

**CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY
STAFF SUMMARY AND RECOMMENDATION**

**Community Clinic Grant Program of 2005
Grant Program Permanent Regulations**

January 26, 2006

Resolution Number: 2006-03

Introduction

The emergency regulations implementing the Community Clinic Grant Program of 2005 are due to expire on April 14, 2006. Staff is seeking Board approval to file appropriate documentation with the Office of Administrative Law (“OAL”) to obtain permanent regulations.

Background

As a result of the Anthem-WellPoint merger, WellPoint agreed to provide \$35 million to be used for improvement of the healthcare infrastructure to non-profit community based clinics serving low-income healthcare consumers. WellPoint entered into an agreement with the California State Department of Insurance to provide this funding.

The Authority was statutorily charged with implementing the \$35 million grant program, when Senate Bill 190 became law on October 15, 2005. Authority staff filed emergency regulations with OAL on December 15, 2005.

The Authority will be accepting grant applications until February 28, 2006 and staff will review and score the applications in anticipation of recommending initial allocations to the Board at the April 2006 Authority Meeting.

Summary of Changes from Emergency to Permanent Regulations

None

Anticipated Timeline

The following is the anticipated timeline for the adoption of regulations:

January 26, 2006	File Notice of Proposed Rulemaking with OAL.
February 3, 2006	Notice of Proposed Rulemaking is published in the California Register.
March 14, 2006	File re-adoption of Emergency Rulemaking File with OAL.
March 21, 2006	Public comment period closes.
March 23, 2006	Public Hearing, if requested. -Revise regulations as needed and re-notice a 15-day period, if necessary.
April 27, 2006	Return to Authority with amended regulations for Authority approval.
May 1, 2006	Submit Rulemaking File to OAL.
June 12, 2006	OAL approves Permanent Regulations and files permanent regulations with the Secretary of State.
July 12, 2006	Permanent Regulations become effective.

As noted in the timeline, staff anticipates returning to the Authority in April 2006 to discuss any public comments received and any changes to the proposed permanent regulations.

RECOMMENDATION:

Staff recommends the Authority approve the initial process to adopt permanent regulations for the new grant program, by authorizing staff to obtain public comment for the attached regulations, distribute any changes or additions to the regulations as a result of public comments and proceed with all other OAL procedure in order to obtain permanent regulation status.

TEXT OF REGULATIONS

ADOPT: CALIFORNIA CODE OF REGULATIONS

Title 4 Division 10, Chapter 3

The Community Clinic Grant Program of 2005

Section 7075. Definitions

The following words and phrases, as used in this Chapter are defined as follows:

(a) “Act” – means the Cedillo-Alarcón Community Clinic Investment Act of 2000, as set forth in Section 15438.6 of the Government Code, as amended by Stats. 2005, ch. 493.

(b) “Applicant” - means a Clinic applying for Grant funds under the Community Clinic Grant Program of 2005.

(c) “Application Form” - means the written request by an Applicant to the Authority for a Grant under the Community Clinic Grant Program of 2005, which includes pages 1-15, Attachments A-D and all materials submitted with Form # CHFFA 6 Rev. 10-2005. If necessary, the Application Form for the Second (2nd) Funding Round shall be developed at a future date.

(d) “Audited Financial Statements”- means an examination and report of the financial activities of an eligible Applicant for fiscal year 2004 (or a more recent audit for the Second (2nd) Funding Round, if necessary), performed by an independent accounting firm under generally accepted accounting principles.

(e) “Authority” - means the California Health Facilities Financing Authority.

(f) “Authority Staff” - means employees of the Authority.

(g) “Broad Geographic Distribution” - means that approximately eight million dollars (\$8 million) in Grant funds will be allocated to each of the following four geographic regions for Projects in that region:

- (1) Central Coast: the counties of Mendocino, Sonoma, Marin, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Benito, Monterey, Santa Cruz, San Mateo, and San Francisco;
- (2) Los Angeles/Ventura: the counties of Los Angeles and Ventura;
- (3) Northern/Central: the counties of Del Norte, Humboldt, Siskiyou, Trinity, Shasta, Modoc, Lassen, Tehama, Glenn, Butte, Plumas, Sierra, Yuba, Sutter, Lake, Colusa, Yolo, Sacramento, El Dorado, Placer, Nevada, Amador, Alpine, Calaveras, San Joaquin, Stanislaus, Tuolumne, Mono, Mariposa, Merced, Madera, Fresno, Kings, Tulare, and Inyo;

- (4) Southern California: the counties of San Luis Obispo, Santa Barbara, Kern, San Bernardino, Orange, Riverside, San Diego, and Imperial.

