

MEMORANDUM

Date: September 29, 2022

Staff Summary No. 7

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 22-48 Adoption of Proposed Regulations for the Charter Finance Enhance (Charter FinE) Program

Background: In 2021, the California School Finance Authority (Authority) applied for a \$10 million credit enhancement grant through the U.S. Department of Education's (DOE) Credit Enhancement for Charter School Facilities Program (CFDA # 84.354A). The funds were requested to create the Charter **Financial Enhancement** (Charter FinE) Program (Program) to provide credit enhancement to facilitate the financing of the purchase, construction, and/or renovation of facilities for California public Charter Schools. The Authority was notified of the grant award in the fall of 2021. Authority staff has worked with various charter school stakeholders to craft a program that best meets the needs of California charter schools.

Issue: The Authority has established proposed emergency regulations for the purpose of implementing the Charter FinE Program. As currently envisioned, the Authority will enhance financings issued by the Authority. Through a Performance Agreement with the DOE, the Authority will establish the broad program goals of leveraging a percentage of the grant award annually to secure and lower costs associated with financing of the purchase, construction, and/or renovation of facilities.

Other Program goals include reducing pre-development and acquisition borrowing costs for schools, implementing the grant program in a timely manner, and providing preference to schools serving communities and families in need by assigning additional points to schools that meet specially targeted indicators, e.g., the percentage of students eligible for free and/or reduced-price meals (FRPM). More specifically, as memorialized in its Performance Agreement, the Authority has established the objectives of targeting charter schools (1) serving low-income students, with at least 50% of students eligible for FRPM; (2) having at least 50% of students that do not meet the State standard for proficiency in either math or language on state assessments; or (3) located in a school district or county where at least 15% of public schools have been identified for improvement or corrective action.

The proposed regulations, in addition to other requirements, set forth eligibility criteria for all applicants, the eligible uses of grant funds, the evaluation criteria for the Authority's approval of applications for awards, and definitions of terms, as well as special provisions and requirements. The Authority has established a first-come, first-served application process. Program funds are to be applied towards funding the primary debt service reserve requirement for debt associated with the acquisition, renovation, construction and/or refinancing of charter school facilities. The Authority may make awards of up to a maximum annual debt service per Financing, with an award dollar limit of \$2,000,000.

A summary of or actual language from each section within the proposed emergency regulations is highlighted below.

Section 10200.16: "Purpose"

This Article implements the California School Finance Authority's (Authority) administration of the Charter School Facilities Credit Enhancement Grant Program (CFDA #84.354A) fund(s) received by the Authority from the U. S. Department of Education. The funds will be disbursed through the Authority's Charter Financial Enhancement Program (Program) to provide credit enhancement to facilitate the financing of the construction, and/or renovation of facilities for California public Charter Schools.

Section 10200.17: "Definitions"

Defines the following terms used in the regulations "Applicant"; "Authority"; "Awardee"; "Bank Loan Program"; "Charter FinE Program Application"; "Charter Authorizer"; Charter School"; "ED"; "ESEA"; "Financing"; "NCLB"; and "Program"

Section 10200.18: "Applicant Eligibility Criteria"

Identifies three basic criteria required of all charter schools in order to participate in the program, including:

- An approved charter that is current at the time of Application.
- The Charter School is in good standing with its Charter Authorizer and is in compliance with the terms of its charter at the time of Application submission and throughout the Application review and approval process.
- The Charter School is established pursuant to Education Code section 47600 et seq., and also meets the federal definition of Charter School as defined in section 5210(1) of the ESEA as amended by the NCLB of 2001.

Section 10200.19: "Award Allocation and Eligible Use of Program Funds"

- Sets a maximum award amount of up to maximum annual debt service per Financing, with an award dollar limit of \$2,000,000.
- Identifies eligible uses as funding the primary debt associated with the acquisition, renovation, construction and / or refinancing of charter school facilities.
- The grant award shall be held in trust by the Authority, or an Authority approved financial institution, solely for authorized purposes and shall not be released to Awardees without the Authority's or trustee's approval.
- Awards of a reservation of funds shall be released and returned to the Authority when the funds are no longer needed for the authorized purposes.
- Awards of a reservation of funds will expire if the Awardee does not use the awarded funds by closing the financing within six months of Authority approval.

Section 10200.20: “Application Review and Evaluation Criteria”

- Establishes a rolling, first-come, first-served basis of application to the extent that funding is available.
- Sets forth priority criteria for the Authority’s approval of a Program award.

Section 10200.21: “Content of Application”

Sets forth the scope of documents required for submission of a complete application, including, but not limited to: completion of a formal Program application; description of the project costs to be enhanced with an award; a detailed timeline of the project’s milestones; verification the Charter School is in good standing with its Charter Authorizer and in compliance with the terms of its charter, and a completed Legal Status Questionnaire.

Section 10200.22: “Audits and Conflict of Interest”

Sets forth specific provisions that allow the Authority and Bureau of State Audits to conduct audits as well as requirements governing issues with conflict of interest.

Section 10200.23: “Funding Contingency”

This grant program is contingent upon the receipt and ongoing availability of funds as scheduled by the U.S. Department of Education.

Implementation: Given the Office of Administrative Law’s time requirements for rulemaking, and the Authority’s intent to initiate the rulemaking process, the Authority anticipates posting a notice and an application form on its website in October 2022 to announce that it will begin accepting applications for its review by December 2022.

Recommendation: Staff recommends that the members adopt Resolution 22-48 approving proposed regulations for the Charter Financial Enhancement Program. If approved, the Executive Director will initiate the emergency rulemaking ~~file~~ for processing by the Office of Administrative Law and will distribute the proposed changes to interested parties for public comment.