

California Department of Education
June 2010

California Department of Education

Request for Applications Public Charter Schools Grant Program 2010, 2011, 2012, 2013, 2014

Planning and Implementation Grants

Link to On-line Application

<http://www3.cde.ca.gov/PublicCharterGrant/RFALogin.aspx>

**Application Filing Period:
Continuous, Ending March 31, 2015**

Charter Schools Division
California Department of Education
1430 N Street, Suite 5401
Sacramento, CA 95814-5901
E-mail: charters@cde.ca.gov
Phone: 916-322-6029

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I. INTRODUCTION

The 2010-2014 California Public Charter School Grant Program (PCSGP) has undergone several changes in policy and program. Applicants familiar with previous grant funding through the PCSGP should read this Request for Applications (RFA) carefully to ensure they are responding to the new requirements. The use of obsolete application forms or procedures will not be accepted.

The federal Charter Schools Program (CSP), authorized by 20 U.S. Code sections 7221-7221j, is administered by the U.S. Department of Education (ED). It is a discretionary grant program, and each state is required to compete for available funding every three years. States that are awarded these federal funds distribute them in grants to charter school developers to assist in the development and initial operations of newly established or conversion into high quality charter schools. California was awarded \$300 million in grant funds for 2010-2014.

The California Department of Education (CDE) will award approximately 90 Planning and Implementation (P/I) grants each year for the next five years, pending annual allocations from the ED.

The CDE has added new priorities and incentives to the 2010-2014 PCSGP program design. The highest priority is to financially assist newly established and conversion charter schools that have not been awarded Title 1 SIG funding, and which propose to increase the academic achievement of students who are at greatest risk of not meeting challenging state academic standards and who reside in the attendance area of schools eligible for Title 1 SIG funding, or chronically low performing schools. Chronically low performing schools are defined as schools that have been determined to be persistently lowest-achieving or in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind (NCLB) Act **and** have an Academic Performance Index (API) decile rank of 1 or 2. Applications for charter schools that meet this priority will be eligible for larger P/I grant awards.

2010-2014 PCSGP Planning and Implementation (P/I) Grants

A newly established or conversion charter school may apply for a P/I grant. If open, the school must not have been serving students for more than one school year at the time of application. Grant funds are intended to support the final planning and initial operation of the charter school. A developer is limited to a maximum of three P/I grants in each year, although exceptions may be granted by the CDE based on the developer's capacity, location of the applicant's school, students served, or the availability of funds.

Submitting an Application

The application is located at <http://www3.cde.ca.gov/PublicCharterGrant/RFALogin.aspx> and must be completed and submitted online.

Costs of preparing and submitting applications are the responsibility of the applicant and may not be charged to the grant.

Technical Assistance

Grant applicants may obtain technical assistance by telephone at 916-322-6029 or by e-mail at charters@cde.ca.gov.

Application Due Dates

Applications for P/I funding may be submitted at any time after the charter has been approved by its authorizing entity through the first year of operation of the school. The automated application system will notify the Charter Schools Division that an application has been submitted. After the application has been submitted, a peer review will be scheduled. (Refer to Section II, Planning and Implementation Grant Specifications, for more information.)

Selection of Awards

Federal law (ESEA, Title V, Part B, Section 5204) requires a peer review of PCSGP applications. California recruits national and state charter school developers, governing board members, operators, and authorizers to participate in this process. Reviewers are required to recuse themselves from the evaluation of any application for which they have a perceived or real conflict of interest.

All applications will be reviewed using the applicable rubric, and a minimum score of three in each section is required for funding. (Refer to Appendix I.) P/I grant applications will be reviewed on an ongoing basis. Awards will be posted on the CDE Web site under the Funding Results page.

End of 2010-2014 Grant Cycle Funding

The CDE shall accept applications until March 31, 2015. Applications will be processed in the order received, and applications will be funded in the order approved, based on available funding.

If the CDE projects that available funds will be exhausted before the March 31 deadline, a new deadline for submitting applications will be established by CDE staff and posted on the CDE website. Applications will be processed in the order received by the new deadline, and applications will be funded in the order approved, based on available funding.

Applications that meet criteria for approval but cannot be funded due to a lack of available funding will have to reapply during the next grant cycle.

Appeal Process

Applicants may request the comments and final score of the review panel. An appeal of a grant award decision may be filed by submitting a written request for a hearing within 30 days of receiving official notification from the CDE that the application was not approved for a grant award. Requests to appeal the denial of a grant award must identify a violation by the CDE of a state or federal statute or regulation in failing to approve a grant application, or failing to award funds in amounts in accordance with the requirements of statutes and regulations, or failing to comply with California's approved 2010-2014 CSP application.

