services” and remove “the cost of county paid personnel, land, or services”, this change is also to create a consistent definition between adult and youthful construction program regulations.

The definition “Interim Financing” was inserted to provide clarification of the term as prescribed by the State Department of Finance and the State Public Works Board (Board). The definition is necessary to define which government entity is responsible for financing loans and provide the applicable government codes.

The definition “Large county” was modified to provide updated county population information for proposed Phase Two projects, as defined by the State Department of Finance for the current year by inserting “and January 1, 2014.”.

The definition “Lease-revenue bonds” was modified to replace the term “funds” with “financing”. The intent of this modification is to remove these financing programs from the idea that they are grants or general funds. Prospective participants need to be aware that these are financing projects, not grants. The term “local youthful offender rehabilitative” was inserted to replace the term “local juvenile” to remain consistent with language found in statute. The previous commonly-used term “juvenile” in these regulations is being replaced with “youthful” to provide consistency with statute and to mirror the Board of State and Community Corrections Title 15, Division 1, Chapter 1, Subchapter 5 Minimum Standards for Juvenile Facilities language that replaced “juvenile” with “youth”, effective April 1, 2014.

The definition “Local Youthful Offender Rehabilitative Facility” was added to provide a necessary description of what this financing program was created to construct. Previous versions of these regulations did not provide a definition of the facility types eligible for financing and were often referred to by the term “juvenile facility” which is being replaced with “youth facility” throughout these regulations.

The definition of “Local Youthful Offender Rehabilitative Facility Construction Financing Program” was inserted in this section of the Definitions as a replacement to the removed definition “2007 Local Youthful Offender Rehabilitative Facility Construction Financing Program”. Due to the SB 81 Request for Proposals, Round Two financing to be released in September 2014, the inclusion of “2007” in the definition restricted the term to only the original program from that year. No further changes to the definition have been made.

The definition “Match” was modified to replace the term “funded” with “financed”, the intent is to remove these financing programs from the idea that they are grants, or general funds, prospective participants need to be aware that these are financing projects, not grants.

The definition “Medium county” was modified to remove the term “provisionally” as requested by the State Department of Finance, as the population estimates are not temporary or unfinished in any way. The term “and January 1, 2014” was also added to include the most recent estimation date that will be applicable to the counties proposing projects for Round Two Financing .

The definition “Needs assessment study” was modified to remove language referring to juvenile and local youthful offender rehabilitative facilities. There is no need to define the projects in such a restrictive manner in this definition, needs assessments must be conducted on any type of project as directed in these regulations. The term “2007” was also removed as to not exclude Round Two financing from being applicable to this definition.

The definition “Net gain in beds” was modified to remove “2007” from the name of the program, Local Youthful Offender Rehabilitative Facility Construction Financing Program.

“2007” is no longer necessary to state as the Round Two financing Request For Proposal is being released to the field in September 2014.

The definition “Operational program statement” was modified to remove “county juvenile facility or” as consistent with statute, juvenile realignment, and the text of these regulations. The term “funded” was replaced with “financed”, the intent is to remove these financing programs from the idea that they are grants, or general funds, prospective participants need to be aware that these are financing projects, not grants.

The definition “Participating county” was modified to remove the reference to Welfare and Institutions Code, as the definition is a duplication of the code being referred to. A reference was inserted to Chapter, Article, and Division of the Welfare and Institutions Code to provide the enabling legislation information. “Section 1970 and 1975 respectively” was removed to make the reference less restrictive, as was “the construction or renovation”. The term “county juvenile facility or” was removed to remain consistent with language found in statute. The previous commonly-used term “juvenile” in these regulations is being replaced with “youthful” to provide consistency with statute and to mirror the Board of State and Community Corrections Title 15, Division 1, Chapter 1, Subchapter 5 Minimum Standards for Juvenile Facilities language that replaced “juvenile” with “youth”, effective April 1, 2014. “Those” was replaced with “that” and “s” was removed from “chapters” for grammatical reasons.

The definition “Performance criteria” was added to provide a much needed description of an often questioned item. Performance criteria are specific to design-build projects, which in previous versions of these regulations were not included or described as a construction delivery method.

The definition “Preliminary plans” was added to provide necessary information on a phase of construction and required deliverables assigned to that phase. This definition was not previously included in the regulations, providing it to participating counties will clear up any confusion that they may have on what is included in preliminary plans.

The definition “Project” was modified to remove “county juvenile facility or” as consistent with statute, juvenile realignment, and the text of these regulations. The term “funded...by” was replaced with “financed”, the intent is to remove these financing programs from the idea that they are grants, or general funds, prospective participants need to be aware that these are financing projects, not grants. “2007” was also removed from this definition to remain consistent with the language title of this regulations section title.

The definition “Project delivery and construction agreement” was modified by removing “Authority” and inserting “BSCC” to provide clarity and consistency. In 2012, pursuant to Penal Code Section 6024, the Corrections Standards Authority was replaced by the “Board of State and Community Corrections”. Updating the agency name will ensure consistency with current statute. A reference to Section 1848 of these regulations was added to this definition as the BSCC felt was necessary to expand upon the conditions describing a project delivery and construction agreement.

