

INITIAL STATEMENT OF REASONS

A. Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are Necessary

Problem This Rulemaking is Intended to Address: The specific purpose of these regulations is to interpret and make specific the Investment in Mental Health Wellness Act of 2013 (Act), which is codified in Welfare and Institutions Code Section 5848.5. These amendments provide clarification regarding the ability of private nonprofit corporations and public agencies to receive Grant funds directly and provide the specific requirements in order for these entities to do so. The timeframe for project readiness is extended and maximum Grant amounts based on county population has also been removed.

Overall Benefits of this Rulemaking: These regulations add a new section to Title 4, Division 10, Chapter 5 to allow private nonprofit corporations and public agencies to receive Grants funds directly. This is expected to expedite the local entitlement process and the overall efficiency of project development. Additionally, the removal of the Grant amount restriction for Capital Funding will allow counties that have reached or are close to the current maximum allowed, to apply for funds for additional projects.

Section 7113. Definitions.

Section 7113(b)

Specific Purpose:

This section is being amended to change the revision date on the Investment in Mental Health Wellness Grant Program Application Form No. CHFFA 7 MH-01.

Factual Basis:

This amendment is necessary as the Investment in Mental Health Wellness Grant Program Application has been revised. The revisions to the Application reflect the amendments made to the regulations governing the Investment in Mental Health Wellness Grant Program.

Section 7113(u)

Specific Purpose:

This section is being amended to expand the definition of “Grantee”.

Factual Basis:

This amendment is necessary as the definition of Grantee is amended to refer not to an “Applicant” (the entity that submits an Application for Grant funds) but rather to the entities that may be awarded Grant funds, specifically, a county, a private nonprofit corporation or a public agency. This definition also clarifies that “Grantee” now includes entities designated to receive Grant funds specifically, private nonprofit corporations and public agencies that may be designated by a county to directly receive Grant funds for the acquisition of real property and construction or renovation on real property.

Section 7116. Grant Application.

Section 7116(d)

Specific Purpose:

This section is being amended to specify the new revision date for the Mental Health Wellness Grant Program Application.

Factual Basis:

This amendment is necessary to designate a new revision date. The Application is being updated due to changes made to the regulations. Providing a new revision date on the Application and referencing this date in the regulations, ensures that Applicants for Grant funds apply for the funds on the correct Application form.

Section 7118. Maximum Grant Amounts.

Section 7118(b)

Specific Purpose:

This section is being amended to change the date by which Applicants applying for Capital Funding are limited by county population according to the most recent population projecting by the California Department of Finance at the time the Application is submitted.

Factual Basis:

This amendment is necessary as counties that have already been awarded funding have expressed interest in applying for and establishing additional programs. Amending this date to June 30, 2015, will in actuality, lift the county maximums determined by population. This allows counties currently prevented from applying for funds for additional programs because either

(1) The county maximum has been reached or

(2) The county maximum is sufficiently close that there is insufficient grant funding available to fund a project,

To now apply for Capital Funding for new projects.

Section 7118(f)

Specific Purpose:

This section is being amended to remove the limitation on Grant amounts per county population if Capital Funds remain after Final Allocations are awarded for Applications submitted by June 30, 2015.

Factual Basis:

This section is necessary to allow Applicants to apply for Grant funds without regard to the maximum amount determined by county population. Some counties that have already been awarded funding have expressed interest in applying for and establishing additional programs. Some of these counties have either already been awarded their county maximums or are close to their maximums and any remaining funds available to them are insufficient to implement a new program. In addition, some small counties may only apply for a maximum of \$500,000 in grant funds which is likely insufficient funding for some projects. (Also see Factual Basis for Section 7118(b) above.)

Section 7118(g)

Specific Purpose:

This section is being added to remove the limitation on the maximum Grant amount for Capital Funding that may be applied for by each region once Final Allocations have been awarded for Applications submitted by January 1, 2016.

Factual Basis:

This section is necessary to provide a process that will be implemented if any money designated for Capital Funding remains after the allocations are made for Applications submitted by January 1, 2016. Subdivision (a) of this section specifies the maximum amount of funds per region that are allocated for Capital Funding. The regulations, however, are silent on how funds remaining after this allocation will be disbursed. This regulation accounts for the process for any remaining funds and provides that information to the users of the regulations.

