

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 4, Division 15, Article 2

2004 and 2009 State Charter School Facilities Incentive Grants Programs

Section 10175. Purpose.

This Article implements the California School Finance Authority's administration of the grant(s) received under the U. S. Department of Education, State Charter School Facilities Incentive Grants Program (CFDA #84.282D) which provides per-pupil facilities aid for California charter school pupils.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10176. Definitions.

For the purposes of this article, the words and phrases defined in section 17078.52 of the Education Code shall have the same meaning as described therein. In addition, the following words and phrases shall have the meaning as described below:

- (a) "Academic Performance Index Growth" shall mean the Growth API summarizing a school's performance on the Standardized Testing and Report Program and California High School Exit Examination tests, as reported by the California Department of Education.
- (b) "Adequate Yearly Progress" shall mean the AYP criteria required under the No Child Left Behind Act of 2001 for identifying schools that are making adequate yearly progress.
- (c) "Applicant" shall mean the charter school or educational management organization applying on behalf of a charter school for a grant under this article.
- (d) "Application" shall mean a completed application (Form CSFA 05-01, rev. 2009), incorporated herein by reference, as defined and developed by the Authority and available on its website, and all other documents required to be submitted to the Authority.
- (e) "CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) to the California Department of Education.
- (f) "Charter School" shall mean a school meeting the definition of a charter school in Education Code section 47600, et seq. and also meeting the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.
- (g) "Chartering Authority" shall mean the governing board of the school district, or county board of education, or the State Board of Education, that granted a school's petition to become a charter school pursuant to Education Code section 47605.
- (h) "Classroom-Based Instruction" shall have the meaning set forth in Education Code section 47612.5(e)(1).
- (i) "Free and Reduced Lunch" means the Free/Reduced Percentage as collected by the California Department of Education (CDE), and posted on the CDE website.
- (j) "Grantee" means the California School Finance Authority, which will serve as the administrator of the grant and will make final award and disbursement decisions.
- (k) "Locale Code" means a categorical code that the U.S. Department of Education has designated to identify the population density associated with a school's physical location.

Locale codes are derived by matching a school's physical location represented by an address with U.S. Census Bureau data.

- (l) "Low-income" shall refer to the percentage of pupils deemed to be eligible for free/reduced meals as identified in the Free and Reduced Price meals data for the school on file at the California Department of Education.
- (m) "National Center of Education Statistics" means the primary entity within the U.S. Department of Education responsible for collecting and analyzing data related to education.
- ~~(n)~~(n) "New Construction Eligibility" means the result of the calculation determined in Education Code sections 17071.75 and 17071.76.
- ~~(m)~~(o) "Nonprofit Entity" means an entity that is organized and operated for purposes of not making a profit under the provisions of the Internal Revenue Code section 501(c)(3), or is organized and operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, section 5110, et seq.
- ~~(n)~~(p) "Program" means the 2009 State Charter School Facilities Incentive Grants Program (CFDA #84.282D).
- (q) "Proposition 39 pro-rata payment" means the pro-rata share payment that a charter school makes for use of a district-held property pursuant to Education Code section 47614(b)(1).
- ~~(n)~~(r) "Subgrantee" means an Applicant awarded grant funds on behalf of a charter school.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Sections 17078.52, 17180, 47605, and 47612.5, Education Code.

Section 10177. Eligible Applicant.

Any Applicant shall be eligible to apply for a grant if all of the following conditions are met:

- (a) An approved charter has been awarded and is in place and current at the time of application, and without interruption throughout the application review and approval process.
- (b) The charter school is in good standing with its chartering authority and is in compliance with the terms of its charter at the time of application submission and without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority's staff directly to the chartering authority's governing board. It shall be the charter school's responsibility, and not the Authority's, to ensure that the good standing and compliance response letter is received by the stated deadline.
- (c) The charter school has completed at least one school year of instructional operations under its current County-District-School (CDS) Code and charter number issued by the California Department of Education.
- (d) The charter school is not a current subgrantee pursuant to the 2004 State Charter School Facilities Incentive Grants Program (Rounds 1 – 5) and has not received an award pursuant to the 2009 Program (Rounds 6 – 10).
- (e) At least eighty percent (80%) of the instructional time offered by the charter school shall be at the school site, and the charter school shall attain an average daily attendance rate of at least eighty percent (80%) based on the school's most recent CBEDS report.
- (f) The charter school is established pursuant to Education Code section 47600, et seq., and also meets the federal definition of charter school as defined in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 USCA section 7221(i)), as amended by the No Child Left Behind Act of 2001.
- (g) The charter school admits students by lottery in the event more students want to attend the school than the school can accommodate.

