

MEMORANDUM

Staff Summary No. 5

Date: January 14, 2015

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Subject: California Military Institute's Request for Reconsideration of Ineligibility Determination under the State Charter School Facilities Incentive Grants Program

Background: Since 2004, the California School Finance Authority (CSFA) has administered the federally-funded State Charter School Facilities Incentives Grant Program (Program). Since the Program's inception in California, CSFA has made awards totaling \$63,702,349 to 238 charter schools serving 84,833 California charter school students.

In 2014, under the Program's tenth funding round, the Perris Union High School District (District), on behalf of the California Military Institute (CMI), applied for an award of grant funds to renovate an existing school district facility. There is nothing in the Program regulations that prohibits a district-dependent charter school from applying for Program funding. However, there are a few Program criteria that give preference to independent charter schools, such as Section 10178(c) of the Program regulations, which states "grant funds awarded under the Program may not be applied toward a school district's costs of providing a charter school with a facility" and Section 10182(c) of the Evaluation Criteria Section of Program regulations which awards 20 preference points if the charter school or entity operating the charter school meets the definition of a nonprofit entity – a school district operated charter school, such as CMI, would not be awarded these points.

The District's application was reviewed, the school was assigned 106 (out of a possible 150) preference points, based on Program regulations, and was deemed eligible for a preliminary award. CSFA provided the District with an update to the status of its application by letter dated June 6, 2014. This letter confirmed Program eligibility, notified the school of the preliminary preference points awarded, and stated that the application would be presented to the members of the California School Finance Authority at their meeting planned for June 26, 2014. The letter also contained the following disclaimer:

Note: This information is being provided to inform you of the preference point calculation for your application. *This letter is not an indication that an award will be granted to California Military Institute under the Program.* (emphasis added)

At its board meeting on June 26, 2014, Resolution 14-17 was approved by the Board. The resolution included the following language and was accompanied by an exhibit listing those schools recommended for an award.

"NOW, THEREFORE, BE IT RESOLVED that:

Section 1. The Authority approves the award of grant funds to the top ranking applications in line for a grant award as shown in Exhibit A attached hereto, and authorized the Executive Director to take the steps necessary to execute the grant

agreements and disburse the grant funds. *Award is contingent up on the applicant's ability to demonstrate that the applicant continues to maintain all Grant Program eligibility requirements.* The Authority also approves awards to alternate applications in ranked order as shown in Exhibit A, in the event Grant Program funds become available. (emphasis added)

After the Board made preliminary Program awards, staff took a closer look at facts surrounding the CMI project. To help staff establish CMI's financial and operational autonomy from its authorizing district, staff identified the following issues that needed to be resolved / clarified prior to making a formal award to CMI via an award letter.

- Financial Independence: CMI's financial autonomy from the District needed to be established; therefore CSFA requested financial information for CMI. Instead, staff was sent and reviewed the following District financial information:
 - Fund 09 reports;
 - District Audit;
 - County Treasurer report; and
 - District checks (CMI does not have separate accounts from those of the District).
- CMI Project Oversight: CMI needed to demonstrate that it is a charter school project, not a district project. However, based on information from the District in its application for funding, the District is handling bidding and award of contracts for the CMI project.
 - Contract is between District and vendor
 - Vendor bills District, not CMI
- Operational Independence
 - The District and CMI are governed by the same board.
 - CMI has an advisory council and the District Superintendent is a member and appoints the advisory council members.
 - The District applied for grant funds, and led the initiative challenging CSFA's finding that CMI is not eligible for grant funds.
 - The Principal of CMI is an employee of the District.

Based on a review the aforementioned, CSFA was unable to conclude that grant funds awarded under the Program were not going to be applied toward a school district's costs of providing a charter school with a facility.

Issue: Michael Rhodes, Principal/Commandant of CMI requested that CSFA consider CMI's appeal related to ineligibility for the State Charter School Facilities Incentive Grants Program by letter dated December 9, 2014 (see attached letter as Exhibit A). Mr. Rhodes notes that in its June 26, 2014 meeting, the CSFA Board adopted Resolution 14-17 which, in addition to approving grant awards, authorized the Executive Director to execute the grant agreements on behalf of the authority. Mr. Rhodes states that CMI was listed on [Attachment A] and was approved for funding. Mr. Rhodes notes that CSFA subsequently informed CMI that it was ineligible for an award of grants funds under the Program.

Mr. Rhodes fails to acknowledge that the District and its representatives were contacted as early as June 27, 2014 by CSFA staff and asked to delineate the relationship between the district and the school as it related to the proposed project. As evidenced by the e-mail exchanges, conference calls and correspondences between CSFA and the District, CSFA made every attempt to substantiate the school's autonomy from the district in order to make

the award of grant funds – unfortunately neither CSFA staff nor its counsel were provided information or documentation that established such independence.

Recommendation: Staff recommends that the Board uphold staff's determination that CMI is ineligible for a Program award under the Program. In light of the foregoing, it cannot be said that California Military Institute and the Perris Union High School District are separate entities such that any grant funds awarded to CMI could not be considered funds applied toward a school district's costs of providing a charter school with a facility, in violation of Program regulations. Accordingly, California Military Institute is ineligible for an award of grant funds under the State Charter School Facilities Incentive Grants Program.



California Military Institute

Home of the Rough Riders

755 North A Street, Perris, CA 92570
phone: 951-443-2731 fax: 951-943-0473

December 9, 2014

VIA U.S. MAIL AND FACSIMILE [213- 620-6309]

California School Finance Authority
304 S. Broadway, Suite 550
Los Angeles, CA 90013
Attn: Katrina Johantgen, Executive Director

Re: California Military Institute – State Charter School Facilities Incentive Grants Program
Request to Be Placed on Agenda for Appeal of Eligibility Determination

Dear Ms. Johantgen:

The California Military Institute (CMI) hereby requests that the California School Finance Authority (CSFA) consider its appeal related to ineligibility for the State Charter School Facilities Incentive Grants Program.

At its meeting on June 26, 2014, the CSFA Board adopted "*Resolution 14-17 – Determination of Awards and Authorizing the Disbursement of Funds under the Tenth Funding Round of the State Facilities Incentive Grants Program for the Schools listed in Attachment A.*" In addition to approving grant awards, Resolution 14-17 authorized the Executive Director to execute the grant agreements on behalf of the Authority. CMI was among those schools listed on Attachment A and approved for funding. Subsequently, by letter dated October 21, 2014, CSFA staff informed CMI that it was ineligible for an award of grant funds under the Program.

CMI requests that the following item be placed on the meeting agenda of the CSFA Board for discussion and action:

Consideration of Appeal on Behalf of California Military Institute Related to Ineligibility for the State Charter School Facilities Incentive Grants Program.

If there is anything I can do to assist in getting this item before the Board, including any materials that you may need from CMI, please let me know.

Sincerely,

Michael Rhodes, Principal/Commandant
California Military Institute