Section 7118(h)

Specific Purpose:

This section is being added to remove the limitation on the maximum Grant amount for Personnel Funding that may be applied for by each region once Final Allocations have been awarded for Applications submitted by January 1, 2016.

Factual Basis:

This section is necessary to provide a process that will be implemented if any money designated for Personnel Funding remains after the allocations are made for Applications submitted by January 1, 2016. Subdivision (c) of this section specifies the maximum amount of funds per region that are allocated for Personnel Funding. The regulations, however, are silent on how funds remaining after this allocation will be disbursed. This regulation accounts for the process for any remaining funds and provides that information to the users of the regulations.

Section 7119. Evaluation Criteria.

Section 7119(a)(4)

Specific Purpose:

This section is being amended to change the timeframe for Project feasibility, sustainability and readiness from six to nine months.

Factual Basis:

This amendment is necessary to provide additional time for Grantees to meet the “readiness” requirements for Projects funded with Investment in Mental Health Wellness Grant Program funds. Since the inception of these regulations, there have been three funding rounds with allocation of funds being made for Crisis Residential, Crisis Stabilization and Mobile Crisis Support Teams. In many instances, due to county government protocol, etc. this six month readiness requirement has been difficult if not impossible to achieve, resulting in requests to Authority staff for extensions. By increasing the timeline to nine months, the number of requests for extensions will be decreased. However, this time extension of an additional three months will still require Applicants/Grantees to be diligent in establishing and then meeting the Project timeline.

Section 7125. Release of Grant Funds.

Section 7125(a)(2)(A)(viii)

Specific Purpose:

This section allows the release of Grant funds to a private nonprofit corporation or public agency if designated by a county or Counties Applying Jointly specifically for construction or renovation on real property acquired with Grant funds, the criteria for private nonprofit corporations or public agencies designated to receive Grant funds, and

the requirement that such funds be returned to the Authority should the designated private nonprofit corporation or public agency fail to comply with Section 7125.1. (See Specific Purpose and Factual Basis for Section 7125.1 for specific requirements.)

Factual Basis:

This section is necessary to (1) allow private nonprofit corporations or public agencies to directly receive Grant funds in lieu of counties receiving the funds and disbursing the funds to the private nonprofit corporation(s) or public agency(ies) and (2) inform all affected parties of the requirements to be met by designated nonprofit corporations or public agencies to ensure standardization and continuity of the requirements in this situation. The Investment in Mental Health Wellness Act as codified in Welfare and Institutions Code Section 5848.5(d) states in pertinent part:

“Funds appropriated by the Legislature to the authority for purposes of this section shall be made available to selected counties, or counties acting jointly. The Authority may, at its discretion, also give consideration to private nonprofit corporations and public agencies in an area or region of the state if a county, or counties acting jointly, affirmatively supports this designation and collaboration in lieu of a county government directly receiving grant funds.” (Emphasis added)

This section will acknowledge in regulations the ability of the Authority to provide Grant funds directly to private nonprofit corporations and public agencies, thus greatly expediting the local entitlement process and the overall efficiency of project development.

Requirements for the release of Grant funds to a private nonprofit corporation or public agency are also contained in this section; execution of a Grant Agreement and compliance with Section 7125.1 (Grant Funds to a Designated Private Nonprofit Corporation or Public Agency for Real Property Acquisition, Construction or Renovation, a new section being added). It is necessary to ensure that a Grant Agreement is entered into between the Authority and the private nonprofit corporation or public agency setting forth the terms and conditions of the Grant.

Section 7124, Grant Agreement, specifies the terms and conditions of the Grant which includes forfeiture and return of the Grant funds to the Authority (subdivision (a)(13)). Additional requirements are imposed on private nonprofit corporations and public agencies that are designated to receive Grant funds for construction or renovation on real property, Section 7125.1. It is therefore necessary to provide for the ability of the Authority to reclaim the Grant funds if the designated private nonprofit corporation or public agency fails to comply with this section.

Section 7125(a)(2)(B), (a)(2)(B)(i) and (a)(2)(B)(ii)

Specific Purpose:

This section is amended to specify the requirements to be met by a private nonprofit corporation or a public agency for real property acquisition. Subsection (a)(2)(B) was formatted to accommodate the addition of subdivision (ii).