(h) The charter school is able to demonstrate costs are eligible pursuant to Section 10178.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Sections 17078.52 and 17180, Education Code.

Section 10178. Eligible Costs.

- (a) Grant funds may be applied toward a charter school's costs of one of the following two options:
 - (1) ~~rent, and lease, mortgage, and debt service, and/or Proposition 39 pro-rata payments for existing or new facilities; or~~
 - (2) ~~mortgage and debt service payments for existing or new facilities; or~~
 - (3) purchase, acquisition, design, construction, and/or renovation of a facility.
- (b) Grant funds must be used to pay current and future facilities costs, for up to a three-year period. Awards may not be used to reimburse a charter school for costs incurred prior to the date the grant is awarded. ~~Awards may not be used toward the same debt or project (purchase/construction/ renovation) related to a project designated in a prior grant award.~~ In addition to documented evidence of an existing lease, rent, mortgage or debt obligation annual ongoing costs associated with a charter school facility, the Authority reserves the right to evaluate prior year's facilities costs to determine eligibility for the current funding round.
- (c) Grant funds may not be applied toward a school district's costs of providing a charter school with a facility.
- (d) Grant funds may not be used to: 1) supplement a New Construction project funded through the Charter School Facilities Program; 2) make Charter School Facilities Program payments to the State; or 3) satisfy a Charter School Facilities Program recipient's local matching share.
- (e) Grant funds must be expended and liquidated within the guidelines of this article and the State Charter School Facilities Incentive Grants Program.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10179. Maximum Grant.

- (a) Grant awards that are used toward the annual cost of rent, lease, mortgage, or debt service payments for existing or new facilities shall be based on the following:
 - (1) Per-pupil facilities aid for charter schools which shall be awarded to subgrantees in an amount of seven hundred and fifty dollars (\$750) per student based on the enrollment on file with the California Department of Education, not to exceed seventy five percent (75%) of the annual eligible costs for which the applicant is applying.
 - (2) No individual grant may exceed two hundred and fifty thousand dollars (\$250,000) per year, with a maximum grant period of up to three years. The grant period shall not exceed the end of the funding period as determined by the U.S. Department of Education and referenced in Section 10185.
- (b) Grant awards that are used toward the purchase, design, construction, and renovation costs of land and facilities, shall be based on the following:
 - (1) Per-pupil facilities aid for charter schools which shall be awarded to subgrantees in an amount of one thousand dollars (\$1,000) per student based on the enrollment on file with the California Department of Education, not to exceed seventy five percent (75%) of the annual eligible costs for which the applicant is applying.

- (2) No individual grant may exceed five hundred thousand dollars (\$500,000) per year, with a maximum grant period of up to three years. The grant period shall not exceed the end of the funding period as determined by the U.S. Department of Education and referenced in Section 10185.
- (c) Grant awards, for up to a three-year period, will be reserved and apportioned from funds available in the year that the subgrantee is awarded funding.
- (d) Grant funds from the first five funding rounds that become available may be awarded to an alternate applicant from the fifth funding round only, and may not be combined with any funds available for subsequent funding rounds. Grant funds from Funding Rounds 6 – 10 that become available may be awarded to an alternate applicant from the most recent funding round until the next funding round commences, at which time any funds that become available will be combined with the available funds for the new funding round.
- (e) An organization comprised of more than one charter school may apply for more than one grant by submitting a separate application for each charter school.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10180. Application Submission.

