

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY (the “Authority”)

Investment in Mental Health Wellness Act of 2013

Amendment to Resolution No. 2015-02

April 9, 2015

BACKGROUND:

At the February 26, 2015 Authority meeting, the Authority approved amendments to the Investment in Mental Health Wellness Act of 2013 (“Act”) grant program regulations through the Authority’s emergency regulatory authority and gave approval to pursue emergency rulemaking proceedings with the Office of Administrative Law (“OAL”).

The amendments to the regulations included language to provide further clarity and to reflect the authority given by the Act to permit nonprofit corporations and public agencies to receive grant funding in lieu of counties directly receiving funds. The language only addressed and allowed for acquisition by a private nonprofit organization and did not specifically address whether such entities that are acquiring real property may also directly receive funds to perform related construction and renovations on the acquired property.

REQUEST:

Staff seeks to further clarify the regulations to also permit designated private nonprofit corporation or public agencies to directly receive grant funds for construction and renovation when such an entity is also directly receiving funds to acquire real property. The Authority approved such costs for Sacramento County at the last Authority meeting. This added clarification will give a more complete expression of the Legislature’s intent.

RECOMMENDATION:

Staff recommends the Authority approve the updated proposed amendments to the Program’s regulations.

Attachment:

Exhibit A - Text of the updated proposed amendments to the regulations for the Investment in Mental Health Wellness Act of 2013 grant program.

Amend Section 7125 to read:**Section 7125. Release of Grant Funds.**

(a) Grant funds shall not be released until the following requirements have been met:

(1) A Grant Agreement has been executed by the Authority and Grantee.

(2) The Grantee has submitted to the Authority the following documentation, if available. If not available, Grantee has submitted a detailed statement concerning the status of obtaining any or all of this documentation to enable Authority Staff to determine readiness and feasibility.

(A) For construction or renovation:

(i) Detail of building plans, costs, and timelines.

(ii) Executed construction contract.

(iii) Architect, design and engineering contracts, if applicable.

(iv) Building permits and conditional use permits, if applicable.

(v) Evidence of compliance with the California Environmental Quality Act.

(vi) Evidence of compliance with prevailing wage law under Labor Code Section 1720 et. seq.

(vii) Evidence of property ownership, such as a grant deed or lease agreement and title report as required under Section 7126.

(viii) In addition to subdivisions (a)(2)(A)(i-vii), prior to the release of Grant funds to a private nonprofit corporation or public agency designated by a county or Counties Applying Jointly for construction or renovation on real property acquired with Grant funds by the designated private nonprofit corporation or public agency, the designated private nonprofit corporation or public agency shall execute a Grant Agreement and agree to comply with Section 7125.1. The designated private nonprofit corporation or public agency shall return the Grant funds to the Authority if the designated private nonprofit corporation or public agency fails to comply with Section 7125.1. The Lead Grantee may request the Authority to release the Grant funds to the designated nonprofit corporation or public agency, or to the Lead Grantee for disbursement to the designated nonprofit corporation or public agency.

(B) For real property acquisitions: ~~An appraisal completed within the previous six months by a state certified appraiser.~~

(i) An appraisal completed within the previous six months by a state certified appraiser.

(ii) In addition to subdivision (a)(2)(B)(i), prior to the release of Grant funds to a private nonprofit corporation or public agency designated by a county or Counties Applying Jointly to acquire real property, the designated private nonprofit corporation or public agency shall execute a Grant Agreement and agree to comply with Section 7125.1. The designated private nonprofit corporation or public agency shall return the Grant funds to the Authority if the designated private

nonprofit corporation or public agency fails to comply with Section 7125.1. The Lead Grantee may request the Authority to release the Grant funds to the designated nonprofit corporation or public agency, or to the Lead Grantee for disbursement to the designated nonprofit corporation or public agency.

(C) For acquisition of supplies, furniture and equipment including vehicles: A list of items to be purchased and a copy of related purchase orders.

Note: Authority cited: Sections 5848.5 and 5848.6, Welfare and Institutions Code. Reference: Section 5848.5, Welfare and Institutions Code.

Add Section 7125.1 to read:

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

(a) The Authority may, at its discretion, give consideration to a private nonprofit corporation or public agency in an area or region of the state if a county, or Counties Applying Jointly, affirmatively supports this designation and collaboration in lieu of a county directly receiving Grant funds for real property acquisition or for construction or renovation on real property acquired with Grant funds by the designated nonprofit corporation or public agency. The designated private nonprofit corporation or public agency shall comply with all of the following requirements:

(1) The designated private nonprofit corporation or public agency shall provide the Program(s) services.

(2) The designated private nonprofit corporation or public agency shall execute a Grant Agreement that:

(A) Complies with the provisions contained in Section 7124.