Factual Basis:

This amendment is necessary as an additional condition is added to the acquisition of real property in situations where Grant funds will be released to a private nonprofit corporation or public agency. The requirement for real property acquisition was originally limited to an appraisal completed within the previous six months by a state certified appraiser. That requirement remains. However, it was necessary to restructure subdivision (B) as a second requirement was added to address situations where Grant funds will be released to a private nonprofit corporation or public agency in order to acquire real property. It is necessary to ensure that a Grant Agreement (the document that memorializes the terms and conditions of the Grant) is entered into between the Authority and the private nonprofit corporation or public agency.

Additional requirements are imposed on private nonprofit corporations and public agencies which are designated to receive Grant funds for the purchase of real property, Section 7125.1. It is therefore necessary to provide for the ability of the Authority to reclaim the Grant funds if the designated private nonprofit corporation or public agency fails to comply with this section. (The specific purpose and factual basis for each of these requirements are contained in the Statement of Reasons for Section 7125.1.)

Section 7125(a)(3)(A) and (a)(3)(C)

Specific Purpose:

This section is amended to change the timeframe for Project feasibility, sustainability and readiness from six to nine months.

Factual Basis:

These amendments are necessary for consistency with Section 7119, Evaluation Criteria, subsection (a)(4) which is amended to increase the timeline for Project readiness from six to nine months. (See Factual Basis for Section 7119(a)(4) for rationale.)

Section 7125.1. Grant Funds to a Designated Private Nonprofit Corporation or Public Agency for Real Property Acquisition, Construction or Renovation.

Section 7125.1(a)

Specific Purpose:

This section provides a list of the specific requirements that apply to designated private nonprofit corporations and public agencies when receiving Grant funds for real property acquisition, construction or renovation.

Factual Basis:

This section is necessary to provide in regulation, the ability of the Authority to give consideration to private nonprofit corporations or public agencies to be designated to receive Grant funds for real property acquisition or for construction or renovation on real property acquired with Grant funds if a county or Counties Applying Jointly support such designation. Additionally, this section introduces the requirements the designated private nonprofit corporation or public agency shall comply with.

Section 7125.1(a)(1)

Specific Purpose:

This section requires the private nonprofit corporation or public agency to provide the Program(s) services.

Factual Basis:

This section is necessary to ensure that the private nonprofit corporation or public agency that is designated to receive Grant fund is held accountable to provide the services the county or Counties Applying Jointly have determined are necessary to support mental health services at the local level and for which Grant funds were approved by the Authority.

Section 7125.1(a)(2), (a)(2)(A), (a)(2)(B) and (a)(2)(C)

Specific Purpose:

These sections require the designated private nonprofit corporation or public agency execute a Grant Agreement with the Authority and the specifics that are to be included in this Grant Agreement.

Factual Basis:

These sections are necessary as the Authority has to enter into an agreement with the private nonprofit corporation or public agency to hold these entities to the same standards and requirements as counties and Counties Applying Jointly Grantees. The designated nonprofit corporation or public agency will comply with the requirements of Section 7124. This section establishes the terms and conditions necessary to ensure that the Grant funds will be used in a manner consistent with the Investment in Mental Health Wellness Act of 2013.

Additional requirements are added that are specific to private nonprofit corporations or public entities that have been designated by a county or Counties Applying Jointly to directly receive Grant funds. Additional requirements, specifically (a)(2)(B) establish the ability of the county or Counties Applying Jointly to take and hold title to the real property when necessary, due to failure by the designated private nonprofit corporation or public agency to provide Crisis Residential Treatment or Crisis Stabilization as provided in the Grant Agreement. Likewise, (a)(2)(C) allows the Authority to take and hold real property due to the failure by the designated private nonprofit corporation or public agency to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement when the county or Counties Applying Jointly fail to take timely action against the designated private nonprofit corporation or public entity to provide Crisis Residential Treatment or Crisis Stabilization.

Modification

Section 7125.1(a)(2)(C) has been renumbered and modified to delete the term “act timely, as determined by the Authority”. This term creates ambiguity as to “what is timely” and how “timely” is determined by the Authority. Additionally, the regulation has been amended to clearly delineate the conditions under which the Authority would take action to take and hold title to the real property, specifically, “when the designated private nonprofit corporation or public agency fails to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement” and “the county or Counties Applying Jointly fail to take and hold the title to the real property.”

Section 7125.1(a)(3)

Specific Purpose:

This section requires the private nonprofit corporation to provide, upon request, audited financial statements and to maintain and make available all Project and financial records for three years after certification of Project completion.

