

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: California voters passed Proposition 3 on November 4, 2008, enabling the State of California to issue \$980 million in General Obligation Bonds for the Children's Hospital Program (the "Program"). The purpose of the Program as outlined in Health and Safety Code ("HSC") 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 ("CHFFA" or 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 children's hospitals.

The specific purpose of these regulations is to allow CHFFA to amend the regulations in Title 4, Division 10, Chapter 2.5, governing the Children's Hospital Program of 2008. The proposed amendments to the regulations will allow the Authority to initiate a second funding round from July 1, 2018 to June 30, 2022, to award and disburse the remaining grant funds and initiate an additional funding round if grant funds remain at the conclusion of the second funding round.

Overall Benefit of this Rulemaking: CHFFA administered a first funding round that will end on June 30, 2018. The statute (HSC Section 1179.57, subdivisions (c) and (d)), states that if all funds are not awarded by June 30, 2018, remaining funds may be made available for any of the Program's children's hospitals. The regulations define the first 10 years as the first funding round and state that if there are any remaining funds, the Authority may, in its sole discretion, award remaining funds in the second funding round consistent with the original purpose and requirements of the Program. The second funding round will be on a first-come, first-served basis. The distribution of funds as set forth in HSC Section 1179.56 is adhered to: 20 percent to children's hospitals defined in HSC 1179.56, subdivision (a), and 80 percent to children's hospitals defined in HSC 1179.56, subdivision (b).

Nine of the thirteen children's hospitals have been awarded their maximum grant amounts (less costs of issuance, administrative fees, and earned interest). However, there are four hospitals that have not yet been awarded their maximum grant amounts. There remains approximately \$92 million available in grant funds to be awarded to the four hospitals by June 30, 2018. For those grant funds to be awarded after June 30, 2018, the Authority must amend the regulations.

NOTE: Throughout the Statement of Reasons, although not specified, the distribution of funds as established in Health and Safety Code Section 1179.56 is adhered to.

Section 7051. Definitions:

Section 7051 (d)

Specific Purpose:

This definition is being amended to inform users of the regulations that “Application Form” now refers to two separate and distinct Applications. Form #CHFFA 6, Rev. 10-2016-4 is the Application Form used specifically for the First Funding Round. Form #CHFFA 6, Rev. 01-2018-3 includes reformatting and some minor non-technical corrections. The Application Form with the revision date of 01-2018-3 is to be used to apply for funds in the Second Funding Round.

Factual Basis:

The amendments to this definition are necessary as a revised Application Form was developed for the Second Funding Round. The development of a revised Application Form was necessary as the First Funding Round utilized an additional document entitled “The Children’s Hospital Program of 2008 Overview and Instructions, Form # CHFFA 6A, Rev. 10-2016-4. This document provided the instructions for submittal of the Application and reiterated the regulations, including the definitions. This document has been deleted for use in the Second Funding Round. In its place, Application #CHFFA 6, Rev. 01-2018-3 includes one-page of Application Submission Instructions as part of the Application. Minor non-technical corrections were also made to the Application for the Second Funding Round.

Section 7051 (m)

Specific Purpose:

This definition is being amended to change the date of the First Funding Round.

Factual Basis:

The amendment to this definition is necessary as the First Funding Round as currently defined, is the “period of time prior to June 30, 2018”; i.e., June 29, 2018 or earlier. The Second Funding Round is currently described as the period of time after June 30, 2018; i.e., July 1, 2018. As such, the date of June 30 would be neither the end of the First Funding Round, nor the beginning of the Second Funding Round. This edit rectifies the dates so that as the First Funding Round ends, the Second Funding Round will begin the next day.

Section 7051 (gg)

Specific Purpose:

This definition is being amended to include an ending date for the Second Funding Round and to change the word “unexhausted” funds to “unawarded” funds.

Factual Basis:

This amendment is necessary to establish an end date for the Second Funding Round. Establishing an end date for the Second Funding Round, allows for the creation of a Third Funding Round (see Statement of Reasons, Section 7051, subdivision (mm)), should a Third Funding Round be necessary.

The word “unexhausted” is being replaced with “unawarded” as this is more descriptive of the funds remaining and provides clarity.

