

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 14. Mental Health Services Act

Article 2: DEFINITIONS

(1) Adopt Section 3200.025 as follows:

§ 3200.025. Capital Facilities.

“Capital Facilities” means the segment of the Capital Facilities and Technological Needs component under which the County acquires and develops land and/or constructs or renovates building(s) in which Mental Health Services Act administrative activities, services and/or supports are provided.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(2) Adopt Section 3200.026 as follows:

§ 3200.026. Capital Facilities and Technological Needs.

“Capital Facilities and Technological Needs” means the component of the Three-Year Program and Expenditure Plan that consists of the infrastructure and/or technology needed to support the County’s mental health system.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(3) Adopt Section 3200.257 as follows:

§ 3200.257. Restrictive Setting.

“Restrictive Setting” means a building that utilizes a secured perimeter, locked exit doors and/or other mechanical/electrical means to prevent individuals from exiting at will.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(4) Amend Section 3310 as follows:

Article 3: GENERAL REQUIREMENTS

§ 3310. The Three-Year Program and Expenditure Plan.

(a) To receive Mental Health Services Act (MHSA) funds under this Chapter, the County shall submit a Three-Year Program and Expenditure Plan or update that includes a workplan for each program and project; comply with all other applicable requirements; obtain the necessary approvals in accordance with Welfare and Institutions Code Sections 5830, 5846, and 5847; and enter into a valid MHSA Performance Contract with the Department.

(1) [No Change to Regulation Text.]

(b) – (f) [No Change to Regulation Text.]

(g) The Plan or update shall include a written statement by the County Mental Health Director certifying that:

(1) The County will comply with all pertinent laws and regulations, including section 3410, Non-Supplant.

(2) The County has developed the Three-Year Program and Expenditure Plan or update with the participation of stakeholders, in accordance with sections 3300, 3310, subdivision (d), and 3315.

(3) All information provided is true and correct.

Note: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5820, 5830, 5846, 5847, 5848, 5892 and 5897, Welfare and Institutions Code.

(5) Amend Section 3400 as follows:

Article 4. FUNDING PROVISIONS

§ 3400. Allowable Costs and Expenditures.

(a) - (d) [No Change to Regulation Text.]

(e) The County shall maintain documentation of all fund expenditures, and provide documentation to the Department upon request.

(6) Amend Section 3500 as follows:

Article 5. REPORTING REQUIREMENTS

§ 3500. ~~Non-Supplant Certification and Reports~~ Bridge Funding.

~~(a) The Three-Year Program and Expenditure Plans, and updates, shall include certification by the County Mental Health Director that the County will comply with Section 3410, Non-Supplant.~~

~~(b) The County shall maintain documentation of all fund expenditures, and provide documentation to the Department upon request.~~

~~(c) As part of the Annual Cost and Financial Reporting System (“Cost Report”), as required by Title 42, C.F.R. Part 413, and as specified in Section 3505, the County shall certify that~~

~~(1) Mental Health Services Act (MHSA) funds were used in compliance with Section 3410, Non-Supplant.~~

~~(2) Mental health funds, other than MHSA funds, required to be used to provide services and/or supports that were in existence in Fiscal Year 2004-2005 were used for the required purpose.~~

~~(d) (a) The County shall maintain...~~

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5610, Welfare and Institutions Code.

(7) Amend Section 3505 as follows:

§ 3505. Cost Report.

(a) *[No Change to Regulation Text.]*

(b) The County's Local Mental Health Director and Auditor-Controller ~~must~~ shall certify that:

(1) The Cost Report information ~~as being~~ is true and correct, ~~and,~~

(2) With respect to MHSA funding, ~~certify that~~ the County is in compliance with Chapter 14, Article 5, section 3410, Non-Supplant.

(3) Mental health funds, other than MHSA funds, required to be used to provide services and/or supports that were in existence in Fiscal Year 2004-2005 were used for the required purpose.