(B) Provides that in the event the designated private nonprofit corporation or public agency fails to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement, title to the real property shall be given to the county or Counties Applying Jointly.

(C) Provides that in the event the county or Counties Applying Jointly do not act timely, as determined by the Authority, to take and hold title to the real property, the Authority may take any action necessary to take and hold title to the real property.

(3) The designated private nonprofit corporation shall provide, upon request, Audited Financial Statements and shall retain all Project and financial records necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the certification of Project completion has been submitted.

(4) The designated private nonprofit corporation or public agency shall provide, upon request, a current title report that shows all of the following:

(A) No easements, exceptions or restrictions on the use of the site that shall interfere with or impair the operation of the Project.

(B) A fee title subject to the lease agreement described in subdivision (a)(5).

(C) A deed of trust recorded in the chain of title against the real property that contains the lease agreement described in subdivision (a)(5).

(5) The designated private nonprofit corporation or public agency shall enter into a lease agreement with the county or Counties Applying Jointly for use of the real property for Crisis Residential Treatment or Crisis Stabilization for the useful life of the Project, including any renewals. The lease agreement shall provide that:

(A) In the event the designated private nonprofit corporation or public agency fails to provide Crisis Residential Treatment or Crisis Stabilization services as provided in the Grant Agreement, title to the real property shall be given to the county or Counties Applying Jointly.

(B) In the event the county or Counties Applying Jointly do not act timely, as determined by the Authority, to take and hold title to the real property, the Authority may take any action necessary to take and hold title to the real property.

Note: Authority cited: Sections 5848.5 and 5848.6, Welfare and Institutions Code. Reference: Section 5848.5, Welfare and Institutions Code

Amend Section 7127 to read:

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

(a) If the Authority determines that Grant funds were not used consistent with the Investment in Mental Health Wellness Act of 2013, this Chapter or the Grant Agreement, the Authority may require remedies, including the forfeiture and return of the Grant funds to the Authority.

(b) If the Grantee fails to timely begin or complete the Project, the Authority may require remedies including forfeiture and return of the Grant funds to the Authority.

(c) Unused funds and any unused investment earnings on such Grant funds shall be returned by the Grantee to the Authority no later than the date of the certification of Project completion.

(d) In the event the county or Counties Applying Jointly do not act timely, as determined by the Authority, to take and hold title to the real property as provided in Section 7125.1, the Authority may take any action necessary to take and hold title to the real property.

AMENDMENT TO RESOLUTION NO. 2015-02

**RESOLUTION OF THE CALIFORNIA HEALTH FACILITIES FINANCING
AUTHORITY APPROVING THE ADOPTION OF AMENDMENTS TO THE
REGULATIONS FOR THE INVESTMENT IN MENTAL HEALTH WELLNESS ACT OF
2013 AND AUTHORIZE RULEMAKING PROCEEDINGS**

WHEREAS, the Investment in Mental Health Wellness Act of 2013 (the “Act”) established a grant program for mental health crisis services with funding from various sources and authorized the California Health Facilities Financing Authority (the “Authority”) to, among other things, develop specified selection criteria and maximum grant amounts for awarding grants to eligible applicants which are counties, counties acting jointly, or counties with private non-profit corporations or public agencies counties may designate; and

WHEREAS, on October 31, 2013, the Authority authorized the adoption of emergency regulations relating to the grant program and the Office of Administrative Law approved the emergency regulations on November 21, 2013;

WHEREAS, on May 15, 2014, the Office of Administrative Law authorized the re-adoption of these emergency regulations with an effective date through August 14, 2014;

WHEREAS, on October 6, 2014, the permanent regulations were approved by the Office of Administrative Law for the implementation and operation of the mental health wellness grant program;

WHEREAS, since the adoption of the permanent regulations and grant awards for the first and second funding rounds, Authority staff has identified recommended amendments to the permanent regulations for clarity of a specific scenario of uses of grant funds that is silent in the regulations and needs to be addressed to ensure accurate conditions are applied and funds are appropriately used; and

WHEREAS, the Authority must act to amend the permanent regulations for the implementation and operation of the mental health wellness grant program;

BE IT RESOLVED, by the California Health Facilities Financing Authority as follows:

Section 1. The proposed amendments to the permanent regulations for the grant program are hereby approved in substantially the form submitted to the Authority by Authority staff. The Chair, any Deputy to the Chair, Executive Director and Deputy Executive Director are each hereby authorized, for and on behalf of the Authority, to submit such amendments with the supporting documentation required by law to the Office of Administrative Law and proceed with the procedures required by the Administrative Procedures Act.

Section 2. The Chair, any Deputy to the Chair, Executive Director and Deputy Executive Director of the Authority are each hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents that he or she may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. This resolution shall take effect immediately upon its approval.

Date Approved: _____