The definition “Proposal” was modified by replacing the term “application” with “proposal”. The process of a Request for Application is different than a Request for Proposal, using the correct terminology will create consistency and reduce confusion for individuals and counties who will use these regulations as a guide. “2007” was also removed from this definition to remain consistent with the amended language of this regulations section title.

The definition “Proposal evaluation criteria” was modified to remove “2007” from this definition to remain consistent with the amended language of this regulations section title.

The definition “Rated capacity” was modified to remove “Authority” and insert “BSCC” to provide clarity and consistency. In 2012, pursuant to Penal Code Section 6024, the Corrections Standards Authority was replaced by the “Board of State and Community Corrections”. Updating the agency name will ensure consistency with current statute. The reference to Title 24 of the CCR was corrected by removing “Chapter 12” and inserting “Part 2” to ensure users of these regulations are referred to the correct regulatory section.

The definition “Round One” was added to differentiate between financing that was awarded through the Original Senate Bill 81 (Stats. 2007, Chapter 175) and subsequent Assembly Bill 1628 (Stats. 2010, Chapter 729), and the remaining amount of financing being made available for award by Senate Bill 365 (Stats. 2013, Chapter 627).

The definition “Round Two” was added to differentiate between financing that was awarded through the Original Senate Bill 81 (Stats. 2007, Chapter 175) and subsequent Assembly Bill 1628 (Stats. 2010, Chapter 729), and the remaining amount of financing being made available for award by Senate Bill 365 (Stats. 2013, Chapter 627).

The definition “Site” was modified to insert “Board-financed”, this language was necessary to describe a specific type of site, which must be the land on which the Board-financed facility is located, according to leasing agreements. “Local youthful offender rehabilitative facility” was added, and “county juvenile facility or” and “juvenile facility” was removed, to describe facilities in a way that is more consistent with statutory language.

The definition “Small county” was modified to remove the term “provisionally” as requested by the State Department of Finance, as the population estimates are not temporary or unfinished in any way. The term “and January 1, 2014” was also added to include the most recent estimation date that will be applicable to the counties proposing projects for Round Two financing.

The definition “Soft match” was modified to broaden the meaning by inserting “local funds in the form of property value or management/administrative services” and remove “the cost of county paid personnel, land, or services”. This change is also to create a consistent definition between adult and youthful construction program regulations.

The definition “Special use beds” was modified to update the reference to Title 24 of the CCR which was in need of correction by removing “Chapter 12” and inserting “Part 2” to ensure users of these regulations are referred to the correct regulatory section.

The definition “State bond funds” was modified by replacing the term “funds” with “financing”. The intent is to remove these financing programs from the idea that they are grants, or general funds, prospective participants need to be aware that these are financing projects, not grants. The term “county juvenile facilities or” was removed as consistent with statute, juvenile realignment, and the text of these regulations. “of Division 2.5” was added to this definition as a method of better describing to our constituents where statutory information on this program may be found.

The definition “State reimbursements” was added to these regulations to provide better disclosure to awarded counties that payments of awarded funds are made by reimbursements, only on items deemed eligible, and they are made by CDCR not the BSCC. This information was commonly requested in previous programs, our intent is to share as much information up front as possible.

The definition “Working drawings” was added to these regulations in an effort to better describe and differentiate between the many different types of drawings that are required throughout the process of these projects.

The definition of “Youthful offender rehabilitative facilities” was removed to keep these regulations in line with the Senate Bill 81 Round Two Executive Steering Committee’s ideas on what counties need this financing program for. The BSCC does not want to limit projects to a single definition created years ago that doesn’t apply to current needs and situations.

The citations in the note section were modified to align properly with BSCC’s statutory authority. There is no operational or fiscal impact for these changes.

ARTICLE 2. ELIGIBILITY REQUIREMENTS

Section 1812. Eligibility Requirements.

This section outlines the program-specific requirements for the participation and reimbursement of a Round One and/or Round Two project. The language was modified to remove “2007” as is consistent with the updated Subchapter name. Language was added to make necessary differentiation between the original Round One projects and the newly released RFP for the Round Two projects. The term “county juvenile facility or” and “county juvenile” was removed for consistency with changing standard industry language. The terms “financing” and “bond financing” was replaced with “reimbursement” to avoid previous confusion on what participating counties were being reimbursed and/or financed for. The term “Authority” was replaced by “BSCC” pursuant Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1814. Matching Fund Requirements.