The balance of funds in excess of \$32 million shall be allocated on the basis of total points received by each Applicant, regardless of geographic location.

(h) “Clinic” - means a “Community Clinic” or “Free Clinic”, as defined by Section 1204(a) of the Health and Safety Code that has been licensed by the State Department of Health Services as of January 1, 2004. “Clinic” also includes a Clinic, as described in Section 1206(c) of the Health and Safety Code, that is exempt from licensure and conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(i) “Community Clinic Grant Program of 2005” or “program” – means the program resulting from the Act.

(j) “Commissioner” – means the California Insurance Commissioner.

(k) “Completed Project” – means an eligible Project that is completed (in place and fully operational).

(l) “Executive Director” - means the Executive Director of the Authority.

(m) “Expansion of Services” – Adding a new service or expanding capacity to an existing service.

(n) “Final Allocation” – means the amount of funds awarded to an Applicant by the Authority based on an Initial Allocation that has been adjusted according to the total amount of funds available for distribution, Broad Geographic Distribution and any appeals approved by the Authority.

(o) “First (1st) Funding Round” – means the Funding Round (1st) for which an application is due on the final filing date noticed in the Application Form.. Funding available for the First (1st) Funding Round is equal to \$35 million (\$35,000,000), plus interest earnings on these funds, plus any remaining funds from the Grant program previously authorized and funded by Section 15438.6 of the Government Code, as enacted by Stats. 2000, ch. 99.

(p) “Going Concern Qualification” - means a finding by an independent accounting firm that the carrying value of an entity’s assets will be realized and its liabilities will be liquidated in the ordinary course of continuing business activity.

(q) “Grant” - means a Final Allocation approved by the Authority.

(r) “Grant Agreement” – means a separate agreement between the Authority and Grantee which specifies the terms and conditions of the grant as specified in Section 7092

(s) “Grantee” – means an Applicant that has received Grant approval by the Authority.

(t) “Health Professional Shortage Areas (HPSAs)” – means those areas or facilities designated as having a shortage of health professionals by the Secretary of the U.S. Department of Health and Human Services in accordance with Section 254e of Title 42 of the United States Code. (Federal law also recognizes facility HPSAs.)

(u) “Improvement of Services” means an improvement in the quality of care provided to existing patients.

(v) “Indigent Care” – means a ratio calculated by Authority Staff between the number of Indigent patients and the number of total patients that are reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

(w) “Initial Allocation” - means an Authority Staff-level decision granting an allocation to an Applicant based on score and rank, adjusted according to the total amount of funds available for distribution and for Broad Geographic Distribution.

(x) “Medically Underserved Areas (MUAs)” – means those areas designated as medically underserved by the Secretary of the U.S. Department of Health and Human Services as published in the Federal Register from time to time in accordance with Section 51c.102 of Title 42 of the Code of Federal Regulations.

(y) “Medically Underserved Populations (MUPs)” – means the population of an urban or rural area designated as medically underserved by the Secretary of the U.S. Department of Health and Human Services in accordance with Section 254b of Title 42 of the United States Code.

(z) “Memorandum of Understanding (MOU)” – means the agreement entered between the California Insurance Commissioner and the Authority authorizing the Authority to administer this program and providing the basic parameters for the program.

(aa) “Project” - means the construction, expansion, remodeling, renovating, acquiring furnishing, or equipping of a Clinic, and includes the removal, installation, and maintenance of electronic and non-electronic equipment, as well as the reasonable costs associated with training personnel on the use of the new equipment. Project does not include normal operating expenditures, non-capital equipment, refinancing, or reimbursement of expenditures prior to the Final Allocation date. No pre-construction costs are allowed, except for eligible permit and planning fees.

(bb) “Project Period” means a defined beginning and end date approved by the Authority for implementation of the Project.

(cc) “Second (2nd) Funding Round” – means funding of grants after the First Round Funding, subject to funds being available.

(dd) “Special Needs Populations” – means a population of patients with serious chronic or acute conditions that require an extraordinary level of experience and care to provide health care services that result in extraordinary costs to a Clinic.

(ee) “Total Grant Funds” means \$35 million, plus interest earnings on these funds, plus any forfeited funds returned from Grantee’s back to the Authority, plus remaining funds from the grant program previously authorized and funded by Section 15438.6 of the Government Code, as enacted by Stats. 2000, ch. 99.

