

MEMORANDUM

Staff Summary No. 7

Date: March 20, 2017

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 17-08 Approving Amendments to Regulations for the Charter School Facility Grant Program and Authorizing the Emergency Rulemaking Process

Pursuant to AB 86 (Chapter 48, Statutes of 2013), the administration of the Charter School Facility Grant Program (Program) was transferred to the California School Finance Authority (Authority) commencing with the 2013-14 fiscal year. The Program requires the Authority to allocate facilities grants to eligible charter schools. Grant funding provides assistance with facility rent and lease costs, as well as specific facility-related maintenance costs.

Since the transfer of the program and adoption of initial permanent regulations under the Authority's administration in August 2014, the regulations have incurred two major revisions through the permanent rulemaking process. In January 2015, regulations were amended due to the passage of AB 948 and in June 2015 in response to the passage of AB 93.

It has come to the Authority's attention that a conflict of interest between the Program applicant and their vendors may exist and is currently not reviewed in the Authority's vetting process. The proposed changes are necessary to clarify certain provisions in the existing regulations as well as expand the types of agreements reviewed for conflicts of interest. The regular rulemaking process generally takes up to 6 months for approval whereas emergency rulemaking is generally approved within 30 days. The immediate implementation of the proposed emergency regulations would allow Authority staff to review potential conflict of interest issues not currently reviewed for both the current 2016-17 and upcoming 2017-18 funding rounds:

Section 10170.3 Eligible Applicant

- Modification of subdivision (d)(2) to clarify that the local elementary shall be determined by the local school district.
- Modification of subdivision (e) requiring applicants to be in compliance (not in default) with all programs administered by the Authority including the Program.
- Addition of subdivision (f) to clarify how the Authority shall monitor each charter school's continuous good standing with its chartering authority and compliance with the terms of its charter, throughout the term of the grant.

Section 10170.8. Final Fiscal Year Entitlement Calculation

- Modification of subdivision (c) to ensure the correct reference is cited.

Section 10170.9. Apportionment of Grant Funds

- Modification of subdivision (c) to correct misspelling of the word “apportionment”.

Section 10170.10. Notification of Grantee; Appeal Process

- Modification of subdivisions (a), (b) and (f) to allow applicants the opportunity to appeal either award calculation under Sections 10170.7 or 10170.8.

Section 10170.14. Conflicts of Interest

- Modification of subdivision (c) which previously established when the provision would take effect. As the provision is currently in effect and any additional changes made to subdivision (c) shall not be retroactively enforced, the phrase is no longer applicable and has been removed.
- Modification of subdivision (c) which will not reimburse service agreement costs with a Related Party unless the conditions set forth in (c)(1-5) are met.
 - Section 10170.04(a)(2) allows applicants to submit for reimbursement of invoice costs associated with the facility. It has come to the Authority’s attention that a conflict of interest between the Program applicant and the vendors they submit invoices from may exist. For this reason the Authority would like to expand on the type of agreements reviewed for conflicts of interest.

Charter School Facility Grant Program Facility Invoice Expenditure Report (Invoice Report)

- Modification of the Invoice report signature page requiring applicants to certify there are no related parties between the school and its vendors. Pursuant to Program Regulations Section 10170.9(h) applicants submitting invoices for reimbursement must complete the Invoice Report provided by the Authority.

Recommendation: Authority staff recommends that the Board adopt Resolution 17-08 approving the amended emergency regulations for the administration of the Charter School Facility Grant Program. If approved, the Executive Director will include the resolution demonstrating board approval with the rulemaking file.