These regulations outline the required amount and type of matching funds a county must contribute to a proposed project. In previous year’s, language used for lease-revenue bonds was different than it is now, the term “funded” was replaced with “financed” to remove any confusion that these programs are grants rather than lease-revenue bond financed projects. The term “authority” was replaced with “BSCC” pursuant Penal Code

6024. Several grammatical changes were made for consistency with related adult regulations such as the removal of “below” and addition of “of...or fewer” in 1814(b). “County juvenile facility or” was removed for consistency with changing standard industry language. Sections 1814(d)(5) was inserted to provide specific eligible items for the Round Two projects, which differ from Round One. Specific language is necessary for Round Two projects because the matching fund requirements were decided by a separate Executive Steering Committee (ESC). The Round Two ESC determined that there was a need for additional match items, based on knowledge of the previous Round One financing and well known County needs. The language in Section 1814(f)(1) was modified to remove language about contracted auditors, contracted auditors are eligible for cash match as listed in Section 1814(d)(6), while in-kind match of auditors are eligible for work done by county staff as listed in 1814(f)(1). Section 1814(g) was modified to add “directly” and remove “funded by the Authority” as a means of providing clarity, and pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

ARTICLE 3. PROPOSAL TO PARTICIPATE IN LOCAL YOUTHFUL OFFENDER REHABILITATIVE FACILITY CONSTRUCTION FINANCING PROGRAM

The title of Article 3 was modified to replace “APPLICATION” with “PROPOSAL” due to the fact that these programs operate through a “Request for Proposals” process, not a “Request for Application” process. “2007” was removed from the title for consistency with the Subchapter title of these regulations. There is no operational or fiscal impact for these changes.

Section 1830. Proposal For Round One.

This regulation outlines the process and requirements of the request for proposals process for Round One projects. The language was modified by replacing “Authority” with “BSCC”, pursuant to Penal Code 6024. The website listed in Section 1830(a) was replaced with the current address for BSCC. In Section 1830(b)(3), “include identifying” was replaced with “identify” for grammatical reasons, and “funds” was replaced with “financing” to reduce confusion with grant programs. There is no operational or fiscal impact for these changes.

Section 1830.1 Proposal For Round Two.

This regulation was added to outline the process and requirements of the request for proposals process for Round Two projects for which the Request for Proposals was released on September 12, 2014. Round One, the RFP of which was released in 2009, was awarded and the list of eligible counties was exhausted. An Executive Steering Committee (ESC) was assembled to form the Round Two financing program Request for Proposals based on expert opinion on county and youth needs. While the enacting legislation for Round Two is the same as for Round One, the two programs need differing language and program aspects due to the difference in past and current program needs. There is no operational or fiscal impact for these changes.

Section 1831. Needs Assessment Study.

This regulation outlines the requirement for participating counties to provide a needs assessment with their proposal. The language “county juvenile facility (as defined in Title 15, CCR, Division 1, Chapter 1, Subchapter 5, Section 1302 and Title 24, CCR, Section

13-201) or a” was removed for changing industry standards in language and to remove the unnecessary and restrictive siting of Title 15 and Title 14. “County juvenile” was removed for changing industry standards in language used for youthful offenders. There is no operational or fiscal impact for these changes.

Section 1840. Round One Proposal Evaluation Criteria.

This regulation outlines the criteria by which each submitted proposal was evaluated. “Round One” was added as a method of differentiating the requirements of Round One criteria opposed to Round Two which Section 1840.1 was added for. Round One Financing was awarded in 2009, the applicant list was exhausted, and with remaining funds available for award, Round Two was created as a means to address current needs of counties and youth, and an awards process to meet those needs with the remaining funds. There is no operational or fiscal impact for these changes.

Section 1840.1 Round Two Proposal Evaluation Criteria.

This regulation outlines the criteria by which each submitted proposal was evaluated for Round Two. Round Two Request for Proposals was released on September 12, 2014. The evaluation criteria that will be used for this program differs from Round One, as selected by the Executive Steering Committee, a panel of experts in the field of youth corrections. There is no operational or fiscal impact for these changes.

Section 1847. Steps to Proceed with Construction for Design-Bid-Build Projects.

This section outlines the process for Design-Bid-Build construction projects. The Section title was changed from “Pre-financing Requirements” to “Steps to Proceed with Construction for Design-Bid-Build Projects” due to the addition of a different acceptable method of construction delivery, Design-Build (See Section 1847.1). The distinction is necessary to outline these two very different methods that are available for counties to choose from. The term “funds” was replaced with “financing” to remove any confusion about this program being a grant, “authority” was replaced with “BSCC” pursuant to Penal Code 6024. “for Round One, and Section 1830.1 for Round Two” was added to Section 1847(a)(1) to provide a necessary reference for the new Round Two projects. Section 1847(a)(2) contained an incorrect reference to Title 24 of the CCR, “Chapter 12” was replaced with “Part 2” for correction. Section 1847(a)(3) was removed because such a statement is not required or necessary, a new requirement was added as (3) outlining the current requirements and approvals necessary for proceeding with specific project steps. Sections (a)(4) through (a)(8) were modified to lessen confusion between lease-revenue bonds and state bond funds, and remove all references to “authority”, inserting “BSCC” pursuant to Penal Code 6024. “Final notice of determination on its environmental impact report” was replaced with “documentation of California Environmental Quality Act Compliance...and,” to update the most current practices of CEQA. “(Minimum of a 40 plus year site lease or use permit)” was removed, as it was incorrect, a minimum of 40 years is not a requirement in the lease process, leases expire when the lease-revenue bond is paid off, which is approximately 25-30 years according to current estimates. Section 1847(a)(9) was removed because it is an unnecessary requirement for participating counties, the BSCC works closely with CDCR and the Board and is the liaison between the Board and the county. This specific section was necessary to communicate to awarded counties the process and steps that must be taken should they choose to build their facility using the Design-Bid-Build delivery method. Many counties are unaware of the state construction delivery methods and their differing processes, providing a guide will ensure the successful completion of construction projects. There is no operational or fiscal impact for these changes.