Factual Basis:

This subdivision is necessary as the Authority is responsible for administering the Grant program. Audits of records may be required for due diligence for the distribution of Grant funds ensuring that the funds are being or have been properly expended. This subdivision informs users that such a request is authorized through this regulation.

Section 7129(c) informs users that the Project records are to be retained for a three year period after the certification of Project completion has been submitted. This subdivision establishes, in regulation, that same requirement for private nonprofit corporations that has been designated by a county or Counties Applying Jointly.

Section 7125.1(a)(4), (a)(4)(A), (a)(4)(B) and (a)(4)(C)

Specific Purpose:

These subdivisions inform designated private nonprofit corporations or public agencies that when Grant funds are being used for construction or renovation of property under a lease agreement, the title report must include specific information for the protection of such funds.

Factual Basis:

These adoptions are necessary to protect the Grant funds in situations where the property is being leased. As Grant funds may be used for construction or renovation on leased property, specific information must be included in the title report to protect the funds disbursed under the Investment in Mental Health Wellness Grant Program.

Section 7125.1(a)(5), (a)(5)(A) and (a)(5)(B)

Specific Purpose:

These subdivisions are being adopted to inform designated private nonprofit corporations or public agencies that when Grant funds are used for construction or renovation of property, said entities are required to enter into a lease agreement with the county or Counties Applying Jointly that provided the designation and stipulations to be included in the lease agreement.

Factual Basis:

These adoptions are necessary to protect the Grant funds when a county or Counties Applying Jointly have designated Grant funds to a private nonprofit corporation or public agency for construction or renovation of property. In situations where property purchased with Grant funds is being leased, certain requirements must be satisfied to protect the funds disbursed under the Investment in Mental Health Wellness Grant Program. Subsections (a)(5)(A) and (a)(5)(B) set forth two specific provisions that must be contained in the lease agreement. These provisions ensure the use of the property for Crisis Residential Treatment or Crisis Stabilization and provide recourse for the failure of the designated entities to provide the services and the failure of the county/Counties Applying Jointly to take timely action in such situations.

Modification:

Subsection (a)(5)(B) has been renumbered and modified to delete the term “act timely, as determined by the Authority”. This term creates ambiguity as to “what is timely” and how “timely” is determined by the Authority. Additionally, the regulation has been amended to clearly delineate the conditions under which the Authority would take action to take and hold title to the real property, specifically, “when the designated private nonprofit corporation or public agency fails to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement” and “the county or Counties Applying Jointly fail to take and hold the title to the real property.”

Section 7127. Recovery of Funds for Non-Performance and Unused Grant Funds; Remedies.

Section 7127. Title.

Specific Purpose:

Add “Remedies” to the title of Section 7127.

Factual Basis:

This amendment is necessary to introduce to the users of the regulations the addition of a specific “remedy” (recourse) available to the Authority.

Section 7127(d)

Specific Purpose:

This subsection informs the users of the regulations of the ability of the Authority to take necessary action to obtain and hold title to real property purchased with Grant funds when the county or Counties Applying Jointly have failed to act timely when a private nonprofit corporation or public agency has failed to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement.

Factual Basis:

This subsection is necessary to place in a single section, the remedies available to the Authority to recovery funds for non-performance, unused Grant funds and failure by a county or Counties Applying Jointly to act timely when a private nonprofit corporation or public agency fails to provide services as provided in the Grant Agreement.

Modification:

A modification to this subsection was necessary to eliminate the term “act timely, as determined by the Authority”. This term creates ambiguity as to “what is timely” and how “timely” is determined by the Authority. Elimination of the term is consistent with the deletion of the term in Sections 7125.1 (a)(2) and (a)(5). (See Modification for these two subsections above.)

FORMS

Investment in Mental Health Wellness Grant Program Application, Form No. CHFFA 7 MH-01 (Rev.05/2015)

Specific Purpose:

The title page to the Application is amended to revise the revision date.

Factual Basis:

This revision is necessary as specific pages in the Application have been amended due to the changes made to Section 7118, 7119 and 7125. The information now contained in the Application will be consistent with the regulatory changes made. It is necessary to amend the revision date to also ensure that those applying for Grant funds under the Mental Health Wellness Grant Program all use the same Application document and that the document is the most current and accurately reflects the current regulations.

