

## **INITIAL STATEMENT OF REASONS**

### **CALIFORNIA SCHOOL FINANCE AUTHORITY**

**Sections 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, and 10190**

**Title 4, Division 15, Article 2  
California Code of Regulations**

### **INTRODUCTION**

The California School Finance Authority (“CSFA”) is organized and operated pursuant to sections 17170 through 17199.5 of the California Education Code (“Act”).

CSFA has received three grant awards under the State Charter School Facilities Incentive Grants Program (CFDA #84.282D) (“Grant” or “Program”) from the United States Department of Education. These Grants are authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. These Grants, awarded in 2004, 2009, and 2014, have provided \$49,250,000, \$48,194,000, and \$50,000,000, respectively, for the purposes of funding per-pupil facilities aid programs for California charter schools.

Grant funds may be applied toward a charter school’s annual costs of rent, lease, mortgage, debt service, and Proposition 39 pro-rata payments for facilities, or toward the costs of purchase, construction, and renovation of a new or existing facility.

Section 17180(o) of the Education Code authorizes CSFA to adopt program guidelines for grants, establishing uniform terms and conditions that shall apply equally to all projects for funding. CSFA proposes to amend Sections 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, and 10190, of Title 4 of the California Code of Regulations (“Regulations”) that implement its responsibilities pursuant to the Program.

### **1. Specific Purpose, Necessity, Administrative Requirement or Other Condition or Circumstance That the Regulation is Intended to Address (Section-by-Section Analysis)**

#### **Section 10176 (Definitions)**

Subdivisions (c), (d), (j), (l) and (u) contain non-substantive language and/or punctuation changes intended to improve readability.

#### **Section 10177 (Eligible Applicant)**

Subdivisions (a) and (f) contain non-substantive language and/or punctuation changes intended to improve readability.

### **Section 10178 (Eligible Costs)**

Subdivisions (a)(1) and (a)(2) contain non-substantive language and/or punctuation changes intended to improve readability.

Subdivision (d) contains a non-substantive punctuation change intended to improve readability.

In subdivision (g) the Authority is replacing the previous erroneous reference to “CSFP” with the correct references “Charter School Facility Grant Program” and “CSFGP.” This correction remedies a typographical error and clarifies that the subdivision pertains to the relationship between the Program and CSFGP, not CSFP.

### **Section 10179 (Maximum Grant)**

Subdivision (c) contains a non-substantive language and punctuation changes intended to improve readability. In addition, subdivision (c)(1) corrects a typographical error and clarifies that the subdivision refers to CSFGP, not CSFP regulations.

Subdivisions (c)(1) and (c)(2) are being reorganized for improved flow and readability and to reflect a more accurate representation of how award amounts are determined.

In subdivision (e) the Authority is deleting reference to Authority’s inability to increase an award above the initial grant amount. Language has been added to Section 10185 subdivision (g) which will allow the Authority the ability to increase grant awards should additional funding become available. This addition will be beneficial to current grantees, allowing them access to increased funds when they are available. Current regulations restrict the Authority’s ability to increase awards.

### **Section 10180 (Application Submission)**

Subdivision (a) contains non-substantive punctuation changes intended to improve readability.

In Subdivision (c), “determinations” has been added to clearly delineate the action awardees should expect by the imposed deadline.

### **Section 10181 (Content of Application)**

In the opening paragraph delete the word “attachments” and replace with “supporting documentation” to more accurately reflect what should be included with the application. This change is intended to provide clarity to applicants.

Subdivisions (c), (f), (i), and (j)(2) contain non-substantive language and punctuation changes intended to improve readability.

In Subdivision (g), “six months” and “demonstrates project readiness” has been added to provide clarification on the documentation the Authority must receive at time of application

to ensure grants are being awarded to Subgrantees who can expend funds within the required timeframes specified in Sections 10185(d), 10188(2)(B), and 10188(3)(B).

In Subdivision (j)(2) has been expanded to provide guidance to subgrantees to ensure the entire project, regardless of fund source, is Davis-Bacon compliant as required by the Davis-Bacon and Related Acts.

### **Section 10182 (Evaluation Criteria)**

Subdivision (d) removes language specific to “Academic Performance Index (API) Growth Target for either Schoolwide or Subgroups” as the term is obsolete.

Subdivisions (e)(1) contains a non-substantive punctuation changes intended to improve readability.

Subdivision (e)(2) contains a non-substantive punctuation changes intended to improve readability, adds the word “standard” and deletes the word “Assessment” to align with the current terminology utilized by the California Department of Education.

### **Section 10183 (Award Methodology)**

In subdivision (b) language is altered to read “the applicant will be notified of the deficiencies and asked to submit the missing information.” This change is intended to clarify the Authority’s action and what will be expected of applicants if their program application is incomplete.

### **Section 10184 (Approval of Grant and Notification of Subgrantee)**

One instance of the duplicative language “within seven (7) business days of the board meeting” was removed.

### **Section 10185 (Obligation and Expenditure of Grant Funds)**

In subdivision (b)(2), the missing words “was designated” has been added to reflect the funding period as closed.

In subdivision (d) the six month requirement has been increased to one year. This change is necessary to ensure there are consistent time requirements throughout the regulations. All other mention of timeframe in the regulations reflect one year.