Section 7051 (mm)

Specific Purpose:

This definition is being added to create a Third Funding Round should funds remain unawarded at the conclusion of the Second Funding Round.

Factual Basis:

This definition is necessary to provide another funding round in which any remaining funds can be awarded to the children’s hospitals. Adding this definition informs users that if funds remain after the Second Funding Round, the Authority can hold a Third Funding Round to disburse remaining funds. The creation of the Third Funding Round will ensure that all funds are awarded.

Second 7054. Maximum Grant, Second Funding Round

Section 7054 (a)

Specific Purpose:

This regulation is added to inform the users of the regulations that any funds remaining after June 30, 2018, shall be available to any children’s hospital without regard to a maximum Grant amount. The distribution of funds as established in Health and Safety Code Section 1179.56, will continue to be adhered to as this is a statutory requirement. Additionally this regulation notifies the children’s hospitals that the Applications will be accepted on a first-come, first-served basis and subject to availability of funding as there is no maximum Grant amount.

Factual Basis:

This regulation is necessary as the Second Funding Round will not impose a maximum Grant amount for each of the eligible children’s hospitals. Therefore, it is important to make the children’s hospitals aware of this, as submittal of an early Application will be paramount to receiving Grant funds in this funding round.

Section 7054 (b)

Specific Purpose:

This regulation is added to inform the users of the regulations that in situations where complete Application forms are received during the same business day and time, initial allocations in equal amounts may be received. It is, of course, subject to the availability of funds and the readiness and feasibility of the Project as required in Section 7059, Evaluation Criteria, subdivision (c). This regulation also informs the user of the regulations what constitutes a “business day and time”.

Factual Basis:

This regulation is necessary as the Second Funding Round is on a first-come, first served basis. However, multiple Application Forms may be received within the same day and possibly within a close, if not exact time period. Applicants are informed that for the purpose of distributing any remaining funds, Applications received within the same business day and within the timeframe that constitutes business hours (8 a.m. (PT) to 5 p.m. (PT)) will be considered equal in terms of “first-come, first-served” as long as the Application Form is complete. This regulation provides the necessary information as to how the funds will be allocated in the situation previously described.

Section 7055. Application Form

Section 7055 (a)

Specific Purpose:

This regulation was amended to inform Applicants that the Grant Application Form #CHFFA 6, Rev. 10-2016-4 and the Overview and Instructions for Grant Application Form #CHFFA 6A, Rev. 10-2016-4 are only applicable to the First Funding Round. This regulation is also now referred to as “subdivision (a)” as a subdivision (b) has been added to provide information regarding the Second Funding Round.

Factual Basis:

This regulation is necessary as a Second Funding Round has been added. The Second Funding Round will use the Application Form with the revision date of 01-2018-3. Additionally, this regulation is now referred to as “subdivision (a)” as it is necessary to create a “subdivision (b)” that specifically addresses the Application Form revision to be used to apply for the Second Funding Round and how that Application Form can be accessed. The Overview and Instructions currently contained in this regulation will not be relevant to the Second Funding Round. The revised Application discussed in Section 7055, subdivision (b) below, eliminates the Overview and Instructions and replaces it with a single-page instruction sheet for submission of an Application in the Second Funding Round.

Section 7055 (b)

Specific Purpose:

This regulation informs potential Applicants that the Application Form for the Second Funding Round is available on the Authority's website. This regulation also informs potential Applicants that the Application Form, entitled Children's Hospital Program of 2008 Funding Round 2 Grant Application Form #CHFFA 6, Rev. 01-2018-3 is to be used to request funds in the Second Funding Round. This form is incorporated by reference. It is necessary to ensure that potential Applicants know there is a revised Application Form that is to be used when applying for funds in the Second Funding Round.

Factual Basis:

This regulation is necessary as the Application Form # CHFFA 6, Rev. 01-2018-3 is specifically for use by Applicants to apply for Grant funds in the Second Funding Round. This is the only acceptable Application Form for use in the Second Funding Round. The Application Form will be available on the Authority's website. The revision of the Application Form was necessary as the First Funding Round utilized an additional document entitled "The Children's Hospital Program of 2008 Overview and Instructions, Form # CHFFA 6A, Rev. 10-2016-4. This document provided the instructions for submittal of the Application and reiterated the regulations, including the definitions. This document has been deleted for use in the Second Funding Round. In its place, Application #CHFFA 6, Rev. 01-2018-3 includes one-page of "Application Submission Instructions" as part of the Application. Minor non-technical corrections were also made to the Application for the Second Funding Round.

