

MEMORANDUM

Date: May 9, 2018

Staff Summary No. 5

To: Members, California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution No. 18-06 Approving New Regulations for the Charter School Facilities Credit Enhancement Grant Program and Authorizing the Rulemaking Process

Background: In 2017, the California School Finance Authority (Authority) applied for an \$8 million credit enhancement grant through the U.S. Department of Education's Credit Enhancement for Charter School Facilities Program (CFDA # 84.354A). The funds were requested to create the Project Acceleration Notes and Credit Enhancement Alternatives (PANACEA) 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 September 2017 and is in the process of executing its Performance Agreement. 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 regulations for the purpose of implementing the PANACEA Program. As currently envisioned, the Authority will provide interim financing to schools that have been granted a Preliminary Apportionment (reservation of funds) to commence rehabilitation of existing school facilities or construction of new permanent facilities through the Charter School Facility Program (CSFP). CSFP schools receive program funds at the time of an Advance Apportionment to pay for pre-development costs. However, due to the lack of liquidity at the state level, funds available for early pre-development costs are no longer available. CSFP Schools are, therefore, placed on "unfunded" approval lists and must wait for the state to issue general obligation bonds (GO Bonds). Schools have waited between six to twelve months to receive cash to pay for costs incurred for pre-development. For charter schools, the wait is particularly difficult due to their limited financial reserves.

Through its Performance Agreement with the U.S. Department of Education, the Authority has established the broad program goals of leveraging a percentage of the grant award annually to secure non-Federal, pre-development funding for schools approved on the CSFP funding list to reduce wait times and demands on the schools limited cash flows. Other Program goals include reducing pre-development and acquisition borrowing costs for schools, serving communities and schools in need by awarding these resources to schools that meet specified indicators, and implementing the grant program in a timely manner. 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 free and/or reduced price meals; (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 can

be applied towards funding the primary debt service reserve requirement for either interim financing associated with a CSFP project or debt associated with the acquisition, renovation, construction and/or refinancing of charter school facilities. The maximum award amount has been established as \$1,000,000.

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

Section 10200: "Purpose"

This Article implements the California School Finance Authority's administration of the Charter School Facilities Credit Enhancement Grant Program (CFDA #84.354A) funds(s) received under the U. S. Department of Education, which provides credit enhancement to facilitate the financing of the purchase, construction, and/or renovation of facilities for California public Charter Schools through the Charter School Facilities Program (CSFP) and the Authority's Conduit Bond and Note Financing Program.

Section 10201: "Definitions"

- Defines the following terms used in the regulations "Applicant"; "Application"; "Authority"; "Awardee"; "Charter School"; "Charter School Facilities Program"; "Charter Authorizer"; "Conduit Bond and Note Financing Program"; "ESEA"; "NCLB"; and "Program".

Section 10202: "Applicant Eligibility Criteria"

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

- In the case of an Application associated with CSFP funding, an Advance or Final Apportionment having been awarded;
- An approved charter that is current at the time of Application and throughout the term of an award;
- 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 term of the award;
- 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 10203: "Award Allocation and Eligible Use of Program Funds"

- Sets a maximum award amount of \$1,000,000 per Application.
- Identifies eligible uses as funding the primary debt service reserve requirement for: (1) interim financing associated with a CSFP project; or (2) 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 10204: “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 10205: “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; copy of CSFP Award Letter from the Office of Public School Construction (OPSC), as applicable; 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 10206: “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 10207: “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 May 2018 to announce that it will begin accepting applications for its review in June 2018.

Recommendation: Staff recommends that the members adopt Resolution 18-06 approving proposed regulations for the Charter School Facilities Credit Enhancement Grant Program. If approved, the Executive Director will initiate the rulemaking file for processing by the Office of Administrative Law, and will distribute the proposed changes to interested parties for public comment.