(ff) “Total Net Assets” – means the total equity of a non-profit organization, representing the difference between its total assets and its total liabilities, as shown on the Applicant’s final Audited Financial Statement for 2004, or if not available Federal Income Tax Form 990 for 2004.

(gg) “Uncompensated Care” – means a population of patients measured as a ratio calculated by Authority Staff comparing self-pay and non-pay patient encounters with total patient encounters, as reported by primary care and specialty clinics with the Office of Statewide Health Planning and Development in accordance with Section 1216 of the Health and Safety Code, as shown in the annual report for 2003.

(hh) “Underinsured Population” – means the number of patients having partial health insurance coverage and required to self-pay or pay on a sliding scale for all or part of their health care services not provided by their health insurance program or plan.

(ii) “Uninsured Population” – means a population of patients measured as a ratio calculated by Authority Staff comparing patient encounters from the Child Health and Disability Prevention Program (CHDP), the Medically Indigent Services Program (MISP), the County Medical Services Program (CMSP), the Expanded Access to Primary Care Program (EAPC), other county programs, other state programs, self-pay and non-pay encounters with total patient encounters filed by primary care and specialty clinics with the Office of Statewide Health Planning and Development in accordance with Section 1216 of the Health and Safety Code, as shown in the annual report for 2004.

(jj) ”Waiting List – means a list of Applicants who are waiting for Grant funds, if Grant funds are available after the funding of the First (1st) Funding Round.

(kk) “Working Capital” – means the excess of current assets over current liabilities, as shown on the Applicant’s 2004 Audited Financial Statements or Federal Tax Form 990.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7076. Eligible Clinic

- (a) A Clinic shall be eligible to apply for a Grant if all of the following conditions are met:
 - (1) the 2004 Audited Financial Statements of the Clinic do not contain any Going Concern Qualification;
 - (2) the Project completion timeline is within eighteen (18) months from the date of Final Allocation;
 - (3) the Clinic has submitted to the Authority a completed Application Form; and
 - (4) the Clinic has filed an annual report to the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code, except those Clinics that are exempt from this requirement. Clinics that are exempt from filing annual reports must submit the data as requested by the Authority in Attachment D of Application Form #CHFFA 6, Rev. 10-2005.
- (b) If a Clinic does not meet the conditions in subdivision (a), the Clinic shall be deemed ineligible and will not be considered for funding.
- (c) If the Clinic proposes to use Grant funds for a Project other than equipment acquisition on certain property, the Clinic shall provide evidence that either:
 - (1) The Clinic owns the property, or
 - (2) the Clinic is a lessee under a lease agreement that will continue for at least five years after the Completed Project date.
- (d) If the Clinic proposes to use Grant funds for a Project that includes permit fees, project planning fees, or land acquisition costs, the Clinic shall provide the Authority with reasonable assurance, at the Authority's discretion, that any of these are components of a larger Project that will meet the program objectives.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 (b) and (c), (d), (g) and (j) of the Government Code.

Section 7077. Eligible Project

Grants shall be used for purposes as defined under "Project" in Section 7075.

Note: Authority Cited: Sections 15437 and Sections 15438.6 (d) of the Government Code. Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7078. Maximum Grant, First Funding Round

No Grant shall exceed two hundred fifty thousand dollars (\$250,000) per Clinic. If an organization consists of or is affiliated with more than one Clinic, then each eligible Clinic may receive Grant funds of up to two hundred and fifty thousand dollars (\$250,000). However, no organization along with its affiliates may receive Grant funds in excess of seven hundred and fifty thousand dollars (\$750,000). If an organization receives Grant funds in excess of two hundred and fifty thousand dollars (\$250,000) as permitted by this section, the entire amount may be expended among approved projects, as reflected in the organization's Application(s).

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code. Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7079. Maximum Grant, Second Funding Round

If Grants are awarded pursuant to Section 7089, the process for determining Maximum Grants for the Second Funding Round shall be adopted at a future date.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code. Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7080. Application Form/Submission

Blank Application Forms are available from the Authority and the Authority's website and may be referred to as the Community Clinic Grant Program of 2005 Grant Application Form #CHFFA 6, Rev. 10-2005, which is hereby incorporated by reference. The Applicant shall submit a completed Application Form in the manner set forth in Sections 7081 and 7082 of this chapter. The Community Clinic Grant Program of 2005 Overview and Instructions for Grant Application, Form # CHFFA 6, Rev. 10-2005 are hereby incorporated by reference.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code. Reference: Sections 15438 (q) and 15438.6 (b), (d) and (j) of the Government Code.

