

MEMORANDUM

Staff Summary No. 6

Date: November 8, 2017

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution 17-30 – Approving Amendments to Regulations for the Charter School Facilities Program and Authorizing the Rulemaking Process

Through the passage of Propositions 47, 55, and 1D, and most recently, Proposition 51, \$1.4 billion has been made available to charter schools for construction of new facilities or rehabilitation of existing school district facilities. As a result of the passage of California State Proposition 51, which authorized \$500 in additional bond authority, a new funding round began in February 2017. The Authority has recognized the need to amend Program regulations in order to set forth clarifying definitions, establish consistency between Program policy and practice, and add clarifying language.

The Authority intends to proceed with the Regular Rulemaking Action and Certificate of Compliance upon the Authority Board's approval of the following proposed amended permanent regulations:

Section 10152 Definitions

- Addition of "Certificate of Financial Soundness" which shall mean the Authority's adoption of a resolution determining that a charter school is "Financially Sound" for a period of 12 months, assuming that no material financial, operational, or legal changes have occurred during this period that would otherwise change the determination;
- Deletion of "Co-borrower or Guarantor";
- Addition of "Funding Round" which shall mean the opportunity for submission of Applications for purposes of Preliminary Apportionment, as authorized by the board based on the availability of bond authority;
- Expands definition of Financial Soundness to include the extent to which an Applicant or Obligor is Financially Sound;
- Addition of "Matching Share Payments" which shall mean payments made against the Program loan with the State for purposes of repaying the Local Matching Share pursuant to a payment schedule;
- Addition of "Obligor" which shall mean the entity responsible for the Local Matching Share, which may or may not be the same as the Applicant;
- Addition of "Project" which shall mean the specific facilities-related project that is the subject for Program funding within an Application and that has been approved for Program funding by the Office of Public School Construction; and
- Various clean-up changes that are considered non-substantive.

Section 10153 Application Submission

- Addition of language which specifies the required form, defines due date timeframe, and application submission format;
- Deletion of unnecessary language related to Preliminary Apportionment; and
- Various clean-up changes that are considered non-substantive.

Section 10154 Financial Soundness Review and Determination

- Addition of language which outlines the requirements of receiving a Good Standing Letter (GSL) and the resulting impact if the GSL is not received;
- Addition of language to outline what entity the Authority will perform financial analysis on when the school is represented by a contracted organization and does not meet the debt service coverage ratio;
- Deletion of language relating to Guarantor and Co-borrower regarding determining the debt service coverage ratio;
- Extending the validity of the Authority's financial soundness review determination from six to twelve months;
- Addition of language which allows the Authority to require updated information related to the applicants' legal status or financial or operating condition;
- Addition of language which allows the Authority to require updated information related to the applicants' legal status or financial or operating condition as a condition for release of funds for Advance or Final Apportionment;
- Addition of language which allows the Authority to conduct reviews to determine whether the applicant continues to maintain financial soundness and, if applicable, require the applicant to submit a corrective action plan; and
- Various clean-up changes that are considered non-substantive.

Section 10155 Content of Application for Preliminary, Advance, and Final Apportionment

- Addition of "Content of" to Section title to clarify purpose of section;
- Deletion of references/sections related to Guarantor or Co-borrower;
- Addition of "or Obligor" on the list of financial information to be reviewed to indicate that the Obligor's financial information will be reviewed if there is an Obligor designated on the application;
- Addition of "Certificate of Financial Soundness for the Preliminary Apportionment is no longer valid" to clarify when the Authority would conduct a review;
- Addition of "or any sale of accounts receivable associated with anticipated Program proceeds" to the material changes section; and
- Various clean-up changes that are considered non-substantive.

Section 10156 Ongoing Monitoring of Applicant's Financial Soundness

- Deletion of entire section as the language was redundant to other provisions in the regulations.

Section 10157 Use of a Guarantor or Co-Borrower

- Deletion of entire section, as the terms Guarantor and Co-Borrower were deleted.

Section 10158 Payment of Local Matching Share

- Change section number from 10158 to 10156;
- Addition of language which includes the Matching Share Payment schedule, clarification on when first payment would occur, and when interest will be accrued; and
- Various clean-up changes that are considered non-substantive.

Section 10159 Succession and Security Provisions

- Change section number from 10159 to 10157;
- Expand section to include “succession” to clarify what happens to the program-funded facility once a charter school no longer occupies the facility;
- Addition of language which specifies the conditions which must be met prior to a school district taking possession of a facility;
- Addition of language detailing the types of security provisions that are allowed and disallowed;
- Addition of language detailing what happens to security interest in the case of default; and
- Various clean-up changes that are considered non-substantive.

Section 10160 Reporting and Default Provisions

- Change section number from 10160 to 10158;
- Addition of the term “Matching Share Obligation”; and
- Various clean-up changes that are considered non-substantive.

Recommendation: Authority staff recommends that the Board adopt Resolution 17-30; approving the amended regulations for the administration of the Charter School Facilities Program.