Section 1847.1. Steps to Proceed with Construction for Design-Build Projects.

This section outlines the process for Design-Build construction projects, which was not previously accepted by the State or included in these regulations as a method of construction. The addition of this section is necessary to provide participating counties a procedure for the Design-Build delivery method, if they choose to use it, because it varies greatly from the more traditional Design-Bid-Build method. There is no operational or fiscal impact for these changes.

Section 1848. Requirements for Project Delivery and Construction Agreement.

This section outlines the Project Delivery and Construction Agreement, a required document for participating counties after their project has been established by the Board. A significant amount of this section was removed because it was unnecessary and some of the items may change depending on the specific project. Project Delivery and Construction Agreements have been changed to a “Form Of” document of which the language is no longer subject to modification requests, this section was modified to reflect a more simplified explanation of this agreement, the timeline required, and remove unnecessary or outdated information regarding the BSCC’s agency name pursuant to Penal Code 6024, and use of “juvenile” instead of “youth”. There is no operational or fiscal impact for these changes.

Section 1848.5. Requirements for the Board of State and Community Corrections Agreement.

This section outlines the requirements for the agreement between the BSCC and the participating county. The BSCC Agreement (formerly known as the CSA agreement), was never originally addressed in these regulations, though it was being used and required. This section is necessary to avoid the use of requirements not specified in these regulations. There is no operational or fiscal impact for these changes.

Section 1849. Submittal of Architectural Drawings and Specifications for Design-Bid-Build Projects.

This section outlines the requirements for submittal of drawings and specifications specifically as they pertain to Design-Bid-Build projects. The term “Authority” was replaced with “BSCC” pursuant to Penal Code 6024. Section 1849(a)(1) was removed due to the fact that it doesn’t apply to all project types, all projects must still meet Title 24 guidelines as specified in the incorporated Request for Proposals document. The reference to Title 24 in Section 1849(d) was incorrect, “Chapter 12” was replaced with “Part 2”. There is no operational or fiscal impact for these changes.

Section 1849.1. Submittal of Performance Criteria and Architectural Drawings and Specifications for Design-Build Projects.

This section outlines the process for Design-Build construction projects, which was not previously accepted by the State or included in these regulations as a method of construction. The addition of this section is necessary to provide participating counties a procedure for the Design-Build delivery method, if they choose to use it, because it varies greatly from the more traditional Design-Bid-Build method. There is no operational or fiscal impact for these changes.

Section 1850. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Bid-Build Projects.

The title of Section 1850 was modified to include “Operational Program Statement/...for Design-Bid-Build Projects”, due to the addition of Design-Build as an accepted delivery method of construction for these projects. The distinction must be made between deliverables and requirements of each type of delivery method to ensure that participating counties are notified and aware. The original section (a) of 1850 was moved down and renamed (c) and so on. A new 1850(a) was inserted, “Pursuant to Title 24, CCR, Part 1, Section 13-201(c)3, an operational program statement shall be submitted with the

schematic design drawings and specifications.” To include a requirement for Design-Bid-Build projects that was not previously included in the regulations but was still required at the time. “Program statement and” was removed from 1850(b)(3) because it was unnecessary and not required. “Authority” was replaced with “BSCC” in 1850(c) pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1850.1. Operational Program Statement/Staffing Plan/Operating Cost Analysis for Design-Build Projects.

This section was added to explain the requirements of Design-Build Projects, in reference to the operational program statement, staffing plan, and operating cost because they differ from the requirements of the more traditional Design-Bid-Build delivery method of construction in Section 1850. There is no operational or fiscal impact for these changes.

Section 1851. General County Requirements.

This section outlines the more generalized requirements of the Local Youthful Offender Rehabilitative Facility program, it was modified to remove “county juvenile facility or” as consistent with statutory language, juvenile realignment, and the text of these regulations. The statement “In all agreements related to this program” was added to section 1851(e) to make a point that each county-signed agreement will include an indemnity, defend and hold harmless statement for the State of California, “acquisition, design, construction, operation, maintenance” was inserted to this section to create a broader scope of application for this statement. There is no operational or fiscal impact for these changes.

Section 1852. Ground Lease.

