

## FINDING OF EMERGENCY

The California Health Facilities Financing Authority (the “Authority”) intends to implement these regulations on an emergency basis for the immediate preservation of the public peace, health, safety, or general welfare, within the meaning of Government Code Section 11346.1.

Government Code Section 11346.1(a)(2) requires that at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. To this end, the Authority posted the proposed emergency regulations on its website and simultaneously disseminates notice of the proposed emergency action to all persons who have filed a request for notice

After submission of the proposed emergency regulations to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6. To determine the Office of Administrative Law five day comment period, please check <http://www.oal.ca.gov/> often.

## DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

The Legislature has deemed the adoption of these regulations to be an emergency. Health and Safety Code Section 1179.54 provides:

“The purpose of the Children’s Hospital Program is to improve the health and welfare of California’s critically ill children, by providing a stable and ready source of funds for capital improvement projects for children’s hospitals. The program provided for in this part is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the state.”

These regulations will directly benefit 13 children’s hospitals that operate throughout California. These hospitals provide comprehensive pediatric services to a high volume of children eligible for governmental programs and to children with special health care needs eligible for the California Children’s Services program. These regulations provide the mechanism for an additional funding round in order to disburse these remaining funds for the purchase of additional equipment for use in the treatment of these children or to fund other capital projects to either expand bed capacity or upgrade the facility as needed to better serve these children and their families.

Health and Safety Code sections 1179.57, subdivisions (c) and (d) provide that the First Funding Round is to end on June 30, 2018, at which time any funding remaining shall be available for any children’s hospital identified in paragraph (1) or (2), as applicable, of subdivision (b) of Section 1179.51. Currently, three of the eligible Children’s

Hospitals have not accessed all of the funds available to them. As the second funding round will be a competitive round, first come, first served, the Authority postponed the initiation of a second funding round to allow time for these Children's Hospitals to access their available funds.

The filing of these regulations as "emergency" will allow the regulations to become effective in ample time for the Children's Hospitals to review the Second Funding Round requirements and submit Applications for the available funds when the Second Funding Round opens on July 1, 2018.

## REQUEST FOR READOPTION

As permitted in the Government Code, the Authority is readopting the emergency regulations to allow additional time to complete the regulatory process.

The emergency regulations will expire on September 26, 2018. There is a necessity to readopt the emergency regulations for an additional 90-day period in order to finalize the regular rulemaking process and submit the Certificate of Compliance to the Office of Administrative Law.

## AUTHORITY AND REFERENCE CITATIONS

The Authority adopts these regulations under the authority granted in Sections 1179.55, 1179.57, and 1179.61 of the Health and Safety Code, and cites the following references: Sections 1179.55, 1179.56, and 1179.57 of the Health and Safety Code.

## INFORMATIVE DIGEST

California voters passed Proposition 3 on November 4, 2008, enabling the State of California to issue \$980 in General Obligation bonds for the Children's Hospital Program. The purpose of the program as outlined in Health and Safety Code Sections 1179.50-1179.72, is to improve the health and welfare of California's critically ill children by providing a stable and ready source of funds for capital improvement projects for children's hospitals. The California Health Facilities Financing Authority (the "Authority") is responsible for administering the Program. Thirteen children's hospitals are eligible for grants through the Program; eight nonprofit children's hospitals, and five University of California medical centers.

The Authority administered a first funding round that will end on June 30, 2018. Eight of the 13 hospitals have been awarded the maximum grants for which each is eligible (\$98 million for nonprofit hospitals and \$39.2 million for UC hospitals). It is not expected that the remaining grant funds of approximately \$147 million will be awarded by June 30, 2018. In order for these grant funds to be awarded after the June 30, 2018, the Authority must establish a new funding round. These proposed regulations will amend the regulations by establishing a new timeframe for the second funding round and allow the Authority to create a third funding round if needed. The ability to create a third funding round will ensure that all funds are awarded. The balance of grant funds will be

awarded consistent with the statute Section 1179.56, subdivisions (a) and (b) of the Health and Safety Code): Twenty percent of the total funds to the five University of California children's hospitals and 80 percent to the 8 nonprofit children's hospitals.)

The second funding round, which the proposed regulations provide for, will allow for a competitive round to commence on July 1, 2018 to disseminate the remaining grant funds in a competitive funding round on a first-come, first-served basis.

A new Application Form was developed for the Second Funding Round. The name of the Application acknowledges that it is specific to the second funding round, Children's Hospital Program of 2008 Funding Round 2 Grant Application Form #CHFFA 6, Rev. 01-2018-3.

The only entities impacted by these regulations are the children's hospitals as specified in Health and Safety Code Section 1179.51, subdivision (b).

