

MEMORANDUM

TO: Honorable Members of the Juvenile Corrections Grant Committee

FROM: Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

DATE: April 17, 2019

SUBJECT: County Concerns Related to Secured Residential Care Centers for Children and Youth (SRCCCY)

At the April 8, 2019 meeting of the Juvenile Corrections Grant Committee, the state shared concerns raised by counties with regard to the construction and operation of SRCCCYs. The committee indicated it was interested in learning more about county concerns.

The following pages provide additional detail on the concerns shared by counties with Department of Corrections and Department of Children and Families staff. The attached list should not be considered a comprehensive list of concerns. As the process of implementing the new structure created in 2017 Wisconsin Act 185 becomes more “real” for counties, we anticipate additional concerns/questions arising.

Counties look forward to working with you as we begin to change the face of youth justice in Wisconsin.

SRCCCY QUESTIONS/CONCERNS FROM COUNTIES

Items in red denote deal-breakers for counties

Grant Funding:

Counties have no information with regard to how the grants process actually works.

- The state funding source for SRCCCY design and construction costs is bonding. Will bond proceeds be available to provide counties with funding upfront or will counties be required to bond for the design and construction costs and then receive reimbursement from the state? It does not seem logical for two entities to bond for the same project. Counties should not be required to bond for the construction of SRCCCYs. If counties are required to bond what is the impact on county bond ratings?
- Counties will be required to pay their contractors in phases. Will counties submit their costs to the state in phases? Will the state pay the contractors directly or will the state pass the dollars through to the counties for payment?
- The cost of designing/constructing facilities for females is reimbursed at 100%. These will be shared facilities. What method will the state use to determine male vs. female facility costs?
- **How is the state defining design and construction costs? What about land costs? Please see attached for a listing of project costs. Counties need the “project costs” to be covered.**
- If a project has cost overruns not included in the grant application will those costs be covered?
- **If the state does not appropriate sufficient bonding authority, what happens? Will counties be asked to scale back their projects? If counties are asked to scale back their projects, counties may opt out – counties will only operate SRCCCYs if they have the tools to do so in the appropriate manner.**
- Is the state willing to assist with site location?
- What level of architectural detail will the grant committee want to see? Counties will not be able to present more than concept plans prior to June 30, 2019.

Operating Costs:

Counties are taking a huge risk operating SRCCCYs. Under Act 185, the financial liability/risk for holding youth in a secure setting transfers from the state to the counties.

- The 2019-21 state biennial budget allocates \$3.5 million in initial operating costs. How are those costs defined? What if the \$3.5 million is insufficient to cover all start-up costs?
- What method will the state use to determine operating cost deficits for female beds?
- **Will the state be willing to support operating deficits for all SRCCCYs for a time-certain? It will be difficult for counties to project ADPs in SRCCCYs for a number of reasons (current 365/180 programs, judicial discretion, etc.). The daily rates counties will charge are based on projected ADPs. If, based on the best information available, a county constructs 20 beds but only serve six youth, should an individual county be responsible for the loss given the shift in financial risk from the state to counties? For a county that is serving its own youth, the cost of providing services in a SRCCCY will be more than the cost of a placement at Lincoln Hills due to many factors, including compliance with**

federal staffing requirements that does not currently exist at Lincoln Hills. How does a county make up that difference? Will the state consider a shared-risk model?

- Counties have raised significant concerns about medical costs. Is the state willing to work with counties on the creation of a high-risk pool or other option to limit county liability for medical costs?
- Is the state open to discussion on shared risk?

Projecting ADPs:

This is related to the operating costs/operating deficit discussion as well.

- What happens if 17-year-olds rejoin the youth justice system? Do we build now in anticipation of the return of 17-year-olds? If we build now will that lead to operating deficits? If we don't build in anticipation of a return of 17-year-olds to the youth justice system who is responsible for funding the costs to add increased capacity? Will the state provide grants in the future if the policy change takes effect?
- How do we account for the current 365/180 populations?
- If judges like the programming in SRCCCYs will more juveniles be ordered by judges to SRCCCYs?

Grant Requirements:

Counties are anxious to begin the grant writing process, but many are awaiting clear direction from the state on what will be required in the grant application.

- As counties will be required to adhere to DOC 347, the grant application should be tied to DOC 347. Counties should not be required to provide information outside of statutory or administrative requirements.
- Counties should be asked to respond to general requirements contained in statute and administrative rule e.g., how will trauma-informed principles be incorporated in the physical environment of the facility, how many youth will the SRCCCY hold, how will the facility incorporate evidence-based practices and trauma-informed principles in its programs and services, how will the SRCCCY pursue partnerships with outside entities to enhance available services and resources in the facility.
- Specific operational requirements need not be included as part of the grant application; operational plans must be approved by DOC before the facility may accept youth (DOC 347.08 (1)).
- Can the grants be submitted to the committee in phases (graduated process)? For example, can counties respond to questions about programming prior to submitting information on facility design?

Youth Justice System

- The costs of operating SRCCCYs will be higher than the costs of operating Lincoln Hills/Copper Lake and current county 365/180 programs. That means funding currently utilized for the youth justice system will transfer from community-based and prevention/early intervention programs to the deep end of the system. Counties do not think that is a direction we want to be headed in. Can the state assure counties increased investment in the community-based side of the youth justice system will be made in the next biennium to offset the shift in revenue to SRCCCYs?

- What is the Wisconsin model of juvenile justice? Will the model be broad enough to provide counties with flexibility in the operation of SRCCCYs?

Administrative Rule Changes:

- Is the state open to county requests for administrative rule changes?
- If counties are co-locating secure detention and SRCCCYs, why are the training requirements for each facility different?
- Will there be flexibility provided to counties if it is necessary to incorporate various programming models?
- May impact a county's decision to renovate vs. build new.

NOTE: Counties will be meeting on May 1 to discuss rule changes.

General Questions:

- At what point does a grant application become binding - once a grant application is approved or will a separate agreement between the state and a county need to be executed?
- If a county is awarded a grant and opts out of operating a SRCCCY what happens? Does the state assume the building? What if the SRCCCY is co-located with a secure detention facility? What if the building is on county-owned land? Is there a set time frame after which the state no longer has claim to the facility? Depreciation?
 - Wis. Stats §13.48 (27m) (c) *if for any reason, the facility that is constructed with funds from the grant is not used for the purposes identified in the grant under 2017 Wisconsin Act 185, section 110 (4), the state shall retain an ownership interest in the facility equal to the amount of the state's grant.*
- Why types of technical assistance will be made available to counties throughout this process?
- How can counties ensure local school districts will actively engage with SRCCCYs in meeting educational goals?

SAMPLE SRCCCY PROJECT COSTS

Construction Costs – this is the “bricks and mortar” cost that includes everything that is “fixed” in the project. It is what typically the contractor is responsible for providing.

Non-Construction Costs – these are the additional costs that are part of the total project. They typically run from 18 to 25% of the construction cost, depending on whether the cost of land is included. Here is a list of the items that would fall in this category:

- Printing
- Plan review fees
- Site survey
- Soil investigation
- Soil and material testing during construction
- Moveable furniture and furnishings (FF&E)
- Moving costs
- Project start-up costs
- Communications
- Telephone system
- Interior signage
- HVAC testing and balancing
- Building commissioning (may not be required)
- Construction contingency
- Owner contingency
- Owner’s representative fees
- Cost of bond issuance (not required)

Project Costs – this is the sum of the construction and non-construction costs.