The Ground Lease section offers explanation on what a ground lease is, who is a party to it, and the documents that must be included. This section was cleaned up to provide participating counties with a simplified more easily understood regulation that doesn't need to be amended each time a process or requirement is changed. Some of the contents of this section were outdated and inconsistent with that is being used currently. There is no operational or fiscal impact for these changes.

Section 1853. Right of Entry for Construction.

This regulation outlines the right of entry for construction agreement between the participating county and CDCR. This section contained some stipulations that are not necessary and have proved to be restrictive and duplicative of other sections of these regulations. To address these issues, “It will terminate when the construction is complete or until the facility sublease is entered into, whichever is earlier.” Was removed along with 1853(c) which is a statement about indemnity. The word “operation” was added to (a) and (b) to clarify that the agreement can extend past the construction phase, as was “and operation of the project upon substantial completion of construction”. There is no operational or fiscal impact for these changes.

Section 1854. Facility Sublease.

This regulation outlines the facility sublease between the Board and CDCR. This section contained some stipulations that are not necessary and have proved to be outdated, restrictive, and duplicative of other sections of these regulations. To address these issues, 1854(c) was removed, 1854(a) was modified to remove “immediately after” and “subject to the terms of the facility sublease, the county may use and occupy the county juvenile

facility or local youthful offender rehabilitative facility”. The stipulation that the Board must consent to a county entering the facility was added, as was a statement that the sublease will describe the responsibilities, obligations and other terms. There is no operational or fiscal impact for these changes.

ARTICLE 4. ADMINISTRATION OF REIMBURSEMENTS AND PROJECT MONITORING

This article title has been modified to remove the language “THE PROCEEDS OF THE STATE BOND FUNDS” and replace it with “REIMBURSEMENTS”, to better represent that these programs are not the same as a regular bond, they are lease-revenue bonds which require reimbursement in arrears, rather than awarding monies upfront like many other programs. There is no operational or fiscal impact for these changes.

Section 1856. Disbursement of State Reimbursements.

This regulation outlines the requirements and procedure of reimbursement through the lease-revenue bond process. Several sections of this regulation have been modified to update information that is better descriptive of the process. The section title was modified to read “Disbursement of State Reimbursements” rather than “Disbursement of the Proceeds from the Lease-Revenue Bond Funds”. All references to payments of proceeds from lease-revenue bonds were removed and language speaking to reimbursement was inserted. These programs operate by offering reimbursement of claimed costs in arrears, previous regulations did not fully explain that information. Sections 1856(f) through (h) were inserted to speak specifically to design-build projects. Section 1856(3) was removed and 1856(i) was inserted to better represent information on withholding amounts and how withheld monies are released. Previous regulations listed a twenty percent (20%) withholding, which is an incredible amount to withhold on multi-million dollar projects that are paid in arrears, no participating county has been held to this requirement, but rather a more reasonable five percent (5%) withholding as seen in 1856(i), this update is to ensure that our regulations match our intent and practice. The term “Authority” was replaced with “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1857. Pooled Money Investment Board.

This section is being repealed by direction of the Department of Finance, which acts as staff to the Pooled Money Investment Board. No regulation is necessary as any rule written in these sections regarding the Pooled Money Investment Board may be duplicative and or incorrect and inconsistent with the most current regulations promulgated by the Department of Finance and/or Pooled Money Investment Board. There is no operational or fiscal impact for these changes.

Section 1860. Record Keeping and Accounting.

This section outlines the requirements for counties to perform record keeping and accounting activities. Original sections 1860(a) and (b) were moved down and renamed (d) and (e). Newly inserted sections (a), (b), and, (c) address what has always been required according the past and present Request for Proposal guidelines, the BSCC felt it was necessary to include this requirement in regulatory form as not to conduct underground regulatory requirements. All reference to “proceeds of lease-revenue bonds” were replaced with “state reimbursements” to better represent that the way this program

reimburses expenditures in arrears, rather than making payments upfront. The term “Authority” was replaced with “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1866. Monitoring of Process.

This regulation outlines the necessary monitoring of county projects by the BSCC and CDCR. The term “Authority” was replaced with “BSCC” pursuant to Penal Code 6024. “The proceeds of lease-revenue bonds” was replaced with “state reimbursements” to better represent the way this program reimburses expenditures in arrears, rather than making payments upfront. The language, “the conditions of the BSCC agreement” was inserted into 1866(a) in order to include a necessary reference to this required agreement for each project and how it relates to the monitoring process. “BSCC...and the State Department of Finance” was inserted into 1866(b), the previous version of (b) spoke only of the Board having administrative oversight of the project, however, that is not consistent with statutory language. Section (c) was added to include information on site access, county files, records, etc., that must be made available to state officials and/or the BSCC upon request for the life of the agreement as part of the monitoring process. There is no operational or fiscal impact for these changes.

Section 1867. Completion of Project.