(c) *[No Change to Regulation Text.]*

(d) *[No Change to Regulation Text.]*

(8) Adopt Section 3700 as follows:

Article 7. CAPITAL FACILITIES AND TECHNOLOGICAL NEEDS

§ 3700. Rule of General Application.

The provisions specified in this Article and in Articles 1 through 5, unless otherwise specified, shall apply to Capital Facilities and Technological Needs as defined in section 3200.026.

Authority: Section 5898, Welfare and Institutions Code. Reference: Sections 5610, 5846, 5847, 5848, and 5897, Welfare and Institutions Code.

(9) Adopt Section 3710 as follows:

§ 3710. Capital Facilities and Technological Needs Component of the Three-Year Program and Expenditure Plan.

(a) The Capital Facilities and Technological Needs component of the Three-Year Program and Expenditure Plan shall contain one or both of the following:

(1) A Capital Facilities segment.

(2) A Technological Needs segment.

(b) The Capital Facilities and Technological Needs component of the Plan shall include:

(1) A narrative describing how the County plans to use the Capital Facilities and Technological Needs funds and how the proposed uses will support administrative activities, services and/or supports in the County's approved Three-Year Program and Expenditure Plan.

(2) The amount or percentage of funds the County intends to use for each segment.

(A) If the amount or percentage of funds is amended, the County shall provide a description of stakeholder involvement and support for the change along with the request for funds.

(3) A description of stakeholder involvement in identifying the County's priorities in accordance with section 3300, Community Program Planning Process.

(4) A list of the County's needs for Capital Facilities and Technological Needs projects.

(c) To receive MHSA funds under this component, the County shall have complied with section 3310(a) and have an approved Three-Year Program and Expenditure Plan that includes a Capital Facilities and Technological Needs component.

(1) Capital Facilities and/or Technological Needs work plan(s) may be submitted concurrent with the Capital Facilities and Technological Needs component of the Three-Year Program and Expenditure Plan or as an update to the Plan.

NOTE: Authority cited: Section 5898, 5847(a) (5), Welfare and Institutions Code.

Reference: Section 5847(b)(5), Welfare and Institutions Code.

(10) Adopt Section 3712 as follows:

§ 3712. Allowable Capital Facilities Expenditures.

(a) The County shall use Capital Facilities funds to:

(1) Acquire and build upon land that will be County-owned.

(A) If no Capital Facilities funds are requested for construction/acquisition of a building, the County shall follow the requirements specified in section 3755, Purchase of Land.

(2) Acquire buildings that will be County-owned, including acquiring buildings through Lease-to-Own Agreements as specified in section 3760.

(3) Construct buildings that will be County-owned.

(4) Renovate buildings that are County-owned or privately-owned, as specified in section 3730, Renovation.

(5) Establish and maintain a Capitalized Repair/Replacement Reserve as specified in section 3745.

(6) Pay predevelopment costs as specified in section 3750.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Sections 5847(b)(5), (d), (g), and 5848(c) Welfare and Institutions Code.

(11) Adopt Section 3714 as follows:

§ 3714. General Requirements for the Capital Facilities Segment of the Capital Facilities and Technological Needs Component of the Three-Year Program and Expenditure Plan.

(a) Capital Facilities funds shall be used for the portion of land and/or building(s) where Mental Health Services Act (MHSA) and other mental health administrative activities, services and/or supports are provided.

(b) Buildings acquired/renovated/constructed with Capital Facilities funds shall be limited to structures that are secured to a foundation that is permanently affixed to the ground.

(c) Capital Facilities funds shall be used to acquire/renovate/construct a building where the expenditure does one of the following:

(1) Results in the provision of new services and/or supports as described in the County's Three-Year Program and Expenditure Plan.

(2) Expands the capacity of and/or access to existing services and/or supports described in the County's Three-Year Program and Expenditure Plan.

(d) Buildings acquired, constructed and/or renovated with Capital Facilities funds shall be used for the provision/administration of MHSA and other mental health administrative activities, services and/or supports, for a minimum of 20 years.

