

## MEMORANDUM

Staff Summary No. 12

**Date:** August 10, 2016

**To:** Members of the California School Finance Authority

**From:** Katrina M. Johantgen, Executive Director

**Subject:** Consideration of Appeal Regarding the Charter School Facility Grant Program for Orange County Conservation Corps Charter

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**Background:** The Charter School Facility Grant Program was transferred to the California School Finance Authority (Authority) in the Governor's 2013-14 Budget Bill. Once transferred, the Authority developed a set of regulations to guide the program, its applicants, and staff in reviewing applications for funding. Part of this rulemaking process included the addition of conflict of interest provisions to ensure no actual or perceived conflicts related to interests in organizational assets, including facilities, exist. At the time of adoption the fall of 2013, the regulations stated that the conflict of interest provision would take effect for the 2014-15 funding cycle.

Section 10170.14 of Program regulations sets forth the conflict of interest criteria that must be met to be considered for an award:

- Sections 10170.14(c)(1) and 10170.14(c)(2): Related Party abstains from voting, or participating in the discussion regarding approval of the lease and Program application submission;
- Section 10170.14(c)(3): Related Party discloses interest;
- Section 10170.14(c)(4): Related Party or Applicant must provide evidence that the lease payment is at or below market rate; and
- Section 10170.14(c)(5): The lease or rental agreement is not signed by the Related Party.

**Issue:** Orange County Conservation Corps Charter (CDS 26-10264-0126698) (Orange County Corps Charter) applied for funding through the Program to assist with costs for the school's facility located at 3127 Jefferson Street San Diego, CA 92110. Orange County Conservation Corps (Lessor) leases to Orange County Corps Charter. Mike Worley and Henry Barbosa are Board Members of both Orange County Corps Charter and the Lessor. As these members have roles in both entities they are "Related Parties" as defined by Program Regulations Section 10170.14(a)(3). Further as described in the Lessor's 2014 Form 990, the organization provides services beyond managing and supporting Orange County Corps Charter.

- On September 10, 2015, the Authority advised Orange County Corps Charter of its concerns regarding eligibility for the 2014-15 Program. The Program's conflict of interest provisions, specifically that Mike Worley and Henry Barbosa are Board Members of both Orange County Corps Charter and the Lessor. As these members have roles in both entities they are "Related Parties" as defined by Program Regulations Section 10170.14(a)(3).

- On March 21, 2016, the Authority's Executive Director sent a letter to Orange County Corps Charter concerning the school's 2014-15 Program ineligibility status due to the related party issue, and requested \$46,017 in 2014-15 Program funds be returned to the Authority.
- On April 13, 2016, the Authority received an Appeal regarding the 2014-15 Program ineligibility determination. The documentation received did not assuage the Authority's related party concerns. As such, Orange County Corps Charter's appeal was denied and was notified of the decision in a letter dated May 17, 2016.
- On June 14, 2016, Authority staff received an appeal from Orange County Corps Charter requesting the school's appeal be considered by the Authority Board. Program Regulations Section 10170.10 sets forth the following appeal process, which was adhered to by the Authority and Orange County Corps Charter:
  1. The Authority will provide notification of Applicant's eligibility determination.
  2. The school shall have 30 calendar days from receipt of the Authority's notice to request a reconsideration of eligibility.
  3. Authority staff shall have 30 calendar days to review Applicant's request for reconsideration and provide a final staff decision.
  4. The Applicant has 30 calendar days to appeal the final decision and request the matter be considered by the Authority Board at its next regularly scheduled meeting.

For the 2015-16 Program funding round, Orange County Corps Charter has made efforts to satisfy the conditions set forth in Sections 10170.14(c)(1)-(5). The lease agreement for the 2015-16 year was amended, discussed, approved, and signed without the participation or presence of any potentially Related Party or Affiliate. As a result, staff notified Orange County Corps Charter that the Related Party issue is no longer an issue for the 2015-16 grant and no further consideration of their appeal for that year is necessary.

On July 21, 2016, the Authority received a check in the amount of \$46,017 from Orange County Corps Charter for the 2014-15 funds, and as such, is now in compliance with Program regulations to receive disbursements of their requested 2015-16 grant. However the school is still pursuing their appeal as it would like the 2014-15 funds returned.

**Recommendation:** Staff recommends that for the 2014-15 Program funding round, the Board maintains staff's finding of ineligibility.

**Attachments:** Orange County Corps Charter's appeal and supporting documents.