



**CALIFORNIA SCHOOL FINANCE AUTHORITY
901 P STREET, THIRD FLOOR, SUITE B
SACRAMENTO, CA 95814**

**Title 4, Division 15, Article 3,
CALIFORNIA CODE OF REGULATIONS
Charter School Facilities Credit Enhancement Grant Program**

INITIAL STATEMENT OF REASONS

INTRODUCTION

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

In 2009, the U.S. Department of Education awarded a grant of \$8,300,000 to CSFA, pursuant to the Credit Enhancement for Charter School Facilities Program (CFDA # 84.354A), authorized under Title V, Part B, Subpart 2 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (Grant). Program funds may be used to credit enhance the financing of acquisition, renovation, or construction of charter school facilities, or the refinancing of existing charter school facility debt.

In June 2023, the Authority applied for an additional grant award and was awarded a \$20 million grant award in Fall 2023. Per the Authority's application to the Department of Education, the Authority is proposing that \$15 million of the grant award be allocated to the Program to fund debt service reserve accounts associated with debt issued through the Authority under the Program's regulations.

PROBLEM STATEMENT

Sections 17179 and 17180 of the Education Code endow the Authority with the general power to adopt regulations, as a power reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under Chapter 18, as well as the specific power to adopt guidelines for grants, bonds, and other evidence of indebtedness. Without these amended regulations, the Authority would 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 and post-award compliance.

ANTICIPATED BENEFITS

The proposed regulations provide specificity and guidance for applicant charter schools to permit an informed decision concerning Program participation. By setting forth Program requirements and expectations, the proposed regulations reduce the potential for confusion or misinterpretation or misapplication of the rules and increase the likelihood of Program success. Additionally, by setting out clear program goals and requirements, these regulations provide transparency concerning the administration of a government program.

SPECIFIC PURPOSE OF, AND RATIONALE FOR, EACH PROPOSED AMENDMENT

Section 10193: “Definitions”

The addition of the definition for “Financing” as new subsection (g). The Authority is adding this new subsection as part with the new award maximum and ensuring that awards are tied to financings instead of applications as previous prescribed. The current subsection (g) will be amended to new subsection (h) due to addition of “Financing” mentioned above.

Remove “and 47600 et seq.” and add “47604, 47604.1, and 47604.2,” in the Reference section. This is an update provided by Office of Administrative Law with similar regulatory sections established more recently.

Section 10194: “Applicant Eligibility Criteria”

The removal of “and throughout the term of an award” in subsection (a). The Authority is removing this portion to provide additional clarity and align with the intended purpose of the section. This section is meant to address eligibility criteria related to application and not a form of long-term compliance.

Remove “and 47600 et seq.” and add “47604, 47604.1, and 47604.2,” in the Reference section. This is an update provided by Office of Administrative Law with similar regulatory sections established more recently.

Section 10195: “Award Allocation and Eligible Use of Program Funds”

The removal of “\$1,000,000 per application” with the addition “up to maximum annual debt service per Financing, with an award dollar limit of \$2,000,000” in subsection (b). The Authority is making this change to be align with our performance agreements with the U.S. Department of Education for this grant in both providing proper debt service and leveraging goals. This will ensure the Authority can provide full debt service amounts in larger financing and properly enhance the financing. Additionally, this provides clarity into the award determinations for applicants.

Section 10196. Application Review and Evaluation Criteria.

The addition of new subdivision (e), which establishes an application filing fee for the Program. Staff time, compliance reporting, and resource costs are recouped through the application fee.

Section 10198. Audits and Conflicts of Interest.

Remove “relying on federal funds to enter into a contract” and “34 CFR 80.36” and add “the acquisition of property or services are funded through a federal grant” and “2 CFR 200.317 through 2 CFR 200.327.” in subsection (c). The modification of the first sentence and the CFR reference ensures better alignment with the current CFR, as well as, providing consistency with the federal post-award procurement requirements.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Authority did not rely on any technical, theoretical, and/or empirical studies, reports, or

documents in proposing the regulations.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations are unlikely to have an impact on the creation or elimination of jobs within the State of California. In addition, the Authority is unaware of any reason enhancing conduit financings would result in the elimination of jobs. Furthermore, the proposed regulations are unlikely to have an impact on the creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations could likely impact the expansion of businesses currently doing business within the State of California. This program will enhance conduit financings for charter school facilities. These facilities are often an expansion of the associated charter school organizations to serve more students. It should be noted that not all charter school facility related financings are expansions. Some financings are replacement facilities, renovations, or site improvements.

Lastly, 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 program and proposed regulations is to set forth administrative criteria and requirements for administering this grant program. As the intent of the program is to enhance financings related to charter school facilities, the Program and its proposed regulations have the potential to directly benefit the welfare of students and their related communities.

REASONABLE ALTERNATIVES AND THE AUTHORITY'S REASONS FOR REJECTING THOSE ALTERNATIVES

There is no reasonable alternative as these are the establishing regulations for the Program.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The proposed regulatory action does not contain any regulations that are identical to or in conflict with any corresponding federal regulation.

REGULATIONS MANDATED BY FEDERAL LAW

Program applicants are expected to comply with federal regulations related to conflicts of interest. These regulations are stated in proposed regulations Section 10198. Specifically, applicants must comply with the following federal regulatory code as required by the United States Department of Education as well as general conflict of interest compliance for federal grants.:

34 CFR 75.525(a) which prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or their immediate family members; and (b) the person is a public official or has a family or business relationship with the Awardee.

34 CFR 75.525(b) which provides further that an Awardee may not permit any person participating in a project to use their position for a purpose that is - or gives the appearance

of being - motivated by a desire for a private or financial gain for that person or for others.

2 CFR 200.318 through 2 CFR 200.327. These standards require federal grant Awardees to develop written procurement procedures and to conduct all procurement transactions in a manner that provides, to the maximum extent possible, open, and free competition. No employee, officer, or agent of the Awardee may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.

The full text of the federal regulations referenced above are found in the Code of Federal Regulations, which is available online at <https://www.ecfr.gov/>.