This regulation outlines the requirements of completion for projects. The original text of the regulation has been modified and renamed as 1867(a), an incorrect reference to the project delivery and construction agreement has been replaced with a reference to the BSCC agreement, which is the correct document. A necessary distinction has been made between requirements specific to design-bid-build and design-build projects, which require two different deliverables for completion. The term “Authority” has been replaced with “BSCC” pursuant to Penal Code 6024. Language specific to issuing a notice of failure has been removed from (a) and inserted as (b). Section (c) has been inserted to disclose and reiterate the requirement of a final project summary and audit. There is no operational or fiscal impact for these changes.

Section 1868. Project Modifications.

This regulation outlines the process of project modification to local youthful offender rehabilitative facility projects. This regulation contained some incorrect references to the “project delivery and construction” agreement in reference to modifications and approvals, the correct agreement, “BSCC” has been inserted. All instances of the term “Authority” have been replaced with “BSCC” pursuant to Penal Code 6024. Language has been inserted throughout sections 1868(a) to clarify what a modification is and how it may get approved by the Board, the original language was determined to be insufficient and confusing to participating counties. A new section (b) has been inserted to disclose that “The participating county shall report, in writing, to the BSCC any modifications to the county’s agreement for construction with its contractor.” The previous section (b) has been moved down to (c), “quarterly” has been removed and “with each invoice/progress report” has been inserted, this change allows counties to choose quarterly or monthly invoicing periods, as the BSCC is aware that reimbursement in arrears to smaller counties can be burdensome on their budget and harmful to the project. Previous section (c) became section (d), in which the term “funds” was replaced with “financing”, the intent is to remove these financing programs from the idea that they are grants, or general funds,

prospective participants need to be aware that these are financing projects, not grants. There is no operational or fiscal impact for these changes.

Section 1870. Audits.

This regulation outlines the report, standards, and process of participating county audits that must be submitted to the BSCC at the completion of each project. For clarification, “perform a financial audit” has been removed and replaced with “obtain an audit performed in accordance with Government Auditing Standards issue by the Comptroller General of the United States for”, this clarifies that audits are to be done by an independent party, whether that is a county-contracted staff member or an outside auditing contractor, BSCC felt it was necessary to include that all audits must be in accordance with Government Auditing Standards. Language pertaining to BSCC and the Board’s right to audit records at any time has been removed from section (a) and inserted as section (d). Section (b) has been renamed (e), the language “of the proceeds of lease revenue bonds” and “payments” have been removed and replaced with references to reimbursement, due to the fact that this program is not a grant, but a financing program that reimburses participating counties in arrears. The newly inserted sections (b) and (c) address necessary steps that counties and/or their contracted auditor must take in order to report the findings of the audit and how a corrective action is to be handled. These sections were necessary to bring this sections of the regulations current with the BSCC’s adult program regulations and to properly convey the requirements placed on auditors. All instances of the term “Authority” have been replaced with “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1872. Unused Conditional Awards.

This regulation addresses unused award monies. The title of this section was modified to removed “Proceeds of Lease-Revenue Bonds” and insert “Conditional Awards” for the purpose of better explaining how lease-revenue bonds are organized. The language “the proceeds of lease revenue bonds” has been replaced with a reference to reimbursement, due to the fact that this program is not a grant, but a financing program that reimburses participating counties in arrears. The term “provided” was replaced with “approved” in reference to conditional bond awards being made to counties, the BSCC is not the state agency that processes bonds, but rather approves the project to be given bond financing awards. The original section (b) was renamed (c) and the original section (c) was deleted. The newly inserted (b) addresses the circumstance of unused award monies, stating that the remaining award amount will be made available for use by other eligible projects. The term “Authority” has been replaced with “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

ARTICLE 5. APPEAL PROCEDURES

Section 1876. Purpose.

This regulations outlines the reason why the appeal procedure article is so vital to the youthful offender program and the reasons why the appeal process may be used. The term “Authority” was replaced with “BSCC” pursuant to Penal Code 6024. The term “financing” criteria was replaced with “evaluation” criteria to better explain this section, “financing” was the incorrect word to apply to the topic being discussed. There is no operational or fiscal impact for these changes.

Section 1878. Definitions.

This section provides definitions specific to the Appeal Procedures article. There is no operational or fiscal impact for the changes made to the Definitions section.

The definition for “BSCC” is proposed to provide consistency with current statutes and regulations, pursuant to Penal Code 6024, the Board of State and Community Corrections (BSCC), replaced the Corrections Standards Authority in 2012.

The definition for “executive director” has been modified to remove the term “authority” and insert the term “BSCC” pursuant to Penal Code 6024.

The definition for “hearing panel” has been modified to remove the term “authority” and insert the term “BSCC” pursuant to Penal Code 6024. A reference to “the proceeds of lease revenue bonds” has been replaced with “state reimbursements” to avoid any confusion that these programs may be a grant and further the fact that these programs reimburse participating counties in arrears, not up front.

The definition for “proposed decision” has been modified to remove the term “authority” and insert the term “BSCC” pursuant to Penal Code 6024.

The definition for “notice of decision” has been modified to remove the term “authority” and insert the term “BSCC” pursuant to Penal Code 6024.