Section 7081. Application Form Submission

- (a) Application Forms shall be submitted in duplicate to the Authority. Applications must be received on or before 5:00 pm on the final filing date noticed in the Application Form. Application Forms received after the final filing date/time will not be accepted for review or evaluation and will be returned to the Applicant by

mail. Application Forms shall be considered complete and final as of the date received. The Authority Staff shall NOT accept additional written information after the application is received, for purposes of evaluating the Application Form, unless requested by the Authority.

- (b) When the Applicant is part of or is affiliated with an organization that consists of or is affiliated with more than one Clinic, the Applicant's Application Form shall list all Clinics that are part of or affiliated with the Applicant.

Note: Sections 15437 and 15438 (d) of the Government Code. Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7082. Content of Application Form

The following information shall accompany the Application Form:

- (a) **Financial Information.** Applicants shall submit a copy of their 2004 final Audited Financial Statements (drafts not permitted). If an Applicant certifies that an audit was NOT completed for the year 2004, the Applicant shall submit a copy of its 2004 Federal Tax Return - Form 990
- (b) **Organizational information.** Applicants shall submit:
 - (1) a copy of their tax-exemption letter from both the Internal Revenue Service and the State Franchise Tax Board; and
 - (2) a copy of their most recent license or licenses (if the application references other licensed clinics), or notification of exemption from licensure, from the State Department of Health Services.
- (c) **Legal Information.** The Applicant shall complete a legal status questionnaire.
- (d) **Agreement and Certification.** The Applicant shall agree and certify to the following terms and conditions as a requirement of receiving any Grant. The agreement and certification shall be executed by the Executive Director or Chief Executive Officer, Chief Financial Officer, or other authorized officer of the Applicant, on behalf of the Applicant. The authorized officer of the Applicant shall agree and certify to the following terms and conditions as a requirement of receiving any Grant:
 - (1) The information contained in the Application Form and attachments is true and correct to the best of his or her knowledge and belief and understands that any misrepresentation may result in the cancellation of a Grant and other actions permitted by law and the Grant Agreement.
 - (2) The Applicant may be required to return all or a portion of the Grant if the Applicant fails to complete the Project as approved. In cases where the Grant will fund permit fees, planning fees, or land acquisition costs as part

of an approved Project, the Applicant may be required to return all Grant funds if the Authority cannot determine the associated larger Project has been completed, based on the timelines provided within the Application Form.

- (3) Grant funds will be used only for the Project described in the Application Form, unless a change in the Project is approved in writing by the Authority or Authority Staff pursuant to Section 7090.
- (4) If a Federal Tax Return Form 990 was submitted in lieu of an Audited Financial Statement, no audit of financial statements was performed for 2004.
- (5) The financial records of the Project are subject to audit and inspection by the Authority, California Department of Insurance or its designee, and/or the Commissioner.
- (6) The Applicant has disclosed all information requested in the legal status questionnaire.
- (7) The Applicant will notify the Authority in writing at the time of Project completion with evidence of completion included.
- (8) The Applicant will provide all documents and information required by law and meets all necessary requirements prior to release of the Grant.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7083. Application Form Evaluation

- (a) Application Forms shall be reviewed and evaluated by Authority Staff within 60 days from the filing deadline according to the evaluation criteria described in Section 7084.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7084. Evaluation Criteria

Authority Staff using a point system, with a maximum of 165 points, will evaluate Grant Applications. Authority Staff shall evaluate each Application Form based on the following criteria:

- (a) Population served. (Maximum sixty (60) points).
 - (1) Uncompensated Care

The Applicants shall be awarded points based on the amount of Uncompensated Care provided to patients, as reflected by the ratio between the number of Uncompensated Care encounters and the number of total patient encounters that were reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

SCORING – The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(2) Indigent Care

The Applicants shall be awarded points based on the amount of care provided to Indigent patients (at or below 200% of the Federal poverty level) as reflected by the ratio between the number of Indigent patients and the number of total patients that are reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the Health and Safety Code.

SCORING – The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(3) Care to the Uninsured Populations

The Applicants shall be awarded points based on the amount of care provided to the uninsured, as reflected by the ratio between the number of uninsured patient encounters and the number of total patient encounters that were reported by each Applicant in its 2004 annual report on file with the Office of Statewide Health Planning and Development pursuant to Section 1216 of the California Health and Safety Code.

SCORING - The Applicants shall be placed in one of three tiers based on the ratios as calculated by Authority Staff. The Applicants scoring in the upper tier shall receive fifteen (15) points. The Applicants scoring in the middle tier shall receive nine (9) points. The Applicants scoring in the lower tier shall receive zero (0) points.