#### UPDATED INFORMATIVE DIGEST

As required, the emergency regulations for the Children's Hospital Program of 2008 were posted on the CHFFA website, informing the public of the intent to submit the aforementioned regulations to the Office of Administrative Law (OAL) for review and approval of the emergency regulations. This notice of intent was also sent to any individuals on the listserve (the mechanism by which individuals request notification of any proposed regulations and other information requiring public notification, such as Authority board meeting dates and agendas.) The emergency regulations were approved by OAL with an effective date of March 29, 2018, and expiring on September 26, 2018.

The proposed regulations for the Children's Hospital Program of 2008 were published on June 15, 2018 and the public comment period was to be open from that date until July 30, 2018, in order to meet the required 45-day comment period. The dates for the public comment period as shown on the listserve notice have an end date for the public comment period of July 3, 2018 (33 days). This discrepancy was discovered as the request for Certificate of Compliance was being prepared for submission to OAL. OAL was contacted and per their determination, a notice was sent on August 6, 2018 to those on the listserv, acknowledging the error and extending the public comment period a minimum of an additional 15 days to August 24, 2018. The timing of discovery of the error and the 15-day extension of the public comment period, has caused, not only a delay in the delivery of the emergency regulations for the Certificate of Compliance to OAL, but has also caused a situation wherein the regulations will expire during the 30-working day OAL review.

In the event that the Certificate action is disapproved by OAL, the emergency regulations will expire. The request and approval of the readopt will ensure that the emergency regulations remain in effect for another 90 days, during which time any issues with the Certificate action can be resolved.

The Certificate action has been prepared and is ready for OAL review. However, as the readopt action is necessary, CHFFA is withholding submission of the Certificate of Compliance package until the readopt request is approved by OAL.

#### DESCRIPTION OF THE BENEFITS OF THE PROPOSED ACTION, WHICH INCLUDES NONMONETARY BENEFITS SUCH AS PROTECTION OF THE PUBLIC HEALTH AND SAFETY, WORKER SAFETY, THE ENVIRONMENT, ETC.

These regulations will directly benefit 13 children's hospitals (eight non-profit children's hospitals and five University of California Children's Hospitals) that operate throughout California. These hospitals provide comprehensive pediatric services to a high volume of children eligible for governmental programs and to children with special health care needs eligible for the California Children's Services program. These regulations provide the mechanism for additional funding rounds to be held in order to disburse remaining funds to the designated children's hospitals in order to purchase additional equipment for use in the treatment of these children or to fund other capital projects to either expand bed capacity or updated the facility as needed to better serve these children and their families.

#### EVALUATION OF WHETHER OR NOT THE PROPOSED REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS.

The Authority evaluated whether or not there were any other regulations concerning the awarding of grants to the Children's Hospitals to implement Proposition 3 (the Children's Hospital Program of 2008) and has found that these are the only regulations in this area. Therefore, the proposed regulatory amendments are neither inconsistent nor incompatible with existing state regulations.

#### DOCUMENTS INCORPORATED BY REFERENCE

The Children's Hospital Program of 2008 Funding Round 2 Grant Application Form #CHFFA 6, Rev. 01-2018-3.

#### COST ESTIMATE

1. Cost or Savings to State Agencies: No impact.
2. Cost to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500-17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: No impact
4. Federal Funding to State Agencies: No impact.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

## FISCAL IMPACT

These regulations do not impose any costs to any local agency or school district requiring reimbursement pursuant to section 17500 et seq. of the Government Code, nor do these regulations identify any costs or savings to any state agency, other nondiscretionary costs or savings to be imposed upon local agencies, or costs or savings in federal funding to the state.

## SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

The California Health Facilities Financing Authority has not identified any significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of these regulations will not have an impact on the creation or elimination of jobs within the state. As a result of the adoption of these regulations, new businesses will not be created and current businesses will not be eliminated within the state. The adoption of these regulations will not provide for the expansion of businesses currently doing business within the state. Additionally, neither benefits nor detriments are expected to worker safety or the state's environment due to the adoption of these regulations.

These regulations will directly impact the health and welfare of California residents, specifically children in need of acute care. The monies awarded to the children's hospitals through this Grant Program will benefit the quality of children's health care through the purchase of additional needed and updated equipment, fund other capital projects to either expand bed capacity or updated the facility as needed to better serve these children and their families.

## COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

The California Health Facilities Financing Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## BUSINESS REPORTS

The proposed regulations do not require any reports to be made by any business or other entity.

## SMALL BUSINESS

The proposed regulations will not affect small businesses because these regulations are specific to and affect only the 13 children's hospitals in California as identified in the Children's Hospital Program of 2008 (Health and Safety Code Sections 1179.50 through 1179.72).

## ALTERNATIVES INFORMATION

In developing this regulatory action, CHFFA did not consider any alternatives because no reasonable alternatives were presented for review.

CHFFA must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CHFFA would be more effective in carrying out the purpose for which the emergency regulations are proposed or would be as effective as and less burdensome to the affected entities than the proposed action, or would be more cost-effective to potentially affected private persons and equally effective in implementing the statutory policy or other provision of law.