- (a) Application for grant funds shall be made on a form prescribed by the Authority, and will be available as described below. The Authority will accept applications during the application periods described. One original and one duplicate application package must be received by the Authority, during regular business hours, by the final filing date. Applications received after the final filing date for each funding round will not be accepted for review and will be returned to the applicant. Applications shall be considered complete and final as of the date submitted. No further information will be accepted after the final filing date for purposes of evaluating the application, unless otherwise determined by the Executive Director of the Authority. Review and evaluation of applications by staff shall be based solely upon the information contained in and submitted with the application at the time of filing, and supporting information obtained directly from other state and local agencies. For organizations with more than one charter school, a separate application is required for each charter school applying for a grant.
- (b) Applications for the first funding round will be available by July 1, 2005. The final date to submit applications will be August 1, 2005. Specific availability and deadline dates will be posted on the Authority's Web site no later than June 30, 2005.
- (c) Applications for all subsequent funding rounds will be available after January 15 of each year. The final date to submit applications will be March 1 of each year (or the first business day thereafter if March 1 falls on a Saturday or Sunday). Specific application availability and deadline dates for each funding round will be posted on the Authority's Web site by December 15 of each year.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10181. Content of Application.

Completed applications and all attachments shall be submitted in duplicate to the Authority and shall include, but not be limited to, all of the following items.

- (a) Application (CSFA Form 05-01).
- (b) Description of how an award of grant funds for facilities will be used.
- (c) Copy of current charter agreement, and verification of the expiration date.
- (d) Evidence that the school is organized under section 501(c)(3) of the Internal Revenue Code, or is a nonprofit public benefit corporation pursuant to California Corporations Code section 5110, et seq., if applicable.
- (e) Copy of lease contract, rental agreement or other documentation verifying required payments and evidence that the term matches or exceeds the anticipated grant term.
- (f) A completed Legal Status Questionnaire submitted in the form set forth in CSFA 05-01.
- (g) For construction/renovation or purchase projects only, a detailed description of the project, including timelines, anticipated costs, bids, and other funding sources.
- (h) For construction/renovation or purchase projects only, proof of site control. Such proof may consist of (1) a current title report issued no more than 90 days prior to application showing ownership of the site; or (2) a valid, current, enforceable contingent purchase and sale agreement or option agreement between the Applicant and the owner of the subject property, including evidence that all extensions are in place to keep the agreement current through the grant award date.
- (i) For construction/renovation or purchase projects only, evidence of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project.
- (j) Agreement and Certification. The applicant shall agree and certify under penalty of perjury to the following terms and conditions as a requirement of receiving any grant funds. The agreement and certification shall be executed by the charter school's executive director, principal, chair of the board, or another authorized individual and shall be included in the application.
 - (1) Applicant may be required to return all or a portion of the grant funds including any investment earnings if the applicant fails to use the funds as approved. In cases where the grant will fund architect, design, or engineering fees or land acquisition costs as part of a construction project, the applicant may be required to return all grant funds and any investment earnings if the Authority cannot determine the associated larger construction project has been completed, based on timelines provided within the application. Grant funds shall only be used by the subgrantee in the manner described in the application, unless the Authority approves a change in writing pursuant to section 10186.
 - (2) The applicant's project and financial records are subject to audit and inspection by the Authority and the Bureau of State Audits.
 - (3) Applicant has either disclosed all legal information as required in the Legal Status Questionnaire, or has no legal information to disclose.
 - (4) Applicant will notify the Authority in writing at the time of project completion with evidence of completion included.
 - (5) Applicant will provide all documents and information required by law and meet all necessary requirements prior to the release of any funds.
 - (6) Applicant is required to immediately notify the Authority of any material change to the charter school's enrollment, student performance, charter status, or financial condition.
 - (7) For all construction/renovation or purchase projects, a copy of the executed construction contracts and all required permits must be submitted no later than one year from the award date and prior to any disbursements.
- (k) Verification the charter school is in good standing with its chartering authority and in compliance with the terms of its charter at the time of application submission and without interruption throughout the term of the grant, must be provided directly from the chartering

authority on a form provided by the Authority. Charter schools may appeal any response by the chartering authority’s staff directly to the chartering authority governing board. It shall be the charter school’s responsibility, and not the Authority’s, to ensure that the good standing and compliance response letter is received by the stated deadline.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10182. Evaluation Criteria.