Section 7056. Application Form Submission

Section 7056 (a)

Specific Purpose:

This regulation is applicable only to the First Funding Round and informs Applicants that Applications for the First Funding Rounds will only be accepted until June 30, 2018. Applicants may apply for more than one Grant until its maximum Grant for the First Funding Round is reached.

Factual Basis:

This regulatory amendment is necessary to make subdivision (a) applicable only to the First Funding Round. Subdivision (a) was amended to be applicable specifically to the First Funding Round as section 7056, subdivision (b) addresses the timeframe of the Second Funding Round and the submission of Applications. The date of June 30, 2018 was added as this is the end date for the First Funding Round. The language "the funding for the Children's Hospital Program of 2008 is exhausted" has been deleted as it now does not seem possible that all of the remaining funds (\$92 million) will be "exhausted" by the June 30, 2018 date.

Section 7056 (b)

Specific Purpose:

This regulation was added with the creation of the Second Funding Round and duplicates some of the information provided in subdivision (a), Applications are to be submitted in duplicate and each Applicant may apply for more than one Grant for different Projects. The dates for Application submission reflect the dates established for the Second Funding Round, after June 30, 2018 and before July 1, 2022. Note: These are the dates as established in Section 7051, subdivision (gg) for the Second Funding Round.

Factual Basis:

This regulation is necessary to establish the dates during which Applications will be accepted for the Second Funding Round. (Also see Specific Purpose and Factual Basis for Section 7056, subdivision (a) for specific end date for the First Funding Round.) As now specified in subdivision (a), the First Funding Round will end on June 30, 2018. The Authority is certain that not all of the funds for the Children's Hospital Program of 2008 will be exhausted by June 30, 2018, therefore, the regulations now create a Second Funding Round with specific start and end dates (Section 7051, subdivision (gg) for the submission of an Application Form. As with the First Funding Round, Applicants are informed that Application Forms are to be submitted in duplicate and that Applicants may apply for more than one Grant for different Projects.

Section 7063. Any Remaining Funds

Section 7063 (a)

Specific Purpose:

The "(a)" was added to the existing regulation as it is necessary to add a subdivision (b) to specify the procedure that will be followed should funds remain after the closing of the Second Funding Round on June 30, 2022.

Factual Basis:

This revamping is necessary as Outline Formatting (which is similar to the formatting used for regulations) requires that an A shall have a B, and a 1 shall have a 2, etc. As a subdivision (b) was added, it necessitates placement of an (a) in front of the existing regulation. The regulation itself remains unchanged.

Section 7063 (b)

Specific Purpose:

This regulation duplicates subdivision (a) by stating the procedure to be implemented should funds remain after the closing of the Second Funding Round. As was procedure for funds remaining at the closing of the First Funding Round, funds will continue to be awarded in a manner consistent with the purpose and requirements of the Children's Hospital Program of 2008.

Factual Basis:

This regulation is necessary as the proposed amendments to the regulations establish a Second Funding Round with specific dates for the opening and closing of the funding round and provisions for a Third Funding Round (See Section 7051, subdivision (mm)) should one be necessary. The language in subdivision (b) is duplicative of subdivision (a) in intent to award Grants in a Third Funding Round in a manner consistent with the statutory requirements and regulations of the Children's Hospital Program of 2008.

Section 7071. Audits

Section 7071, (a), (a)(1), (a)(2)

Specific Purpose:

This regulation has been expanded to include subdivisions (1) and (2) to provide Grantees information as to the timeframe for retention of documentation and financial data for each of the two established funding rounds. Retention of documentation and financial data for substantiation of use of Grant funds for the First Funding Round is three years after the certification of completion of the Project has been submitted or June 30, 2021, whichever is later; for the Second Funding Round, the retention time is three years after the certification of completion of the Project has been submitted or June 30, 2025, whichever is later.