Form-4: County Grant Amounts Worksheet

Specific Purpose:

This form has been amended to delete information that is no longer relevant.

Factual Basis:

These changes are necessary as this form is used in conjunction with the criteria in Section 7118. As the regulations referenced on Form-4 are being amended, it is necessary to correct the form to reflect the regulatory changes; specifically, reference to the date of January 1, 2016 and the maximum Grant amounts, both of which are no longer applicable.

Modification:

As the date of January 1, 2016 was replaced with the date of June 30, 2015, county Maximums for capital funding, no longer exists. Therefore, the column entitled County Maximum Capital Funding is no longer needed and is being deleted.

Evaluation Criteria, Item #4

Specific Purpose:

This section is being amended to change the Project Readiness timeframe from six to nine months.

Factual Basis:

The Evaluation Criteria is being amended to coincide with the amendments to Sections 7119(a)(4) and 7125(a)(3)(A) and (C) extending the project readiness time from six to nine months.

Evaluation Criteria, #4

Specific Purpose:

This section is being amended to change the Project Readiness timeframe from six to nine months.

Factual Basis:

The Evaluation Criteria is being amended to coincide with the amendments to Sections 7119(a)(4) and 7125(a)(3)(A) and (C) extending the project readiness time from six to nine months.

Attachment D, California Environmental Quality Act (CEQA) Review

Specific Purpose:

This attachment to the Investment in Mental Health Wellness Grant Program Application is being amended to change the time requirement for submittal of the CEQA.

Factual Basis:

This change is necessary as amendments to Sections 7119(a)(4) and 7125(a)(3)(A) and (C) extend the project readiness time from six to nine months. As an additional three months is being given for project readiness, the Project information needed for completion of the CEQA may not be available within the original timeframe, specifically, six months. The increase to nine months will give the Grantee the necessary time to obtain the necessary documentation for submittal of this form to the Authority.

B. Technical, Theoretical, and/or Empirical Study, Reports, or Documents

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of these regulations.

C. Local Mandate Statement

These regulations do not constitute a mandate on local agencies or on local school districts. Additionally, there are no state mandated local costs that require reimbursement.

D. Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting Those Alternatives

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

E. Reasonable Alternatives to the Proposed Regulatory Action that Would Lessen Any Adverse Impact on Small Business

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

F. Economic Impact Assessment (Government Code 11346.3(b))

The Authority has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Purpose:

The Authority is proposing to add Section 7125.1 and amend Section 7113, 7116, 7118, 7119, 7125, 7127, and revise Form CHFFA 7 MH-01 (Rev.06/2014).

The Creation or Elimination of Jobs Within the State of California

These regulations are designed to assist in the continued award of Grant funds under the Investment in Mental Health Wellness Act of 2013. County participation in voluntary as there is no mandate for a county to apply for Grant funds. Counties that are awarded Grant funds may utilize these funds for any number of projects. As such, it is difficult to project if these regulations will have an impact on the creation of jobs in the State of California. However, the implementation of these regulations will not impact or cause 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 designed to continue the awarding of Grant funds under the Investment in Mental Health Wellness Act of 2013. The Grant funds approved for an individual County or Counties Applying Jointly are disbursed directly to the County(ies) or the designated private nonprofit corporation or public agency if so designated by a County or Counties Applying Jointly. It is difficult to project whether these regulations will have an impact on the creation of new businesses in California. However, the implementation of these regulations will not impact or cause the elimination of existing businesses in California.

The Expansion of Businesses Currently Doing Business Within the State of California

These regulations are designed to continue the awarding of Grant funds under the Investment in Mental Health Wellness Act of 2013. The Grant funds approved for an individual County or Counties Applying Jointly are disbursed directly to the County(ies) or the designated private nonprofit corporation or public agency if so designated by a County or Counties Applying Jointly. It is difficult to project whether these regulations

will have an impact on the expansion of existing businesses in California. However, the implementation of these regulations will not impact or cause the elimination of existing businesses in California.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The anticipated benefit of these regulations is the ability of counties and Counties Acting Jointly to access Grant funds for additional projects within the counties of California for Crisis Stabilization and Crisis Residential Treatment facilities which serve those California residents with mental health needs. Neither benefits nor detriments are expected to Worker Safety and the State's environment.

G. Benefits Anticipated from Regulatory Action

The benefit of these regulations is to expedite the local entitlement process and the overall efficiency of project development.

H. Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.