Preference points will be calculated for all eligible applications. An application shall receive preference points based on the total of (a), (b), (c), (d), (e), and (f), up to a maximum of ~~160~~ 150 points, as follows:

- (a) Low Income: Up to 60 points based on the percentage of pupils at the charter school meeting the definition of low-income. Preference points assigned shall be based on data collected and posted by the California Department of Education on its website. The following sliding scale will be used to determine the number of preference points:

Percentage Receiving Free/Reduced Lunch	Preference Points Assigned
NA or unestablished	0
1-15%	2
16-25%	4
26-30%	8
31-35%	10
36-40%	14
41-45%	18
46-50%	22
51-55%	26
56-60%	28
61-65%	30
66-70%	34
71-75%	38
76-80%	42
81-85%	46
86-87%	50
88-89%	54
90%	55
91%	55.5
92%	56
93%	56.5
94%	57
95%	57.5
96%	58
97%	58.5
98%	59
99%	59.5
100%	60

(b) ~~Overcrowded School District: Up to 20 points if the charter school qualifies as overcrowded through either of the following two options. The charter school may only receive overcrowding points pursuant to subsection (b)(1) or subsection (b)(2). The charter school may not receive points from both subsection (b)(1) and subsection (b)(2), or any combination thereof. If the charter school is eligible for overcrowding points under both subsections, preference points shall be awarded based on the greater of subsection (b)(1) or subsection (b)(2).~~

(1) ~~Overcrowded School Site: If the applicant charter school is physically located within ten miles driving distance of any public school as designated in the table below for which the public school is eligible for funding under the Overcrowding Relief Grant based on the current list qualified by the most recent CBEDS, or meets the criteria for the Critically Overcrowded School program with the most current CBEDS, as identified for either program by the California Department of Education, the applicant will receive 10 preference points. 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:~~

Locale Code	Maximum Driving Distance in Miles
City, Large	3
City, Midsize	3
City, Small	3
Suburb, Large	5
Suburb, Midsize	5
Suburb, Small	5
Town, Fringe	10
Town, Distant	10
Town, Remote	10
Rural, Fringe	10
Rural, Distant	10
Rural, Remote	10

(2) ~~Overcrowded School District: The school district where the charter school is physically located is determined to be overcrowded. The Percentage Overcrowded is determined by dividing the district's remaining New Construction Eligibility by its current enrollment (round up) and multiplying the product by 100. Charter schools located in districts that do not have current new construction eligibility established by the Office of Public School Construction, Department of General Services, will not be assigned any points in this category. The following sliding scale will be used to determine the number of preference points:~~

Percentage Overcrowded	Preference Points Assigned
Unestablished	0
1-2%	2
3-5%	4
6-10%	6
11-15%	8
16-20%	10

21-25%	11
26-30%	12
31-35%	13
36-40%	14
41-45%	15
46%	16
47%	17
48%	18
49%	19
50% and above	20

- (c) Nonprofit Entity: If the charter school or entity operating the charter school meets the definition of a nonprofit entity as defined in this article, the applicant will receive 20 preference points.
- (d) Student Performance: If the charter school meets its Academic Performance Index (API) Growth Target for either Schoolwide or Subgroups for the most recent year, the applicant will receive 20 preference points. Preference points will be based on data provided by the California Department of Education. Staff will rely on data posted on CDE's website when assigning points in this category.
- (e) School Choice: If the charter school is providing a school choice option in a community of greatest need, it may receive up to 20 points through the following two opportunities. The charter school may receive 10 points pursuant to subsection (e)(1) and 10 preference points pursuant to subsection (e)(2). The charter school may receive 10 points from each subsection (e)(1) and subsection (e)(2), or from either of the subsections, for a maximum of 20 preference points.
- (1) Adequate Yearly Progress: If the applicant charter school is physically located within three to ten miles driving distance (as found in the table in subsection (b)) of any traditional public school (serving the same grade levels as the applicant charter school) for which CDE has calculated AYP criteria and indicates the traditional school did not meet all AYP criteria for the most recent year, and the applicant charter school did meet all AYP criteria for the most recent year, the applicant charter school will receive 10 preference points. Verification of AYP data shall be based on data ~~posted~~ provided by the California Department of Education on its website.
- (2) Academic Performance Index Growth Target: If the applicant charter school is physically located within three to ten miles driving distance (as found in the table in subsection (b)) of any traditional public school (serving the same grade levels as the applicant charter school) for which the API Growth Target has been calculated, however, the traditional school did not meet its API Growth Target for Both Schoolwide and Subgroups for the most recent year, and the applicant charter school did meet its API Growth Target for Both Schoolwide and Subgroups for the most recent year, the applicant charter school will receive 10 preference points. Verification of API Growth Target data shall be based on data provided ~~posted~~ by the California Department of Education ~~on its website.~~
- (f) First-Time Award Competitive Priority: If an applicant charter school has not received an award under the 2004 State Charter School Facilities Incentive Grants Program (Rounds 1-5), the applicant charter school shall receive an additional 20 preference points.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Sections 17078.56 and 17180, Education Code.