(4) Care to the Underserved Populations

These areas include Health Professional Shortage Areas (HPSAs), Medically Underserved Areas (MUAs), or Medically Underserved Populations (MUPs).

SCORING - Applicants located in federally designated shortage areas shall receive ten (10) points.

- (5) **Special Needs Populations**
Applicants must include third party statistical data to demonstrate the nature and severity of the special needs.

SCORING - Applicants who serve a Special Needs Population shall receive five (5) points.

- (b) **Proposed services.** (Maximum fifty (50) points) (Points may be awarded under either (1) or (2) but not both.)

Each Applicant shall describe the proposed Project and provide supporting documentation that explains:

- (1) How well the proposed Project will expand services to the indigent, underinsured, and uninsured populations, which will be evaluated by the following:
- (A) Extent to which the proposed Project reflects a superior understanding and prioritization of community needs, community problems or barriers to accessing health care services within the community, that have been documented by third party sources. (Maximum twenty (20) points)
 - (B) Amount and importance to community of new services that the Project proposes to provide. (Maximum twenty (20) points)
 - (C) Extent to which Applicant justifies achievable and convincing outcomes, and methods that will effectively monitor and evaluate those outcomes. (Maximum ten (10) points)
- (2) If the Project will not result in net additional or new services to existing or new patients, how well the proposed Project will maintain or improve existing services to indigent, underinsured, and uninsured populations, which will be evaluated by the following: (Maximum forty (40) points)
- (A) Extent to which the proposed Project reflects a superior understanding and prioritization of community needs, community problems or barriers to accessing health care services within the community that have been documented by third party sources. (Maximum fifteen (15) points)
 - (B) Amount and importance to community of services that the Project proposes to maintain that otherwise might be eliminated, or extent to

which the proposed Project will improve existing services. (Maximum fifteen (15) points)

- (C) Extent to which Applicant demonstrates achievable and convincing outcomes, and methods that will effectively monitor and evaluate those outcomes. (Maximum ten (10) points)

- (c) Financial capacity. (Maximum 20 points).
Authority Staff shall review each Applicant's 2004 Audited Financial Statements (or 2004 Federal Tax Form 990) and shall assign points based on the Total Net Assets and Working Capital of the Applicant.

(1) The Total Net Assets of each Applicant shall be evaluated as follows:

<u>Total Net Assets</u>	<u>Points</u>
Less than or equal to \$250,000	10
\$250,000-\$500,000	5
\$500,000-\$750,000	3
\$750,000 and above	0

(2) The Working Capital of each Applicant shall be evaluated as follows:

<u>Percent Of Project</u>	<u>Points</u>
Less than or equal to 10%	10
11%-30%	5
31%-40%	3
41% and above	0

- (d) Project timeline/readiness/feasibility (Maximum of 35 points).

(1) Authority Staff shall determine how well each Applicant demonstrates project timelines/readiness and feasibility based upon the following:

(A) A Project timeline that includes the following (not scored, but required):

- (1) An expected start date (e.g., construction start date(s) and/or equipment purchase date(s)).
- (2) An expected completion date (e.g., construction completion date(s), acquisition completion dates, and/or equipment installation date(s)).

- (3) Problems anticipated in implementing the Project and how problems will be managed to ensure timely completion.
- (B) Project readiness after a review of all of the following: (Maximum twenty (20) points)
 - (1) For all Projects with the exception of equipment acquisition Projects, each Applicant shall submit estimates of Project costs and evidence of property ownership or, if the property is leased by a Clinic, a copy of the lease agreement extends at least 5 years from the Completed Project date. The Applicant shall also provide building permits and/or executed construction contracts, if available. An Applicant with a Project that does not yet have an executed construction contract or building permit, but is actively in the process of obtaining one, shall provide a detailed statement that explains the status of obtaining the document.
 - (2) For Projects that include the acquisition of real property, each Applicant shall submit a copy of an executed purchase and sale agreement/option agreement (or status of obtaining one) or other evidence of site control to the satisfaction of the Authority.
 - (3) For equipment acquisition Projects, each Applicant shall submit a specific list of items and cost estimates of equipment or copies of invoices, and if applicable, cost estimates of equipment removal, installation and implementation.
 - (4) If funding sources other than the Grant are required to complete the Project, each Applicant shall provide approval or commitment letters from the other funding sources, confirming that the funding is secured and available in accordance with the Project timeline and budget.
- (C) Whether implementation of the Project is feasible (Maximum 15 points.)
 - (1) Each Applicant shall submit plans for Project implementation that includes credible staffing, operations and reimbursement figures. If the Project will result in an expansion of services, the Applicant shall provide an organization chart identifying key personnel for the expanded services.