In subdivision (d) language was added which imposes a clear penalty for failure to draw down the annual one-third requirement. No previous penalty has been reflected in regulations. This addition adds the Authority’s current practice to this subdivision and ensures consistency with grant agreements for the Program.

In subdivision (d) subdivision (1) has been added that will allow, on a case-by case basis and in extraordinary circumstances, the Authority to approve one year time extensions to the one-third annual draw down requirement. This new subdivision is necessary to allow

some flexibility to subgrantees utilizing funds for purchase, construction, or renovation who are experiencing documented delays in project initiation that are beyond their control.

Subdivision (g) has been added in its entirety. This subdivision provides the Authority with the ability to increase individual grant awards for lease and Proposition 39 schools if additional funding becomes available and details how the funding will be allocated. This addition will be beneficial to current grantees, allowing them access to additional funds when they are available. Current regulations restrict the Authority's ability to increase awards.

### **Section 10186 (Approval of Grant Use Change)**

One instance of the duplicative language "the Program" was removed.

### **Section 10187 (Grant Agreements)**

Subsection (d) contains a non-substantive punctuation and language changes intended to improve readability.

### **Section 10188 (Release of Funds)**

In subdivision (a)(1)(D), (a)(2)(D), and (a)(3)(D) an extra "s" was removed to correct the spelling of "lease(s)".

In subdivision (a)(2)(B) and (a)(3)(B) the six month requirement has been increased to one year. This change is necessary to ensure there are consistent time requirements throughout the regulations. All other mentions of timeframe reflect one year.

In subdivision (a)(2)(B) and (a)(3)(B) language was added which imposes a clear penalty for failure to draw down the annual one-third requirement. No previous penalty has been reflected in regulations. This addition adds the Authority's current practice to this subdivision and ensures consistency with grant agreements for the Program.

In subdivision (a)(2)(B) a new section (1) has been added to allow schools, in extraordinary circumstances and on a case-by-case basis, allows the Authority the ability to grant an extension to subgrantees who cannot meet the one-third draw down requirement.

In subdivision (a)(3)(A)(2) the language "as described in" was added to bring the subdivision in conformity with other subdivisions.

### **Section 10190 (Audits and Conflicts of Interest)**

Subdivision (d) contains a non-substantive punctuation correction.

## **2. Technical, Theoretical, and/or Empirical Study, Reports, or Documents**

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the regulations.

### **3. Reasonable Alternatives to the Amendments to the Regulations and the Agency's Reasons for Rejecting those Alternatives**

No other alternatives to the regulations were presented to or considered by the Authority.

### **4. Reasonable Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Impact on Small Businesses**

The Authority has not identified any adverse impacts nor have any adverse impacts otherwise been identified and brought to the attention of the Authority that would affect businesses. In fact, the adoption of these regulations could result in greater opportunities for the expansion of charter school facilities throughout the state.

### **5. Description of Efforts to Avoid Conflict with and Duplication of Federal Regulations**

Not applicable. The Authority is not a Department, Board, or Commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshall.

### **6. Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business**

The Authority relied on the fact that State Charter School Facilities Incentive Grants Program is a grant program designed to award federal funds to charter schools for facility-related expenses, and that the regulations do nothing more than provide for the application and evaluation process by which grant awards will be made. As a result, there can be no adverse economic impact on business by the adoption of the regulations.

### **7. Economic Impact Assessment**

The proposed regulations will unlikely have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason providing Grant funds to awardees would result in the elimination of jobs. The purpose of the proposed regulations is to set forth administrative criteria and requirements for administering a federal grant program that will disburse funds to existing charter schools in need across the State of California for per pupil facilities funding. There are no provisions within the proposed regulations which place additional burdens, obligations, or expenses on existing businesses such that jobs would be created or eliminated as a result.

The proposed regulations will unlikely have an impact on the creation or elimination of new businesses within the State of California. As noted above, the purpose of the proposed regulations is to set forth administrative criteria and requirements for administering a federal grant program that provides per pupil facilities funding to existing charter schools in need. There are no provisions within the proposed regulations which place additional burdens, obligations, or expenses on existing businesses such that businesses would be created or eliminated as a result.

The proposed regulations will unlikely have an impact on the expansion of businesses currently doing business within the State of California. The purpose of the grant and proposed regulations is to set forth administrative criteria and requirements for administering a federal grant program that will provide per pupil facilities funding to existing charter schools.

The proposed regulations are intended to provide per pupil facilities funding to existing charter schools in need, especially serving communities with low-income households. As such, to the extent that the awards benefit the long-term viability of charter schools, the Grant and its proposed regulations have the potential to directly benefit economically vulnerable populations and communities throughout the State.

The proposed regulations will have no benefit to worker safety or the state's environment as a result of this rulemaking. The purpose of the grant and proposed regulations is to set forth administrative criteria and requirements for administering a federal grant program that will provide per pupil facilities funding to existing charter schools.

## **8. Problems and Benefits**

Without the clarifying changes and additions proposed in this regulation change, the Authority does not have uniform standards and guidelines to administer the Program and ensure that Applications are evaluated in a consistent and fair manner, and Applicants do not have guidelines to direct them through the Application process.

The benefits of the proposed regulations are to ensure the Authority has uniform standards, internal controls, and guidelines to ensure consistent and effective administration of the Program, the public understands the expectations of the Program, and the Program targets charter schools that are most in need in accordance with the Program's intent.