Section 1888. Request for Board of State and Community Corrections Appeal Hearing.

This section outlines the process followed by the BSCC for appeal hearing requests. This regulation and section title has been modified to remove the term “Standards Authority” and “authority” and insert the terms “Board of State and Community” and “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1890. Board of State and Community Corrections’ Hearing procedures.

This regulation outlines the official procedure used in conducting a hearing when requested and/or necessary. This section and section title has been modified to remove “Standards Authority’s” and “Authority” and insert “Board of State and Community” and “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

Section 1892. Board of State and Community Corrections Decision.

This regulation outlines the decision making process in reference to public hearing proceedings. This regulation has been modified to remove “Standards Authority’s” and “Authority” and insert “Board of State and Community” and “BSCC” pursuant to Penal Code 6024. There is no operational or fiscal impact for these changes.

PURPOSE

The purpose of these revisions are proposed to incorporate Round Two of the Local Youthful Offender Rehabilitation Facilities Construction Financing Program regulations. By incorporating the new regulations the BSCC has complied with a portion of the statutory directive outlined in Senate Bill 81 and/or Section 1975 of the Welfare and Institutions Code. In addition to compliance, the BSCC set out to provide participating counties with a clear and concise guide to navigate the process and guidelines of their awarded program. Benefits of these revisions will include enhanced safety and security of local youthful offender rehabilitative facilities and continued protection of detained youth, staff and the public.

Senate Bill 81 (Chapter 175, Statutes of 2007), was enacted on August 24, 2007. The amendments and adoptions of these regulations were made in response to Senate Bill 365 (Statutes of 2013) which was enacted on October 7, 2013, and the balance of unawarded financing funds available. This program will enhance and improve the safety, security, and wellbeing of California's communities and youthful offender rehabilitation facilities through the construction of new beds and programming space, and renovation of existing beds.

PROBLEMS THIS PROPOSED REGULATION SEEKS TO ADDRESS/NECESSITY

The proposed adoptions, amendments, and repeal to Title 15, Subchapter 7 Local Youthful Offender Rehabilitation Facility Construction Financing Program are to address two main issues; the Corrections Standards Authority is now the Board of State and Community Corrections (BSCC), Senate Bill 81 legislation has been updated several times since the original release of financing, and an available balance of financing remains unawarded. The BSCC is charged with promulgating regulations regarding the Local Youthful Offender Rehabilitative Facility Construction Financing Program and has released a Request for Proposals for Round Two financing, the regulations of which were adopted through the emergency rulemaking process.

July 1, 2012, the Corrections Standards Authority (CSA), an agency under the Department of Corrections and Rehabilitation was abolished and replaced with the Board of State and Community Corrections, a stand-alone agency. The regulatory obligation of CSA was transferred to the BSCC, requiring an update to these regulations for consistency with current statutes.

August 24, 2007, Senate Bill 81 became law. SB 81 authorized up to \$100 million in lease revenue bond financing for the acquisition, design, and construction of youthful offender rehabilitative facilities. Senate Bill 14 became law on February 20, 2009, amending sections 1970, 1971, 1972, 1973, and 1975, and adopted 1977 of the Welfare and Institutions Code. October 19, 2009, Assembly Bill 1628 became law authorizing up to \$200 million more in available financing under the Local Youthful Offender Rehabilitative Facility Construction Financing Program. Senate Bill 365 became law on October 7, 2013, officially authorizing the use of regional facilities as proposed projects.

Of the \$300 million made available for financing by Senate Bill 81 and Assembly Bill 1628, \$79.2 million remains available for award. The proposed changes to Title 15, Subchapter

7 will bring regulations current with statute and finalize the regulations created through the emergency rulemaking process.

BENEFITS ANTICIPATED FROM THE PROPOSED REGULATION

The BSCC anticipates several benefits from the proposed regulation adoption and amendment, including: protection of public health and safety, worker safety, and the creation of jobs.

Once adopted these regulations will allow the BSCC to extend financing to conditionally awarded counties for the construction of local youthful offender rehabilitative facilities. Many counties in California are operating outdated, dilapidated, crowded facilities. With these regulations, awards can be made to improve the physical condition of those facilities, creating a safer environment for detained youth, workers, and the community. Senate Bill 81, Round Two, allows program/treatment space for alternatives to detention and a wide array of programs that will improve public health and safety. Counties proposing the construction of new facilities will create jobs within their communities.

Proposed changes to the text also include the allowance of regional projects (Senate Bill 365, Chapter 627, Statutes of 2013) permitting counties unable to compete on their own to propose shared facilities.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

Except for the Authorizing Welfare and Institutions Code, Sections 1970-1978, the Senate Bill 81 Round Two, Local Youthful Offender Rehabilitative Facility Construction Financing Program Proposal Form dated September 12, 2014, and the Senate Bill, Round Two Construction of Local Youthful Offender Rehabilitative Facilities, Fiscal Year 2014/2015, Request for Proposals dated September 12, 2014, the BSCC did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the BSCC.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The BSCC has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The BSCC has determined that, the proposed regulations would not have a significant statewide adverse economic impact directly on businesses. The financing program that is the subject of this regulatory revision awards counties state financing to acquire, design, renovate and construct youthful offender rehabilitative facilities; which will improve local economics by creating jobs, rather than having an adverse effect on businesses.

