

**State of California
Office of Administrative Law**

In re:
**California Pollution Control Financing
Authority**

Regulatory Action:

Title 04, California Code of Regulations

**Adopt sections: 8140, 8141, 8142, 8143,
8144, 8145, 8146, 8147,
8148**

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2023-0821-01

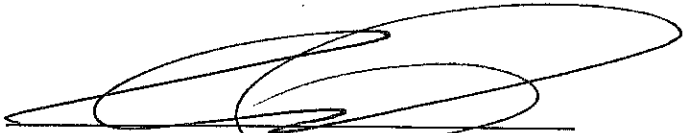
OAL Matter Type: Emergency (E)

This emergency rulemaking action from the California Pollution Control Financing Authority adopts regulations for the administration of the California Investment and Innovation Program, Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 8/31/2023 and will expire on 2/28/2024. The Certificate of Compliance for this action is due no later than 2/27/2024.

Date: August 31, 2023


**Stephen R. Mehlert
Senior Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Shela Tobias-Daniel, Executive
Director**

Copy: Andrea Gonzalez

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2023-0821-01E	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2023 AUG 21 PM 2:31

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

AUG 31 2023

J.M.
2:01 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY CA Pollution Control Financing Authority	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) CA Investment and Innovation Program (Cal IIP)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 8140, 8141, 8142, 8143, 8144, 8145, 8146, 8147, 8148
TITLE(S) 4	AMEND
	REPEAL

3. TYPE OF FILING
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON Andrea Gonzalez	TELEPHONE NUMBER (916) 651-7284	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Andrea.Gonzalez@treasurer.ca.
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Sheila Tobias</i>	DATE 08/18/2023
TYPED NAME AND TITLE OF SIGNATORY Sheila Tobias-Daniel, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 31 2023

Office of Administrative Law

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

TITLE 4. BUSINESS REGULATIONS

DIVISION 11. CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

ARTICLE 13. CALIFORNIA INVESTMENT AND INNOVATION PROGRAM

TEXT OF PROPOSED REGULATIONS

§ 8140. Definitions.

The following definitions shall apply wherever the terms are used throughout this Article.

(a) "CDFI" means community development financial institution, as defined in Health and Safety Code section 44458, subdivision (d).

(b) "Eligible Activities" means activities that serve the purposes of Health and Safety Code section 44558.3, subdivision (b).

(c) "Grant" means an award of funds made by the Authority to the Grantee to support the Project, as authorized by Health and Safety Code section 44558.1 and this Article.

(d) "Grant Agreement" means the written agreement between the Authority and a Grantee, setting forth the terms and conditions of the use of the Grant.

(e) "Grantee" means an Applicant whose Grant has been approved and has executed a Grant Agreement.

(f) "Project" means the activities to be accomplished through Grant funding.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Sections 44558, 44558.1 and 44558.3, Health & Safety Code.

§ 8141. Eligibility Requirements.

(a) Grants shall only be awarded to Applicants that meet the eligibility requirements in Health and Safety Code section 44558, subdivision (f).

(b) Applicants that are a party to an existing or prior Grant Agreement may only apply in a future funding round if at least 50% of the previously awarded Grant funds have been spent on the Project.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Sections 44558 and 44558.2, Health & Safety Code.

§ 8142. Approved Grant Uses.

Grants shall be awarded for Eligible Activities.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Section 44558.3, Health & Safety Code.

§ 8143. Application Requirements.

(a) When funding is available, the Authority shall post to its website a Notice of Funding Availability at least 30 days in advance of the application deadline. The Notice shall provide a link to the application requirements.

(b) An application shall include the following:

(1) Applicant Information.

(A) The legal name of the CDFI applying for a grant, address of the principal office, phone number, website, Employer Identification Number (EIN) or Taxpayer Identification Number (TIN);

(B) Financial institution type (e.g., bank or thrift-state chartered, loan fund, credit union, bank holding, bank or thrift, venture capitalist), date of incorporation, financial activities start date, and total asset size;

(C) Name, title, and e-mail address for authorized representative(s);

(D) Name, phone number, and e-mail address for primary point of contact;

(E) Applicant's geographic markets and target areas;

(F) The grant amount sought, not to exceed the applicable maximum eligible amount in section 8144;

(G) Applicant's fiscal year;

(H) A narrative of previous Grants awarded by the Authority, if applicable, and how previously awarded Grant funds were spent; and

(I) Indicate if Applicant is a small and emerging CDFI.

(2) Project Information.

