

MEMORANDUM

Date: September 22, 2011 Staff Summary No. 6

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 11-38 Approving Amendments to the Regulations for the State Charter School Facilities Incentive Grants Program and Authorizing the Rulemaking Process

In 2004, the California School Finance Authority (Authority) applied for and was awarded a \$49.25 million grant from the U.S. Department of Education to assist charter schools that demonstrate the most need with their facilities costs—this includes rent, renovation, or purchase. The per-pupil facilities aid grant was awarded over five years to eligible charter schools based on specific award criteria (rounds 1 to 5). In 2009, the Authority applied for and was awarded a second five-year grant in the amount of approximately \$46 million (rounds 6 to 10), with Round 7 recently awarded in June 2011.

Staff is proposing changes to the regulations that guide the State Charter School Facilities Incentive Grants Program (Program). The proposed changes to the regulations will be in effect for the next three funding rounds (2012, 2013, and 2014).

The most significant change is in Section 10182, in which the proposed amendments include deleting the Overcrowding School District preference point category of 10 points, and increasing the driving distance (miles) for the Overcrowded School Site, API School Choice and AYP School Choice categories.

The proposed deletion of the Overcrowded School District is due to the very low number of schools that receive preference points under this category; additionally, the aforementioned category has been replaced by the Overcrowding School Site category.

The planned increase in the driving distance for the categories of Overcrowded School Site, API School Choice and AYP School Choice from 3 miles to 5 miles for suburban schools and 10 miles for rural schools is amended to account for and assign preference points to charter schools that would otherwise be competitive in the program yet are in suburban and rural areas in which the distance between school sites is greater than in urban areas. As the goal of the Program is to award funds to charter schools that demonstrate the most need; low income students in high performing schools in suburban and rural schools may have a greater chance of securing an award.

Other proposed clarifying changes and amendments to the Program regulations include:

Section 10176 – “Definitions”

- A definition of “Locale Code” is added to clarify relative to its use in Sections 10182(b) and (e), as amended.
- A definition of “National Center for Education Statistics” was added to clarify relative to its use in Section 10182(b).
- A definition of “Proposition 39 pro-rata payments was added to clarify relative to its use in Section 10178(a)(1).

Section 10177 – “Eligible Applicant

- Adds the following language, “The charter school is able to demonstrate that costs are eligible pursuant to Section 10178.” Clarifies that demonstrating having eligible costs is one criterion for being an eligible applicant.

Section 10178 – “Eligible Costs”

- Changes in subdivision (a) include amending subdivision (1) and deleting subdivision (2). This Clarifies that eligible costs may include any combination of costs for rent, lease, mortgage, Proposition 39 pro rata costs, and debt service.
- Changes in subdivision (b) include deleting the sentence, “Awards may not be used toward the same debt or project (purchase/construction/ renovation) related to a project designated in a prior grant award.” This deletion is to correct to allow that current costs for purchase/construction/renovation related to a project designated in a prior grant award may be eligible under the current funding round. Another amendment to subdivision (b) is deleting the following, “an existing lease, rent, mortgage or debt obligation”, and replacing it with, “ annual ongoing costs associated with a charter school facility.” This amendment is clarifies the language to include any ongoing costs associated with a charter school facility, rather than only lease, rent, mortgage, or debt.

Section 10179 – “Maximum Grant”

There are no changes to this Section

Section 10180 – “Application Submission”

There are no changes to this Section

Section 10181 – “Content of Application”

There are no changes to this Section

Section 10182 – “Evaluation Criteria”

- Deletes the preference point criteria of Overcrowding School District in subdivision (b) subdivision (2) and the corresponding table. The category of “Overcrowded School District” is being deleted to clarify that this category is no longer among the evaluation criteria for preference points.
- Amends the language in Overcrowding School site to include increasing the three mile radius to ten miles. Also adding the following language, “The driving distance will be determined by the Locale Code assigned by the U.S. Department of Education, and found on the National Center for Education Statistics website. The following table will be used to determine the maximum driving distance to receive preference points in this category” and a table to determine locale code names and mile radius for reference. These amendments were done to expand the criterion for overcrowded school site based on locale code in order to account for population density, allowing driving distances up to ten miles based on the categories of “suburb,” “town,” and “rural.”
- Amends subsection (d) by deleting, “Staff will rely on data posted on CDE’s website when assigning points in this category”, and replacing it with, “Preference points will be based on data provided by the California Department of Education.” Clarifies the language to allow the authority to use any relevant data that the California Department of Education provides to the authority; not only data posted on the CDE website.
- Amends subsections (e)(1) and (e)(2) to include the increase in the three mile radius to ten miles based on the locale code of the applicant school. This category was amended to expand criterion to account for population density as defined by locale code, allowing longer driving distances for schools in the categories of “suburb,” “town,” and “rural.” Also amends both (e)(1) and (e)(2) by deleting the word “post” and amend it with “provided”. This amending language is to allow the authority to use any relevant data that the California Department of Education provides to the authority; not only data posted on the CDE website.

Section 10183 – “Award Methodology”

There are no changes to this Section

Section 10184 – “Approval of Grant and Notification of Subgrantee”

There are no changes to this Section

Section 10185 – “Obligation and Expenditure of Grant Funds”

There are no changes to this Section

Section 10186 – “Approval of Grant Use Change”

There are no changes to this Section

Section 10187 – “Grant Agreements”

There are no changes to this Section

Section 10188 – “Release of Funds”

- Amends subsection (e)(3) and (e)(4) by changing the August 30th date to August 31st. Amended to reflect the last day of August as the semi-annual deadline to verify ongoing eligibility.

Section 10189 – “Completion of Grant Funded Construction Project”

There are no changes to this Section

Section 10190 – “Audits and Conflicts of Interest”

There are no changes to this Section

Section 10191 – “Funding Contingency”

There are no changes to this Section

Recommendation: Staff recommends that the members adopt Resolution 11-38 approving amendments to the State Charter Facilities Incentive Grants Program regulations. If approved, the Executive Director will initiate the rulemaking file for processing by the Office of Administrative Law, and will distribute the proposed changes to interested parties for public comment.