(1) If Capital Facilities funds are used to renovate a building initially acquired/constructed/renovated with Capital Facilities funds, a new 20-year obligation begins at the time the renovation is completed.

(e) Buildings located on land acquired with Capital Facilities funds, regardless of the funding source for the building(s), shall be used for the provision/administration of

MHSA and other mental health administrative activities, services and/or supports for a minimum of 20 years.

(f) Buildings acquired, constructed and/or renovated with Capital Facilities funds shall comply with all applicable federal, state and local laws and regulations including, but not limited to:

(1) Zoning and building codes and requirements.

(2) Licensing requirements, if applicable.

(3) Fire safety requirements.

(4) Environmental reporting and requirements.

(5) Hazardous materials requirements.

(6) The Americans with Disabilities Act, Title 42 U.S.C. section 12101.

(7) Discrimination laws as specified in California Government Code section 11135.

(g) Buildings acquired, constructed, and/or renovated with Capital Facilities funds shall have appropriate fire, disaster and liability insurance.

(h) The use of Capital Facilities funds for land and/or buildings shall be reasonable and consistent with what a prudent buyer would incur.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference:

Sections 5847(b)(5), (d), (e), (g), and 5848(c) Welfare and Institutions Code.

(12) Adopt Section 3725 as follows:

§ 3725. Work Plans for Capital Facilities Projects.

(a) To request Capital Facilities funds the County shall submit one or more work plans.

(b) Each work plan shall include the following:

(1) Name of the work plan.

(2) The intended purpose of the project, including:

(A) A description of how the construction, acquisition and/or renovation will provide new services or expand the capacity of and access to existing services.

(B) When the construction, acquisition and/or renovation is for administrative office(s), a description of how the administrative office(s) will augment or support the County's ability to provide the Mental Health Services Act and other mental health administrative activities, services and/or supports identified in the County's Three-Year Program and Expenditure Plan.

(3) The location of the proposed project, including:

(A) The address of the project,

(B) A description of how the location of the proposed project was selected, including proximity to public transportation and/or any disparities in services that will be addressed by the new location of services.

(4) The type of building(s), and whether the building(s) is being acquired with or without renovation or involves new construction.

(5) If building(s) acquired, constructed and/or renovated with Capital Facilities funds will also accommodate non-mental health programs/services and/or supports, the County shall document:

(A) The percentage of space that will be designated for mental health administrative activities, services and/or supports.

(B) The relationship between the mental health administrative activities, programs/services and/or supports and the non-mental health administrative activities, programs/services and/or supports located in the building.

(6) A proposed budget and narrative that includes, but is not limited to:

(A) The proposed cost(s) of the acquisition, construction, and/or renovation of the building including the amount of Capital Facilities funds requested.

(B) A description of how the County will meet the ongoing costs of operating the property/building for the 20-year period, including funding sources, such as a Capitalized Repair/Replacement Reserve as described in section 3745.

(C) The amount requested, if any, for the Capitalized Repair/Replacement Reserve as described in section 3745.

(D) The amount requested, if any, for Predevelopment Costs as specified in section 3750.

(E) The amount from other funding sources if the building will be used for purposes other than mental health administrative activities and the provision of mental health services and/or supports.

(7) The estimated timeline for construction/renovation, including the proposed date for occupancy.

(c) Restrictive Setting. In addition to (b) above, work plans for a restrictive setting shall include specific facts and justifications that the requirements specified in section 3740, Restrictive Setting, have been met.

(d) Purchase of Land. In addition to (b) above, work plans for the purchase of land, shall meet the requirements in section 3755, Purchase of Land.

(e) Lease-to-Own Agreements. In addition to (b) above, work plans to lease-to-own a building(s) shall meet the requirements in section 3760, Lease-to-Own Agreements.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), (d), (e), (g), and 5848(c) Welfare and Institutions Code.

(13) Adopt Section 3730 as follows:

§ 3730. Renovation.

(a) In addition to the information required in section 3725, Capital Facilities Work Plans, a work plan for building renovation shall include:

(1) A description of the scope of the renovation.