(A) Detailed narrative that includes a discussion of the Applicant's mission, organization infrastructure and resources to support ongoing activities, management team, and strategic plans;

(B) Explanation of how the Grant will support the Applicant's mission;

(C) Description of the proposed Eligible Activities that will be performed with the Grant;

(D) List of current markets served;

(E) List of targeted regions and client types;

(F) Identification of any proposed new target markets and target populations that will be served by the Grant;

(G) Identification of any proposed new financial activities and services that will be undertaken with the Grant; and

(H) Description of the level of distress of the impacted community or new market that is being served. Include indicators to help quantify the level of distress that underserved communities are experiencing, such as geography, unemployment rate, poverty rate, industries impacted, number of businesses licenses issued, and fiscal stress.

(3) Attachments.

(A) Attachment A: Current federal certification as described in Health and Safety Code section 44558, subdivision (f)(1);

(B) Attachment B: Financial statements for the past three years; and

(C) Attachment C: Loan Portfolio.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Section 44558.2, Health & Safety Code.

§ 8144. Grant Awards.

(a) Grants are awarded once per calendar year, provided funding is available. Each eligible Applicant, as defined in Health and Safety Code section 44558, subdivision (f), that submits a timely and complete application shall receive an award in an amount consistent with this section.

(b) The Authority shall set aside 20 percent of any amount made available in a Program funding round for small and emerging CDFIs, as defined in Health and Safety Code section 44558, subdivision (l). This funding will be divided equally among all eligible Applicants that are small and emerging CDFIs.

(c) The size of Grant awards shall be based on the total amount of loans closed by the Applicant in the most recently completed fiscal year. Funding shall be awarded based on the following tier system:

(1) Tier 1: All eligible Applicants will receive up to \$100,000.

(2) Tier 2: Applicants with a minimum of 10 loans in the most recently completed fiscal year or Applicants that have provided financing assistance in the state totaling \$10 million or more in the last three fiscal years will receive up to \$100,000 in additional funding. The maximum Grant award for a Tier 2 Grantee is \$200,000.

(d) The final funding amounts per tier may be less than the maximum Grant award depending on the funding available and the total number of eligible Applicants.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Sections 44558.2, Health & Safety Code.

§ 8145. Authority Approval.

(a) The Executive Director will determine which Projects to recommend to the Authority for Grant funding pursuant to section 8144. The Authority's selections are final and not subject to administrative appeal.

(b) The Authority shall notify each Applicant whether or not its Application has been approved for funding.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Sections 44558.2, Health & Safety Code.

§ 8146. Grant Agreements.

(a) The terms and conditions of a Grant shall be set forth in a Grant Agreement entered into by the Authority and the Grantee. A Grantee has the sole responsibility for the fiscal management of

Grant funds, recordkeeping, reporting, performance of the Project, and all other aspects of compliance with this Article and the Grant Agreement.

(b) The Grant Agreement shall include the following:

(1) Grant amount;

(2) Grantee contact information;

(3) Grant duration;

(4) Description of the Project funded by the Grant award;

(5) Agreement that, during the duration of the Grant, the Grant shall only be used to support the Project;

(6) Agreement to comply with the Program statutes and regulations;

(7) Agreement that Grantee is ineligible for future Grants if they violate any Program statute or regulation, or fail to comply with the Grant Agreement;

(8) Agreement that if Grantee loses its federal certification described in Health and Safety Code section 44558, subdivision (f)(1), the Grant shall be forfeited and returned, in total, to the Authority;

(9) Agreement that the Grantee shall comply with Health and Safety Code section 44558.5, subdivision (a)(5), where applicable;

(10) 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, the Project, or this Program;

(11) Agreement to comply with 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 (cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave;

(12) Agreement that continued compliance with Program requirements is the Grantee's responsibility; and

(13) Any other provision agreed to by the parties.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Sections 44558.3, Health & Safety Code.

§ 8147. Annual Reporting.

No later than 180 days after the end of the fiscal year following the receipt of funds, a Grantee shall provide an annual status report to the Authority that includes:

- (a) A description of the activities completed with Grant funds during the reporting period;
- (b) The amount of Grant funds spent throughout the reporting period;
- (c) An annual financial statement; and
- (d) Information provided by businesses to the Grantee pursuant to Health and Safety Code section 44558.5, subdivision (a)(5).

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Section 44558.5, Health & Safety Code.

§ 8148. Record Retention

Grantees shall retain all Program and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the end of the Grant term. Grantees shall provide supporting documentation (e.g. progress reports, project work plan, Program budget, receipts, etc.) upon request to the Authority.

Note: Authority cited: Sections 44520 and 44558.4, Health & Safety Code. Reference: Section 44558.5, Health & Safety Code.