- (2) Each Applicant shall submit a prepared feasibility study, funding letters or other documentation, such as the minutes of the Board of Director meeting in which the project was approved, to demonstrate that the Project will generate sufficient revenues to provide on-going support for new or expanded services and/or research programs. If revenues generated by the Project will be insufficient, the Applicant's revenues shall be sufficient as determined by Authority Staff to provide on-going support.
- (D) If the Authority Staff determines at its discretion that the Applicant does not demonstrate timeliness, readiness, or feasibility, applicant MAY NOT be eligible for grant funding.
- (e) The sources and uses of funds (not scored but required):
 - (1) The Applicant shall detail all sources of funds required to complete the proposed Project. Sources may include, but are not limited to, the total Grant request, borrowed funds, internal assets, and other sources. If the Project, or a portion of the Project, has been or will be submitted to other lenders or grantors for funding, the Applicant shall list them and the status of their consideration.
 - (2) The Applicant shall detail the uses of all funds required to complete the proposed Project. The total uses shall not exceed the total of all available fund sources.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7085. Initial Allocation

The Authority Staff shall rank the Application Forms based on the highest scores received. In the event that more than one Applicant has the same score, Authority Staff shall assign those Applicants the same ranking. The Executive Director shall make an Initial Allocation to the Applicants, taking into account the ranking of all Applicants, the total amount of funds requested and the total amount of funds available. In the event total funds requested exceed total funds available, the Executive Director shall make an Initial Allocation according to the following allocation schedule:

- (a) The Authority shall allocate available funds to the highest-ranking Applicants, equal to 100 percent of the Applicant's Grant request, to be known as Rank # 1.
- (b) The Applicants who score below Rank # 1, will be maintained on a Waiting List, and may be eligible for funding in the Second (2nd) Funding Round, if funds are available.

- (c) In the event that Applicants score the same points, Authority Staff will determine ranking based on points scored in the following order: population served, proposed services, financial capacity, and project readiness.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7086. Broad Geographic Distribution

- (a) After the Initial Allocations are made, the Executive Director shall ensure that a minimum of eight million dollars (\$8,000,000) has been initially allocated for Projects in each of four (4) regions, including the Central Coast, Los Angeles/Ventura, Northern/Central and Southern California. If any region receives less than eight million dollars (\$8,000,000) in total Grant funds, the Initial Allocation to the regions with excessive funds shall be reduced in an amount sufficient to mitigate the deficiency in any region receiving insufficient funds. To accomplish this purpose, funds shall be re-allocated from the lowest scored Applicants in the region with excessive funds to the highest scored Applicants that did not receive Grant funds under the Initial Allocation in the region with insufficient funds.
- (b) The distribution of the Total Grant Funds in excess of \$32 million allocated to particular regions shall be based solely on points scored by each Applicant, regardless of the Applicant's geographic locations.
- (c) In the event that an Applicant appeals to the Authority and the Authority approves the appeal, the funding for the approved appeal will come from excess funding described in subdivision (b) of this Section. To accomplish this purpose, funds shall be re-allocated from the lowest scored Applicants that were identified as eligible for the excess funding.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7087. Notification of Initial Allocation

When the Initial Allocation of funds has been made to Applicants after taking into account the total amount of funds available, and adjusted to allow for Broad Geographic Distribution, the Authority shall notify each Applicant in writing, stating their score and proposed amount of the Initial Allocation, or the Applicant's position on the Waiting List, if applicable.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7088. Appeals

- (a) Availability. An Applicant may file an appeal of any Initial Allocation. The grounds for any such appeal shall be limited to Applicant eligibility pursuant to Sections 7076 and 7083 No Applicant may appeal the Authority Staff evaluation of an Initial Allocation to another Applicant.
- (b) Timing. The appeal shall be submitted in writing and must be received by the Authority no later than ten (10) calendar days following the transmittal date of the notification of Initial Allocation.
- (c) Review. The Authority Staff shall review the written appeal based upon the existing documentation submitted by the Applicant when the Application Form was filed. The Authority Staff shall make a finding as to the merit of the appeal and shall notify the Applicant as to the decision no later than ten (10) calendar days after receipt of the appeal. The decision of Authority Staff may be further appealed to the Authority, by written notification to the Executive Director and personal appearance before the Authority. The Executive Director shall notify the Applicant of the date of the Authority meeting at which the matter will be considered.
- (d) Successful appeals. If the Authority approves Grant funding to an Applicant on appeal, the funding for the Applicant's Project shall be secured by amending the Initial Allocation, which may result in a reduction or elimination of Grant funds awarded to lower scoring Applicants who would have otherwise received Grant funds. If this occurs, the lower scoring Applicants will be placed on the Applicant Waiting List.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7089. Approval of Grant and Notification of Grantees