Requests to appeal the denial of a grant award should be addressed to:

Public Charter Schools Grant Program
Charter Schools Division
California Department of Education
1430 N Street, Suite 5401
Sacramento, CA 95814-5901

Or may be submitted by e-mail to (please include "PCSGP" in the subject line):

CHARTERS@cde.ca.gov

PCSGP Time Line

ACTIVITY	DATE
P/I grant application filing period	Continuous, Ending March 31, 2015
P/I application scoring completed	Continuous
Posting of P/I grant awards on CDE Web site	As approved

Grant Monitoring

The CDE will monitor grantees by reviewing and approving quarterly benchmark reports (QBRs), site visits, and technical assistance calls. All information in QBRs is subject to verification. For more details about the information required in the QBR, see Appendix L. The CDE may require additional information from the grantee, verify information with the authorizing entity, require the submission of invoices and receipts, or use any other appropriate and legal means to obtain such verification. The CDE will also conduct site visits to P/I grantees during the grant project period. Prior to these monitoring visits, the grantee may be required to submit additional relevant information that will allow the CDE to conduct a useful, efficient, and effective visit.

II. Planning and Implementation (P/I) Grant Specifications

The purpose of Planning and Implementation (P/I) grants is to provide financial assistance for the final planning and initial operations of newly established and conversion charter schools, and to encourage the development of high quality charter schools (Refer to Appendix A for the definitions of “newly established” and “high quality” as they apply to this RFA.) P/I funding is a new design element of the 2010-2014 PCSGP. It is important for applicants to note the following changes and new definitions within this category of funding.

- Planning activities refer to those that occur after obtaining an approved charter but prior to the opening of the school. Planning activities must be completed within 12 months.
- Implementation activities now refer to only those that occur after the school is open and are limited to 24 continuous months.
- Planning and implementation activities are limited to a maximum of 36 continuous months.
- P/I grant awards made in the 2010-2014 cycle cannot be placed into inactive status.
- P/I applications are accepted on a continuous basis. Applicants are advised to apply 12 months before the opening date of their school(s).

Another change in the 2010-2014 PCSGP is the increased impact of preference to more strongly emphasize the goals of the federal CSP. Preference will be demonstrated by:

- An increased award amount for applications proposing to operate a charter school that has not been awarded Title 1 SIG funding, and has a total enrollment that consists of a majority of students residing in the attendance areas of schools eligible for Title 1 SIG funding, **or** chronically low performing schools. Chronically low performing schools are defined as schools that have been determined to be persistently lowest-achieving or in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind (NCLB) Act **and** have an Academic Performance Index (API) decile rank of 1 or 2. Applications for charter schools that meet this priority will be eligible for larger P/I grant awards. Grantees that receive a higher grant award must report recruitment efforts to solicit students from the low performing school(s) for which eligibility for the higher grant award was determined. This number of students must be reported in the quarterly benchmark report (QBR). Failure to fulfill this requirement may result in the grantee being invoiced for the entire grant award.

Eligible Applicants

To be eligible for P/I grant funds, **all** of the following conditions must be met:

- The applicant must be a highly-autonomous charter school: Under the U.S. Department of Education the CSP program defines a highly-autonomous charter school as a charter school that exhibits a high degree of autonomy over the curriculum, staffing, and financial decisions of the school. CSP sub-grant applicants must demonstrate a high degree of autonomy in the CSP sub-grant application to be identified as a highly-autonomous charter school and thus eligible for a CSP sub-grant.

Note: Reviewers use specific criteria when evaluating charter schools to determine each charter school's degree of autonomy. These criteria include, but are not limited to, the following:

- A. Governance structure (i.e., governing board or entity as described in the school's charter):
 - a. Is elected or appointed independently of the chartering authority.
 - b. Includes less than a majority of the current employees or appointees of the chartering authority.
 - c. Operates and/or is operated by a nonprofit public benefit corporation.
- B. Operations: the charter school governing board or entity as described in the school's charter exhibits meaningful control over a majority of its operations (i.e., professional development, school year calendar, disciplinary policies and procedures, curriculum, graduation requirements, etc.).
- C. Staffing:
 - a. Teachers and staff are employees of the charter school.
 - b. The charter school retains a majority of decision-making authority over all hiring, dismissal, work rule, employee assignment, and other personnel decisions and actions.
 - c. The charter school governing board or entity as described in the school's charter has adopted its own employment policies and procedures.