DOCUMENTS INCORPORATED BY REFERENCE

Senate Bill 81 Round Two, Local Youthful Offender Rehabilitative Facility Construction Funding Program Proposal Form, September 12, 2014

Senate Bill 81, Round Two Construction of Local Youthful Offender Rehabilitative Facilities, Fiscal Year 2014/2015, Request for Proposals, September 12, 2014

ECONOMIC IMPACT ASSESSMENT

PURPOSE

The BSCC proposes to adopt Sections 1830.1, 1840.1, 1847.1, 1848.5, 1849.1, and, 1850.1; amend the Title 15, Division 1, Chapter 1, Subchapter 7 authorizing agency name, Subchapter 7 title, Sections 1800, 1806, 1812, 1814, 1830, 1831, 1840, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1856, 1860, 1866, 1867, 1868, 1870, 1872, 1876, 1878, 1888, 1890, and, 1892; and repeal Section 1857 of Title 15 of the California Code of Regulations (CCR).

The following sections will be implemented, interpreted and/or made specific by this proposed rulemaking: Authority: Sections 1975, Welfare and Institutions Code; and Section 6030, Penal Code. Reference: Sections 1970-1978, Welfare and Institutions Code.

In proposing this adoption the BSCC seeks to improve public health and safety, detained youth and worker safety.

Senate Bill 81 (Chapter 175, Statutes of 2007), was enacted on August 24, 2007. The amendments and adoptions of these regulations were made in response to Senate Bill 365 (Statutes of 2013) which was enacted on October 7, 2013, and the balance of unawarded financing funds available. This program will enhance and improve the safety, security, and wellbeing of California's communities and youthful offender rehabilitation facilities through the construction of new beds and programming space, and renovation of existing beds.

Proposed changes to the text also include the allowance of regional projects (Senate Bill 365, Chapter 627, Statues of 2013) permitting counties unable to compete on their own to propose shared facilities.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$79.2 million remaining of the total \$300 million in lease revenue bonds for the construction of local youthful offender rehabilitative facilities. Through the Local Youthful Offender Rehabilitative Facility Construction Financing Program, counties will have the opportunity to create jobs through the construction process by hiring consultants, contractors, and creating new positions within their completed facility. These regulations will only affect counties who are offered and accept a conditional award for financing; the effects will last through the design and construction phases and continue for counties who choose to create new positions to staff their completed facilities. Therefore, BSCC has determined that this regulatory action will have a positive impact on the creation of jobs, but will not affect the elimination of jobs in the State of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$79.2 million remaining of the total \$300 million in lease revenue bonds for the construction of local youthful offender rehabilitative facilities. Through the Local Youthful Offender Rehabilitative Facility Construction Financing Program, counties will use the services of businesses through their construction phases but will not continue to rely on the services of these businesses to the extent of creating new or eliminating existing businesses within the state of California. Only Counties within the State of California may apply for financing and only under the jurisdiction of the County Probation Department. No awards are given to businesses within the State of California. The BSCC has determined that these regulations will not have an effect on the creation of new businesses or the elimination of existing businesses within the State of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

These regulations are proposed to distribute up to \$79.2 million remaining of the total \$300 million in lease revenue bonds for the construction of local youthful offender rehabilitative facilities. Through the Local Youthful Offender Rehabilitative Facility Construction Financing Program, counties will use the services of businesses through their construction phases but will not continue to rely on the services of these businesses to the extent of expanding businesses within the state of California. Only Counties within the State of California may apply for financing and only under the jurisdiction of the County Probation Department. No awards are given to businesses within the State of California. The BSCC has determined that these regulations will not have an effect on the expansion of businesses currently doing business within the State of California.

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The anticipated benefits to this regulation are increased protection of welfare of California residents, detained youth, and worker safety. The welfare of California residents, detained youth, and worker safety will be affected positively by construction and/or renovation of new and existing youthful offender rehabilitative facilities. The newly renovated or constructed facilities will eliminate many of the dangers of working in and/or being

detained in an outdated facility with the use of better space planning and technology that is up-to-date. A greater focus has been placed on programming/treatment space and making community and youth programs available in custody and as an alternative to detention. In some instances participants of programs will receive support, education, and necessary social skills to better assimilate back into the community. New and renovated facilities will offer more space, technology, and other much needed tools to create a safe environment for workers, detained youth, visitors, and the community. The BSCC has determined that the state's environment will not be affected by the adoption of these regulations because the regulation is the subject of youthful offender rehabilitation facility construction financing. The BSCC has determined that there will be a positive impact on the health and welfare of California residents, detained youth, and worker's safety.