Factual Basis:

The addition of subdivisions (a)(1) and (a)(2) are necessary as the current regulation provides the timeline for retention of documentation and financial data to substantiate the purposes for which the Grant funds were spent, only for the initial (First) funding round. With the establishment of the Second Funding Round, it is necessary to provide Grantees with a timeframe/date for retention of Project documentation and financial data. It is necessary to maintain the timeframe/date for the First Funding Round as the certificate of completion has not yet been filed for all Projects utilizing Grant funds from the First Funding Round. Modification of the existing regulation and the addition of subdivisions (1) and (2) are the clearest way to present the two different timeframes for the two funding rounds. (Note: Subdivision (a) contained the requirements for retention of the documentation and financial date for the First Funding Round. However, with the establishment of the Second Funding Round, it serves the users of the regulations to have the timeframes for each funding rounds addressed in a similar format.)

Document Incorporated by Reference

Children's Hospital Program of 2008 Grant Application, Form # CHFFA 6, Rev. 01-2018-03

Title Page

Specific Purpose:

The title page is amended to delete the word “The” from the name of the Grant Application and to amend the revision date of the document.

Factual Basis:

These two edits are necessary in order that the Grant Application is consistent with the applicable regulations, Chapter 2.5, The Children’s Hospital Program of 2008. The word “The” is removed from the title of the document for consistency with the title of the form as used in Section 7051, subdivision (d) and Section 7055, subdivision (b).

The revision number of the Children’s Hospital Program of 2008 Grant Application is being amended to Rev. 01-2018-3 to reflect that amendments have been made to this Application, and the Application with the revision date of 01-2018-3 is the most current. The revision date is amended to “01-2018-3 (emphasis added) for consistency with the form number as used in Section 7051, subdivision (d) and Section 7055; subdivision (b), the two sections referenced in the paragraph above.

The Children’s Hospital Program of 2008, Application Submission Instructions, Page (i)

Specific Purpose:

The Application Submission Instructions provide Applicants with necessary information including:

1. An original and one copy of the Application is to be provided in separate binders. Specifies that the Application Form and supplemental information is to be tabbed as specified.
2. TAB 1. Is the Application Form.
3. TAB 2. The Agency’s Finances (Most Recent Audited Financial Statements).
4. TAB 3. Organizational Information to include: (a) current acute care hospital license. Non University of California Children’s Hospitals shall also provide (b) a (copy of the 501 (c)(3) determination letter from the Internal Revenue Service (IRS) or a Letter of Good Standing from the Franchise Tax Board (FTB). If the Children’s Hospital is an operating entity of a California nonprofit corporation, the IRS and FTB letters are to be for the parent corporation; a copy of the Applicant’s Articles of Incorporation and Bylaws and (c) Applicant’s Articles of Incorporation and Bylaws.
5. TAB 4. Legal Information.
6. TAB 5. Certification
7. Mailing Information

Factual Basis

This page has been added to the Grant Application as part of the 01-2018-3 revisions. The information provided on this page, if followed by the Applicant, will ensure that the Application is not rejected for failure to provide the required documentation.

This information was included in The Children's Hospital Overview and Instructions for Grant Application, Form #CHFFA 6A, Rev. 10-2016-04, which is only applicable to the First Funding Round. The information contained on page (i) is very similar to that in the Overview and Instructions for Grant Application. The information, however, is more concise and eliminates the redundancy contained in the Overview and Instructions by citing the regulation sections rather than repeating the regulations in their entirety.

Page 1- Summary Information

Addition of "For the First Funding Round only", in the NOTE:

Specific Purpose:

Users of the Application are informed that the amount of money specified in the Note was for the First Funding Round. As monies have been awarded, these amounts do not represent the current funds available.

Factual Basis:

This revision to the Application is necessary so that the amount of funds stated as available to the University of California Children's Hospitals and the eligible Non University of Children's Hospitals reflects the specificity to the First Funding Round. As grant funds have been awarded and will continue to be awarded, these amounts are subject to constant change.

Non University

Specific Purpose:

This is a non-substantive change to be consistent with the regulations.

Factual Basis:

A nonsubstantive change was sent to OAL correcting non-University to "Non University". This difference was overlooked in the Application Form and will be corrected with this regulation package for consistency of terms between the regulations and the Application Form. (This edit was Endorsed Approved by OAL on August 13, 2014, Regulatory Action Number 2014-0701-03N.)

Page 8 – E. Sources and Uses of Funds.