Section 10183. Award Methodology.

- (a) In each funding round, staff shall rank the applications based on the scores received, with the highest score ranking first. In the event that more than one application has the same overall score, the application with the highest percentage in the low-income category will receive a higher ranking. If more than one application has the same overall score as well as the same low-income percentage, the application with the highest points in the overcrowded school district category will receive a higher ranking. If application of the tiebreaker described above results in more than one application still having the same ranking, applications with the earliest mailing time will be given preference. Applications that are hand-delivered and do not have a mailing time will be given preference in this situation based on the time received by the Authority.
- (b) If the application is not complete at the time of submission, the applicant will be notified and given a 24-hour period to provide the additional information. Failure to comply with the prescribed time period will result in a new date being assigned to the application for ranking purposes described above as of the date the additional information is received.
- (c) For each funding round, the Authority shall make an initial award for each application, taking into account the ranking of all applications, the total amount of funds requested and the total amount of funds available. In the event total funds requested exceed total funds available, the Authority shall allocate funds beginning with the application scoring the highest ranking, and then proceed with the next highest rank until all funds have been awarded.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10184. Approval of Grant and Notification of Subgrantee.

Allocations approved by the Authority at a regularly scheduled board meeting shall be awarded as grants to subgrantees. Subgrantees will be notified in writing within seven (7) business days of the board meeting of the amount of the grant and the disbursement schedule.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10185. Obligation and Expenditure of Grant Funds.

Grant funds shall be used for the immediate needs of the designated project. Grant funds must be obligated and expended by the dates specified in the grant agreement. The funding period will be no more than three years, which means that all funds must be obligated no more than three years from when a grant is awarded and all funds must be liquidated no more than three years and 90 days from when the grant was awarded by the Authority.

The end of the funding period for the first five funding rounds is designated as September 30, 2012 by the U.S. Department of Education. The end of the funding period for the subsequent funding rounds (six through ten) shall be determined by the U.S. Department of Education and is currently targeted as September 30, 2017. No extensions of the funding period will be considered or allowed unless approved in writing by the U.S. Department of Education. Grants

to subgrantees that are made within three years of the end of the funding period will be awarded based on the amount of time remaining in the funding period.

Subgrantees that receive an award for purchase, construction, or renovation shall provide verification that the approved project has been initiated within six months of the award date and shall annually provide sufficient documentation to approve disbursements equal to each year's award. Subgrantee also shall provide semi-annual progress reports to the Authority.

If Authority staff determines at its discretion that the subgrantee does not demonstrate timeliness, readiness, or feasibility in providing verification of continued eligibility for each disbursement, the Subgrantee will not be eligible for disbursement of Grant funds.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10186. Approval of Grant Use Change.

The Authority may, on a case-by-case basis, consider a change in the use of the grant funds if the subgrantee demonstrates, to the Authority's satisfaction, that the change is consistent with the Program, the State Charter School Facilities Incentive Grants Program, and this Article.

Note: Authority cited: Sections 17179 and 17180, Education Code.
Reference: Section 17180, Education Code.

