



**CALIFORNIA SCHOOL FINANCE AUTHORITY
901 P STREET, THIRD FLOOR, SUITE B
SACRAMENTO, CA 95814**

**Title 4, Division 15, Article 2,
CALIFORNIA CODE OF REGULATIONS
State Charter School Facilities Incentive Grants Program**

INITIAL STATEMENT OF REASONS

INTRODUCTION

The California School Finance Authority (Authority) is organized and operated pursuant to the California School Finance Authority Act under sections 17170 through 17199.5 of the Education Code.

In 2004, 2009, and 2014, the United States Department of Education approved grant awards to the Authority pursuant to the State Charter School Incentive Grant (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provided for \$49,250,000 in 2004, \$46,132,749 in 2009, and \$50,000,000 in 2014, to be awarded over five-year periods for the purposes of funding per-pupil facilities aid programs for California charter schools. The Authority was recently awarded a \$30 million grant award in Fall 2024. Per the Authority's application to the Department of Education, the Authority is proposing three more funding rounds of the Program starting for the 2025-26 school year. Grant funds are applied toward a charter school's annual costs of rent, lease, mortgage, debt service, or Proposition 39 pro-rata payments for facilities, or towards the costs of purchase, design, construction, and/or renovation of a new or existing facility.

PROBLEM STATEMENT

Sections 17179 and 17180 of the Education Code endow the Authority with the general power to adopt regulations, as a power reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under Chapter 18, as well as the specific power to adopt guidelines for grants, bonds, and other evidence of indebtedness. Without these amended regulations, the Authority would not have uniform standards and guidelines to administer the Program and ensure that Applications are evaluated in a consistent and fair manner, and Applicants do not have guidelines to direct them through the Application process, federal compliance, and post-award compliance.

ANTICIPATED BENEFITS

The proposed regulations provide specificity and guidance for applicant charter schools to permit an informed decision concerning Program participation. By setting forth Program requirements and expectations, the proposed regulations reduce the potential for confusion or misinterpretation or misapplication of the rules and increase the likelihood of Program success. Additionally, by setting out clear program goals and requirements, these regulations provide transparency concerning the administration of a government program.



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SPECIFIC PURPOSE OF, AND RATIONALE FOR, EACH PROPOSED AMENDMENT

1. **Section 10176. Definitions.** (d) NEW – BABAA references as required per U.S Department of Education.
2. **Section 10176. Definitions.** (d-w) ORIGINAL – Addition of new subsection (d) results in new lettering for following subsections.
3. **Section 10176. Definitions.** (k) – McNamara-O’Hara Service Contract Act compliance and statutory reference as required per U.S Department of Education.
4. **Section 10181. Content of Application.** (h) – Replace “title report” with report “a grant deed coupled with a copy of the most recent title insurance policy”. Removed the word “contingent” and updated for clarity.
5. **Section 10181. Content of Application.** (i) – Updated to include all applicable government agencies, all necessary forms, and include the scope in which these government agencies should it relates to permits and approval.
6. **Section 10181. Content of Application.** (j)(1) – Updated for clarity.
7. **Section 10181. Content of Application.** (j)(2) – BABAA compliance as required per U.S Department of Education.
8. **Section 10181. Content of Application.** (j)(5) – Updated for clarity on evidence of completion.
9. **Section 10190. Audits and Conflicts of Interest.** (d) – BABAA compliance as required per U.S Department of Education.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Authority did not rely on any technical, theoretical, and/or empirical studies, reports, or documents in proposing the regulations.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations are unlikely to have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason enhancing the Program would result in the elimination of jobs. Furthermore, the proposed regulations are unlikely to have an impact on the creation of new businesses or the elimination of existing businesses within the State of California.



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The proposed regulations could likely impact the expansion of businesses currently doing business within the State of California. This program will provide grant funding for charter school facilities. These facilities are often an expansion of the associated charter school organizations to serve more students.

Lastly, the proposed regulations will have no benefit to worker safety or the state's environment as a result of this rulemaking. The purpose of the program and proposed regulations is to set forth administrative criteria and requirements for administering this grant program. As the intent of the program is to provide grant funding related to charter school facilities, the Program and its proposed regulations have the potential to directly benefit the welfare of students and their related communities.

REASONABLE ALTERNATIVES AND THE AUTHORITY'S REASONS FOR REJECTING THOSE ALTERNATIVES

There is no reasonable alternative as these are the establishing regulations for the Program.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The proposed regulatory action does not contain any regulations that are identical to or in conflict with any corresponding federal regulation.

REGULATIONS MANDATED BY FEDERAL LAW

Program applicants are expected to comply with federal regulations related to Davis-Bacon and Related Acts, as well as the Build American, Buy America Act. These regulations are stated in proposed regulations Sections 10176 and 10181.

Specifically, applicants must comply with the following federal regulatory code as required by the United States Department of Education:

2 CFR 184.1 through 2 CFR 184.8 (The Build American, Buy America Act) established a domestic content procurement preference for all Federal financial assistance obligated for infrastructure projects after May 14, 2022. The domestic content procurement preference requires that all iron, steel, manufactured products, and construction materials used in covered infrastructure projects are produced in the United States

40 U.S.C. § 3141, et seq. (Davis-Bacon Act) applies to contracts in excess of \$2,000 for the construction, alteration, and/or repair of public buildings or public works, including painting and decorating, where the United States or the District of Columbia is a direct party to the contract. It also specifies that each covered contract contain provisions, found at Title 29 CFR 5.5, requiring contractors to pay the laborers and mechanics employed on the project's site of the work, on a weekly basis, no less than



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the wages and benefits that are prevailing in the area as determined by the Secretary of Labor.

29 U.S.C. § 201, et seq. (Fair Labor Standards Act) covers most workers employed throughout the United States, including non-exempt workers employed on federal contracts. It also requires employers to pay their workers no less than the federal minimum wage, and to pay overtime compensation for hours worked in excess of 40 per week.

40 U.S.C. § 3701, et seq. (Contract Work Hours and Safety Standards Act) applies to certain federal contracts (including contracts for services, construction, or supply) that are in excess of \$100,000 and which requires or involves the employment of laborers or mechanics on a public work. It also applies to federally financed and assisted contracts in excess of \$100,000, where a federal law provides wage standards for the work.

40 U.S.C. § 3145 and 18 U.S.C. § 874 (Copeland “Anti-Kickback” Act) makes it unlawful to induce any person working on a federal contract or on a federally financed or assisted construction project to give up any part of the compensation to which he or she is entitled under his or her contract of employment.

41 U.S.C § 351, et seq. (McNamara-O'Hara Service Contracts Act) – requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.

The full text of the federal regulations referenced above are found in the Code of Federal Regulations (CFR), which is available online at <https://www.ecfr.gov/> .

The full text of the code statues referenced above are found in the Code of Laws of the United States of America (USC), which is available online at <https://uscode.house.gov/>