Nonsubstantive changes:

1. Delete the word "All" at the beginning of the first paragraph to read:
"All Applicants must submit the budget....."
2. Delete the word "all" in the second sentence to read:
"If other sources of funds will be used to complete the Project, all the..."
3. Capitalize the word "Applicant" in the first and third sentence of the second paragraph to read:

“The aApplicant must itemize what portion...”

“The aApplicant therefore shall describe...”

Changes delete unnecessary words and also provide consistency with the regulations. The word Applicant should be capitalized as it is a defined term, see Section 7051, subdivision (c) and refers to specific Applicants.

Page 9 – G. Application Submission.

Specific Purpose:

This section of the Application has been reformatted and provides clarifying information as to when Applications received during the month of October will be presented for Board consideration.

Factual Basis

These edits are necessary as Applications received in October will be heard by the Authority members in either December or January. Previously, Applicants were informed that the Application would be held in December. While all effort will be made to act on Applications timely, there may be times when it is not be possible to present all Applications received in October in a single month. This amended language provides flexibility to the Board, should it be needed.

Page 10 – Legal Status Questionnaire.

Specific Purpose:

A nonsubstantive change to correct a single word, change “charters” to “charges”.

Factual Basis

The Legal Status Questionnaire is a document used by multiple Authorities in the Office of the State Treasurer. Within the Application, the Legal Status Questionnaire is identified as Attachment A. The document is used to collect information about various types of allegations involving the Applicant and/or board members, partners, etc. have been involved. The responses to this Questionnaire may have a bearing on whether the Application is approved for presentation to the Board. As current written, the word “charters” is incorrect and needs to be amended to “charges”.

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. California Code of Regulations
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 amend Sections 7051, 7054, 7055, 7056, 7063 and 7071, and revise Form # CHFFA 6, Rev. 10-2016-4 affecting the Children's Hospital Program of 2008. The amendments to these regulations will allow the California Health Facilities Financing Authority ("CHFFA") to hold a Second Funding Round and a Third Funding Round (if necessary) thus disbursing the remaining approximately \$92 million to the 13 designated Children's Hospitals throughout California.

The Creation or Elimination of Jobs Within the State of California

The proposed amendments to the regulations will neither create nor eliminate jobs within the State of California. The justification for this statement is that proposed amendments to the regulations are based on the Children's Hospital Bond Act of 2008 as codified in Health and Safety Code Sections 1179.50 through 1179.72.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

The proposed amendments to the regulations will neither create new businesses nor eliminate existing businesses within the State of California. The justification for this statement is that the proposed amendments to the regulations are based on the Children's Hospital Bond Act of 2008 as codified in Health and Safety Code Sections 1179.50 through 1179.72.

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

The proposed amendments to the regulations will not expand businesses currently doing business within the State of California. The justification for this statement is that the proposed amendments to the regulations are based on the Children's Hospital Bond Act of 2008 as codified in Health and Safety Code Sections 1179.50 through 1179.72.

Evidence Supporting No Significant Adverse Economic Impact on Business

CHFFA has made an initial determination that the proposed regulations 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. These regulations represent amendments to the Children's Hospital Program of 2008. These amendments will specifically allow CHFFA to set a specific timeline for a Second Funding Round and allows for a Third Funding Round, if necessary, in order that the 13 Children's Hospitals specified in Health and Safety Code Section 1179.51, subdivisions (b)(1) and (b)(2), can access the grant funds that remain.

No businesses, other than the specified 13 Children's Hospitals under Health and Safety Code Section 1179.51, subdivisions (b)(1) and (b)(2), were or will be affected by these regulations.

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

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 or capital projects that either expand bed capacity or upgrade the facility as needed to better serve these children and their families.

G. Benefits Anticipated from Regulatory Action

The amendments to these regulations will allow the California Health Facilities Financing Authority ("CHFFA") to hold a Second Funding Round and a Third Funding Round (if necessary) thus disbursing the remaining approximately \$92 million to the 13 designated Children's Hospitals throughout California. These amendments will ensure that the remaining funds are available to the 13 eligible children's hospitals for the purchase of needed and updated equipment for use in the treatment of these children or

to fund other capital projects to either expand bed capacity or update the facility as needed to better serve these children and their families.

H. Statement of Specific Technology or Equipment

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