Section 10187. 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) The dates by which the grant funds must be legally obligated, expended and liquidated.
- (b) A provision that any unspent grant funds and any unspent investment earnings on such grant funds shall revert to the Authority.
- (c) Agreement to comply with this Article and federal requirements pertaining to the State Charter School Facilities Incentive Grants Program.
- (d) Agreement that the subgrantee 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 liability of any kind or nature, whether direct or indirect, arising from or relating to the grant and the project or the Program.
- (e) Agreement that the grant shall only be used for projects as described in the subgrantee's application and approved by the Authority.
- (f) Any audit provisions as required by the Authority and/or the U.S. Department of Education.
- (g) The charter school shall continuously maintain its good standing with the chartering authority and its compliance with the terms of the charter. The Authority reserves the right to contact the chartering authority directly seeking written verification that the school is in good standing and in compliance with the terms of its charter.
- (h) Applicants are required to notify the Authority, within 30 days, of any material changes to the charter school's facilities, enrollment, charter status, nonprofit status, financial condition, or scope of the project that occurs between the time of application and the time of completing the project and submitting the final performance report.

- (i) Current CBEDS are to be reported to the Authority within 30 days of each Information Day, until the time at which project completion and the final performance report is submitted.
- (j) In the event that the charter school is not in compliance with its charter authorizer or the charter is not in good standing, not renewed, or revoked at any time during the grant period, the subgrantee will advise the Authority within 30 days of notification of such action, including providing the Authority with a copy of the document provided by the chartering entity notifying the charter school of such action.
- (k) All subgrantees are required to submit two copies of a final performance report within 60 days after the expiration or termination of grant support.
- (l) The format of all performance reports will be provided by the Authority and will include information requested by the U.S. Department of Education.
- (m) Any other provisions required by the Authority and/or the U.S. Department of Education.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10188. Release of Funds.

- (a) No grant funds shall be released until the grant agreement and supporting attachments have been provided and it has been determined by the Executive Director that the charter school continuously meets the requirements of the grant program.
- (b) Applicants will be afforded two options for disbursement of grant funds, depending on the use of the grant award. Under the first option, charter schools shall apply monthly disbursements of grant funds toward the monthly costs of rent, lease, mortgage or debt service payments over a three-year period, if such costs are sufficiently documented to the Executive Director's satisfaction. Under the second disbursement option, charter schools have the choice of applying grant funds (equal to a three-year award) toward the costs of acquiring a facility or land and constructing and/or renovating a facility, if such costs are sufficiently documented to the Executive Director's satisfaction. Charter schools requesting the second option will be required to demonstrate a commitment toward the acquisition of a facility at the time of application. Such commitment may include, but not be limited to, verification of the charter school's possession of an option to purchase land and/or detailed project plans and drawings.
- (c) Grant fund awards shall be released on the dates listed in the grant agreement.
- (d) All disbursements of Grant fund awards shall be processed according to the schedule established by the Authority.
- (e) All subgrantees shall submit documentation of continued eligibility on a semi-annual basis during the months of February and August.
 - (1) Documentation of continued eligibility shall include, but not be limited to, copies of the current charter and current leases(s); verification of any changes to the subgrantee's name, project, project location, or facility costs; executed amendments to the grant agreement, when appropriate; and verification and/or status of pending or threatened legal issues or investigations.
 - (2) Documentation of continued eligibility shall require verification the subgrantee charter school is continuously in good standing with its chartering authority and continuously in compliance with the terms of its charter without interruption throughout the term of the grant. The Authority will rely on information from the chartering authority regarding the school's good standing and compliance with the terms of its charter. Charter schools may appeal any response by the chartering authority's staff directly to the chartering authority's governing board. It shall be the charter school's

responsibility, and not the Authority's, to ensure that the good standing and compliance response letter is received by the stated deadline.