(2) Identification of the prior use and ownership of the building.

(b) When a privately-owned building is renovated, the County shall provide documentation of the method used to protect the County's capital interest in the renovation and use of the property. Acceptable methods include, but are not limited to:

(1) A deed restriction on property use in exchange for the resources invested.

(2) An amendment to the loan agreement(s) to include a clause specifying that all improvements are considered the property of the County and the County has the option of removing said improvements if the conditions of the agreement are not met.

(3) Acquisition of an interest in the property as evidenced by a grant deed.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(14) Adopt Section 3740 as follows:

§ 3740. Restrictive Setting.

(a) Capital Facilities funds may only be used for building(s) with a restrictive setting, as defined in section 3200.257, when the following requirements have been met:

(1) There is an unmet need for a restrictive setting in order to adequately serve individuals with serious mental illness and/or serious emotional disturbance within the County.

(2) The needs of individuals with serious mental illness and/or serious emotional disturbance cannot be met in a less restrictive or more integrated setting.

(3) It is not feasible to acquire the restrictive setting with non-MHSA funds.

(4) The County has pursued and not obtained other sources of funding.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(15) Adopt Section 3745 as follows:

§ 3745. Capitalized Repair/Replacement Reserve.

(a) The Capitalized Repair/Replacement Reserve shall only be used for buildings acquired/renovated or constructed with Capital Facilities funds.

(b) The Reserve shall be used to repair and/or replace major structural elements or equipment or for any other purpose consistent with maintaining the integrity of the building.

(c) The Reserve shall be controlled, managed and disbursed by the County.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(16) Adopt Section 3750 as follows:

§ 3750. Capital Facilities Predevelopment Costs.

(a) In order to request Predevelopment Costs, the County shall have an approved Capital Facilities and Technological Needs component that includes a Capital Facilities segment.

(1) The County may request funds for predevelopment costs prior to the submittal of a work plan, as required in section 3725, if the County has an approved Three-Year Program and Expenditure Plan with a Capital Facilities segment.

(b) Capital Facilities funds may only be used for the following predevelopment costs incurred in the process of identifying and/or developing a Capital Facilities project:

(1) Architectural fees and costs.

(2) Engineering fees and costs.

(3) Legal fees and costs.

(4) Environmental studies and/or services.

(5) Consultant fees.

(6) Costs associated with site control, including but not limited to the security deposit on a purchase agreement.

(c) Requests for funds for predevelopment costs as allowed for in (b) above shall be sent to the Department and include the following information:

(1) Name of county.

(2) Date of request.

(3) Name, telephone number and e-mail address of county contact.

(4) Amount requested for predevelopment costs.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(17) Adopt Section 3755 as follows:

§ 3755. Purchase of Land.

(a) Requests for Capital Facilities funds to purchase land with no Mental Health Services Act funds requested for building or construction shall include:

(1) An explanation of how the purchase of land will result in acquisition/construction of a building.

(2) An explanation of anticipated source(s) of funding to cover the costs of acquiring/constructing a building, including the date(s) funding is expected to become available.

(3) A timeline of the anticipated dates for acquisition/construction of a building on the land.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.

(18) Adopt Section 3760 as follows:

§ 3760. Lease-to-Own Agreements.

(a) Capital Facilities funds may only be used to acquire a building(s) through a lease-to-own agreement when at the conclusion of the lease, the building is owned by the County.

(b) For the length of the lease, Mental Health Services Act administrative activities, services and/or supports shall be provided within the building.

(c) The County shall comply with the 20-year obligation for the use of the building as required in section 3714, subdivision (d), as of the date the County assumes ownership of the building.

(d) Work plans to lease-to-own a building shall include:

(1) An explanation of why the building(s) is being leased-to-own rather than purchased.

(2) A description of the length and terms of the lease agreement.

NOTE: Authority cited: Section 5898, Welfare and Institutions Code. Reference: Section 5847(b)(5), Welfare and Institutions Code.