

MEMORANDUM

Date: October 23, 2015 Staff Summary No. 11

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 15-34 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) 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/lease, 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 10 awarded in June 2014. In 2014, the Authority applied for and was awarded a third five-year grant in the amount of approximately \$50 million (rounds 11 to 15), and Round 11 awards were made this summer. Staff is proposing changes to the regulations that guide the State Charter School Facilities Incentive Grants Program (Program), as described below.

Effective July 1, 2013, the state-funded Charter School Facility Grant Program (SB 740) was transferred to the Authority from the California Department of Education. SB 740 provides for State-funded grants to charter schools for reimbursement of eligible lease costs as well as other facility-related costs. Both SB 740 and the Program provide grants of eligible lease costs and other specific facility-related costs. This fact, along with the federal regulations requiring that federal funds *supplement rather than supplant* State grant funds, has challenged the Authority with the development of a methodology, described below, to ensure compliance with such regulations, while at the same time effectively and efficiently administering both programs. Time spent by staff and constituents working to maximize grant awards through one or both programs led, in part, to the proposed changes being sought by staff and presented to the Board for consideration at this time.

The specific methodology to address the supplement/supplant requirement is, in part, based on the difference between current-year student enrollment (as reported by CDE through the California Longitudinal Pupil Achievement Data System) and current-year average daily attendance (ADA). When a Program grant award based on eligible lease costs is determined by \$750 per student (lesser of 75% of eligible lease costs and \$750 per student), and the charter school is also deemed eligible under SB 740 for the same eligible lease costs, the actual Program award shall be the difference between \$750 per student (based on current-year student enrollment) and \$750 per unit of current-year average daily attendance. In other words, the school will receive its maximum award under SB 740, with any excess available due to the higher eligibility amount based on enrollment covered with a Program award, when the Program grant award is based on 75% of eligible lease costs, no Program award will be issued. As an additional point of clarification, the amended regulations make it explicit that, in the case of reimbursement for renovation costs, a specific school site will not be eligible for a Program award if it is also deemed eligible under SB 740.

Among other proposed changes, this methodology is incorporated into the proposed amended regulations. The proposed changes to address the supplement/not supplant requirement are in addition to changes submitted to and approved by the Authority board at its December 11, 2014 meeting and approved by the Office of Administrative Law on April 9, 2015.

Other changes to the regulations address the use of current-year cost data, when available, as a basis for awards based on lease, rent, mortgage, debt service, or Proposition 39 pro-rata payments; and the option to use an online application system for submission of the Application and supporting documents, once such a submission platform is developed. In addition, staff is amending the Application Form CSFA 05-01 to include the following additional statement in the required declaration to be signed by a senior official representing the Applicant: "The applicant also declares under penalty of perjury that, to the best of its knowledge, it has complied with 34 CFR 75.525(a) and (b) to ensure that there are no apparent or actual conflicts of interest."

The proposed key changes and amendments to the Program regulations are identified below.

Section 10179 – "Maximum Grant"

- Revision of subdivision (a)(1) to ensure the use of current costs associated with lease, rent, mortgage, or debt service, when available
- Addition of new subdivision (c), which sets forth the methodology for determining a maximum grant award when the Applicant has also been deemed eligible under SB 740, both in the case where the grant award is determined by \$750 per student and the case where the grant award is determined by 75% of eligible lease costs
- Addition of new subdivision (d), which sets forth the restriction that an Applicant deemed eligible under SB 740 for facility-related renovation costs for a specific school site shall not be eligible for reimbursement of renovation costs under the Program for the same school site

Section 10181 – "Content of Application"

- Addition of language in the introductory paragraph indicating that, upon development of an online application system, the Application shall have the option to submit the Application and supporting documents via the online system

Section 10181 – "Content of Application"

- Addition of sentence in declaration paragraph to ensure that the Applicant has avoided actual and apparent conflicts of interest

Recommendation: Staff recommends that the Authority adopt Resolution 15-34 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.