When Initial Allocations have been determined, after taking into account the total funds available, Broad Geographic Distribution and any appeals considered by the Authority, Authority Staff shall recommend to the Authority at its regularly scheduled meeting that the Initial Allocations be approved as Final Allocations. Any Final Allocation approved by the Authority shall be awarded as Grants. Grantees shall be notified within five (5) business days in writing of the amount of the Grant approval.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7090. Any Remaining Funds

If there are any remaining funds after the First (1st) Funding Round, the Authority may, in its sole discretion, award Grants to those Applicants on the Waiting List in a Second (2nd) Funding Round. After funding Grants to Applicants on the Waiting List, the Authority may, in its sole discretion, award Grants in a manner that is consistent with the purpose and requirements of the program.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7091. Approval of Grant Use Change

The Authority or the Authority Staff may, on a case-by-case basis, consider a change in the use of the Grant if the Grantee demonstrates, to the Authority or the Authority Staff's satisfaction, that the change is consistent with the program.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7092. Grant Agreements

The terms and conditions of a Grant shall be set forth in a Grant Agreement, which shall include, but not be limited to, all of the following terms and conditions:

- (a) A Grant amount not greater than the maximum Grant amount shown under Section 7078.
- (b) A Project Period. The project period may be extended at the discretion of the Authority, pursuant to Section 7095.
- (c) Disbursement procedures pursuant to Section 7093 or Section 7095, as applicable.
- (d) A provision that any unused funds and any unused investment earnings on such Grant funds shall revert to the Authority.
- (e) Agreement to comply with the Community Clinic Grant Program of 2005 and these regulations.
- (f) Agreement that the Grantee will defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant or Project.
- (g) Agreement to comply with state and federal laws outlawing discrimination, including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer or genetic

characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave.

- (h) Agreement that continued compliance with Community Clinic Grant Program of 2005 requirements is the Grantee's responsibility.
- (i) Agreement that the Grant shall only be used for Projects as described in Grantee's Application Form and approved by the Authority.
- (j) Any audit provisions.
- (k) Agreement that the Grantee will not dispose of any component of the Project before the end of the useful life of that component of the Project.
- (l) Any provisions relating to lease agreements pursuant to Section 7094.
- (m) Any other provisions required by the Authority.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7093. Release of Funds

- (a) No Grant funds shall be released to a Grantee until the following information has been provided to the satisfaction of Authority Staff:
 - (1) For construction projects, any supporting documentation that was incomplete with the Application Form shall be finalized and submitted along with a copy of the executed construction contract and the building permit.
 - (2) For real property acquisition Projects, a copy of the executed purchase and sale agreement/option agreement and a copy of an appraisal reflecting that the appraised value of the real property (when added to the amount of reasonable transaction and closing costs) is not less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be no older than six months and shall be completed by a state certified appraiser.
 - (3) For all construction Projects, evidence of property ownership or if the property is leased to a Clinic, a copy of the lease agreement that satisfies the requirement of Section 7094. Construction contracts in excess of \$25,000 require copies of three (3) bids, exceptions to this policy will be considered on a case by case basis, with adequate justification.

- (4) For equipment acquisition Projects, any supporting documentation that was incomplete when the Application Form was submitted or not provided at that time shall be finalized and submitted along with a list of items to be purchased and all purchase orders. Any single equipment, furnishing, or information technology item in excess of \$25,000 requires copies of three (3) bids, exceptions to this policy will be considered on a case-by-case basis, with adequate justification.
 - (5) Evidence that all other funds, if needed, are in place to complete Project.
 - (6) An executed Grant Agreement.
 - (7) When applicable, evidence that there are no outstanding issues related to the California Environmental Quality Act or any other applicable laws, if this information was not provided with the Application Form.
 - (8) Completed Grant Disbursement Forms.
- (b) Grantee shall provide this information within twelve (12) months of the date of Final Allocation for the corresponding funding round or the grant will be forfeited to the Authority except in cases where the recipient demonstrates, to the satisfaction of the Authority, extraordinary circumstances that prevent the recipient from meeting this requirement.
 - (c) Documentation provided for the release of Grant funds shall clearly show that the Grant award does not exceed the cost of the Project.
 - (d) Grant funds shall be released in one (1) lump disbursement only, with exceptions to be approved on a case-by-case basis by the Authority Staff.
 - (e) The Authority shall retain 10 percent of the Final Allocation amount for each applicant until adequate Project completion documentation has been provided.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (t) and 15438.6 of the Government Code.