- (3) Documentation of continued eligibility must be received and approved by the Authority on or before February 28th and August 31st of each year in order for the Authority to release a disbursement.
- (4) Failure to meet the February 28th or August 31st deadline shall result in the subgrantee being declared ineligible to receive the first monthly disbursement of the respective semi-annual disbursement period. The forfeited funds cannot be disbursed retroactively and will immediately revert back to the Authority.
- (5) If the required documentation is not received and approved by the Authority within 30 calendar days following the February 28th and August 31st deadline, the subgrantee shall be declared ineligible to receive the remaining five monthly disbursements for the respective semi-annual disbursement period. The forfeited funds cannot be distributed retroactively and will immediately revert back to the Authority.
- (6) Failure to meet the semi-annual deadlines consecutively and provide documentation within 30 calendar days from each deadline shall result in the subgrantee being declared ineligible to receive all remaining disbursements under the grant program. The forfeited funds will immediately revert back to the Authority.**
- (f) Subgrantees applying grant funds toward the costs of acquiring land and purchasing, constructing, or renovating a facility must also provide all documentation verifying eligible costs annually, as described in Section 10185.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10189. Completion of Grant Funded Construction Project.

- (a) The subgrantee 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 and renovation 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. If the subgrantee does not provide copies of cancelled checks, the subgrantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.
 - (2) Real property acquisition projects require a copy of the final closing statement with certification by the title company, to be received by the Authority within 60 days of the disbursement of grant funds.
- (b) If the subgrantee fails to complete the project within the project period, the Authority may require remedies, including forfeiture and return of all grant funds and any accrued interest thereon to the Authority.
- (c) The Authority reserves the right to conduct site visits to any charter school facility or project receiving a grant pursuant to this Article.
- (d) The Authority or Authority staff may seek third party verification regarding any and all applicable costs associated with the facility/project receiving a grant pursuant to this Article.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10190. Audits and Conflicts of Interest.

- (a) The Authority and/or the Bureau of State Audits may conduct or require periodic audits to ensure subgrantees are using grant funds consistent with the requirements and the terms of the Program, the State Charter School Facilities Incentive Grant, and this article as approved. Subgrantees shall retain all documentation and financial data necessary to substantiate the purposes for which the grant funds were spent for a period of three years after the certification of completion of the project has been submitted or three years after the end of the funding period, whichever is longer.
- (b) Subgrantees must avoid apparent and actual conflicts of interest when administering grants from the U.S. Department of Education. Department regulations at 34 CFR 75.525(a) prohibit a person from participating in an administrative decision regarding a project if
 - (a) the decision is likely to benefit that person or his or her immediate family members; and
 - (b) the person is a public official or has a family or business relationship with the subgrantee. Section 75.525(b) provides further that a subgrantee may not permit any person participating in a project to use his or her position for a purpose that is – or gives the appearance of being – motivated by a desire for a private or financial gain for that person or for others.
- (c) Subgrantees will be required to routinely verify continued eligibility. Documentation of continued eligibility will include, but not be limited to, submission of a completed Legal Status Questionnaire (as it may be amended from time to time) disclosing information relating to any legal or regulatory proceedings or investigations in which the subgrantee or its parent/subsidiary/affiliate is or has been a party and which might have a material impact on the financial or educational viability of the charter school. The responses on the Legal Status Questionnaire and all supporting documents related to the responses will be reviewed by Authority staff and legal counsel prior to authorizing additional disbursements of grant funds.
- (d) When using federal funds to enter into a contract, a State or local entity receiving a grant must comply with 34 CFR 80.36. These standards require federal grant subgrantees to develop written procurement procedures and to conduct all procurement transactions in a manner that provides, to the maximum extent possible, open and free competition. No employee, officer, or agent of the subgrantee may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.
- (e) When these funds are used for construction-related activities costing over \$2,000, such as constructing a school building, renovating an existing owned school facility, or making leasehold improvements, any laborers and mechanics employed by contractors or subcontractors on the projects assisted with these federal funds must be paid in accordance with prevailing wage requirements in the Davis-Bacon Act (40 USCA section 3142, et seq.).
- (f) The Authority reserves the right to conduct site visits to any charter school facility or project receiving a grant pursuant to this Article.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.

Section 10191. Funding Contingency.

- (a) This grant program is contingent upon the receipt of funds in each budget period as scheduled by the U.S. Department of Education.
- (b) Continuing apportionments to subgrantees will be contingent upon the subgrantee's eligibility to receive such apportionments.

Note: Authority cited: Sections 17179 and 17180, Education Code.

Reference: Section 17180, Education Code.