Section 7094. Requirements for Construction Projects on Leased Property

If a Clinic proposes to use Grant funds for a Project other than equipment acquisition on property where the Clinic is a lessee under a lease agreement, the following requirements shall be satisfied prior to any release of Grant funds pursuant to Sections 7093:

- (1) The lease agreement shall provide the Clinic full access to the site to carry on its healthcare purposes. The term of the lease agreement must be at least 5 years.

- (2) The Grant Agreement must provide that if the lease agreement is terminated prior to the term provided in (1) above, the Authority is entitled to recover the Grant funds pursuant to Section 7096.
- (3) No Projects on leased property shall include improvements to any common areas that are shared with other tenants or areas that are not leased by the lessee Clinic under the lease agreement.
- (4) Prior to approval of the Grant by the Authority, the Applicant shall submit the proposed lease agreement for review.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7095. Completion of Grant Funded Project

- (a) The Grantee shall certify to the Authority that the Project is complete and, to the extent not already provided to the Authority, provide supporting documentation as follows:
 - (1) Construction Projects require documentation including, but not limited to, copies of the certificate of occupancy, final payment certification by the architect, final payment request from the contractor and corresponding copies of cancelled checks or other documentation supporting payment.
 - (2) Real property acquisition Projects require a copy of the final closing statement with certification by the title company.
 - (3) Equipment acquisition Projects require complete packages of purchase orders, invoices and copies of cancelled checks or other documentation supporting payment.
- (b) If the Grantee fails to complete the Project within eighteen (18) months from the Final Allocation date (plus any Authority or Authority Staff approved extensions), the Authority may require remedies, including forfeiture and return of the Grant to the Authority.
- (c) On a case-by-case basis, the Authority or the Authority Staff may approve a time extension beyond 18 months for extraordinary or unavoidable delays where the Grantee can demonstrate that it occurred through no fault of its own.
- (d) Documentation provided to establish the completion of a Project should clearly show that the Grant award did not exceed the cost of the Project.

- (e) Upon receipt of acceptable documentation exhibiting project completion, the Authority shall release the 10 percent retention of Grant funds to the Grantee.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7096. Recovery of Funds for Non-Performance and Unused Funds

- (a) If the Authority determines that Grants were not used consistent with the Community Clinic Grant Program of 2005 requirements and the terms of the Grant Agreement for an approved Project, the Authority may require remedies, including a return of all Grant funds.
- (b) In cases where Grant funds paid for a component of a Project that does not specifically benefit Program targeted patients, such as permit fees, planning fees, or land acquisition costs, and if the Authority determines the Grantee did not complete a larger Project as described in the timelines provided with the Application, the Authority may require remedies, including a return of all Grant funds.
- (c) If any portion of the Grant is forfeited to the Authority, the forfeited funds shall be allocated to the highest scoring Applicant that did not receiving an Allocation.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7097. Audits

The Authority Staff, California Department of Insurance or its designee, Commissioner, or Bureau of State Audits may conduct periodic audits/site visits to ensure Grantees are using Grant funds consistent with approved Projects. Grantees shall retain all Program documentation and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three (3) years after the certification of completion of the Project has been submitted.

Note: Authority Cited: Sections 15437 and 15438.6 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7098. Reporting Requirements

- (a) The Authority shall provide notice to the Commissioner upon approving or denying any application from any Clinic. The Authority shall provide annual reports to the Commissioner and shall include at a minimum, total dollars awarded in Grants, description of each Project funded in the period reported upon, the amount awarded to

each Applicant, as well as a list of all Applicants who did not receive assistance and the reasons for such denial.

(b) Pursuant to Section 15438.6(i) of the Government Code, the Authority shall report to the Joint Legislative Budget Committee on the recipients of grant funds, the total amount of each grant and the purpose for which each grant was awarded.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.

Section 7099. Administration of the Program.

Wellpoint Health Networks Inc. has made a one-time \$35 million contribution payable to the Authority, who will administer and distribute funds for the program. Per agreement, all of the \$35 million, plus interest earned on those funds shall be used for Grants to Applicants. No funds shall be used for any other purpose, including administration of the program.

Note: Authority Cited: Sections 15437 and 15438 (d) of the Government Code.
Reference: Sections 15438 (q) and 15438.6 of the Government Code.