- D. Financial Decisions: the charter demonstrates that the charter school governing board or entity as described in the school's charter exhibits control over the development and adoption of the charter school's budget, the receipt and expenditure of funds, business management ("back-office") services, audit services, purchasing and contracting decisions, and other financial matters in general.
- If applying for grant funds prior to the school's opening, an applicant must be a nonprofit entity or local education agency. Non-profit status at the time of submission of the application will be verified with the California Secretary of State. Individuals and for-profit entities may not apply for Planning and Implementation grants.
 - The applicant must have an approved charter from the district or county office of education where the school will be located, or the State Board of Education. (Note: Should an authorizer require that PCSGP grant funding be awarded as a condition of the charter approval, the developer should contact the CDE and provide a copy of the petition for conditional approval of a grant award.)
 - The applicant must have an approved charter for a newly established charter school that has not yet opened or has been open for no more than one school year. (Refer to Appendix A for definition of "newly established charter school".)
 - If an applicant spent PCSGP funds to develop a charter school during a previous grant cycle, all requirements of that previous grant must have been successfully fulfilled, or be in the process of meeting all current requirements.
 - If an applicant has previously spent PCSGP funds for the planning and/or initial operation of an SBE-numbered charter school, it must have the same number of open and operating charter schools as the number of PCSGP grants received.
 - Applicants must submit an approved charter that identifies the capacity to attain an enrollment level of at least 50 students at the beginning of the grant project period and maintain this enrollment level throughout it.

Eligibility for Higher Grant Award

A higher grant award is available to P/I applicants who submit an application that includes an approved charter which clearly identifies that the charter school will be located in, or a majority of the students served by the charter school will reside in, the attendance area of a school that is eligible for Title 1 SIG funding, or a chronically low performing school. Chronically low performing schools are defined as schools that have been determined to be persistently lowest-achieving or in Program Improvement Years

3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind (NCLB) Act **and** have an Academic Performance Index (API) decile rank of 1 or 2. The applicant's charter school must not have been awarded Title 1 SIG funding. Any school identified for the purpose of meeting eligibility for a higher grant award must also serve at least one identical grade level as the proposed charter school.

School districts and county offices of education that convert, reconfigure, or restructure an existing traditional public school in Program Improvement, Years 4 or 5, to a charter school must develop and implement a contract, based on elements identified in Appendix F, with an entity other than itself to assist in the transition to charter status. This entity could be an educational management organization, consulting firm, or neighboring LEA having experience and success in improving the academic achievement of a similar student population.

Maximum Funding Level and Length of Grant Award

All P/I grantees are eligible for the maximum grant award allowable as determined by type of school, and the justification provided during the application process for a higher funding level. (Refer to Table 2.) Charter schools that are not yet open will receive grant funds over a period of time not to exceed 36 months, and schools that are already open will receive grant funds over a period of time not to exceed 24 months.

The planning phase of P/I funding is limited to 12 months and begins when funds are awarded and ends on the date preceding the first day of school instruction (including summer school programs).

**Maximum P/I Award Amounts
 Table 2**

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1	Implementation Year 2	
<p>A. May be awarded if the Applicant's school has not been awarded Title 1 SIG funding and meets one of the following criteria:</p> <ul style="list-style-type: none"> Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that has been determined to be persistently lowest-achieving, or eligible for Title I SIG funding. <p style="text-align: center;">Or</p> <ul style="list-style-type: none"> Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that is in PI Year 3, 4 or 5, and has an API decile rank of 1 or 2. <p>Applicant's school may be a conversion or classroom-based school.</p>	\$575,000	\$225,000	\$200,000	\$150,000

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1	Implementation Year 2	
<p>B. All other Applicants provided that Applicant's school has not been awarded Title 1 SIG funding. Applicant's School may be a conversion, classroom-based, or non-classroom based charter school.</p> <p>If Applicant is a non-classroom based charter school, Applicant may be awarded if Applicant's school has not been awarded Title 1 SIG funding and meets one of the following criteria:</p> <ul style="list-style-type: none"> Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that has been determined to be persistently lowest-achieving, or eligible for Title I SIG funding. <p style="text-align: center;">Or</p> <ul style="list-style-type: none"> Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that is in PI Year 3, 4 or 5, and has an API decile rank of 1 or 2. 	\$375,000	\$175,000	\$100,000	\$100,000

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1	Implementation Year 2	
C. All other non-classroom based charter school Applicants that do not meet Criteria B.	\$250,000	\$75,000	\$100,000	\$75,000

Permissible Use of the Grant Award

Grantees may only use grant funds for allowable grant project expenditures during the grant project period. Any unexpended funds remaining at the end of the grant project period will not be allocated or if allocated, must be returned to the CDE.

The CDE will evaluate all grant project budgets to ensure that they are reasonable and allowable under federal guidelines, and may require modifications as a condition of funding. (Refer to Appendix B for a description of allowable costs.)

If an applicant believes that a waiver is necessary for the successful operation of the charter school, the applicant must submit during the application process a request and justification for waivers of any Federal statutory or regulatory provisions, and a description of any State or local rules, generally applicable to charter schools, that will be waived for, or otherwise not apply to, the school.

Grant Payment Schedule

Unless the CDE determines that a different disbursement schedule is necessary, all payments will be released to grantees as advances on a quarterly basis, pending the submission and approval of quarterly status and expenditure reports (see: Appendix L), a request for payment based on projected expenditures during the next quarter, and other documents listed below:

- **Grant Award Notification**

The Grant Award Notification is a legally binding document between the CDE and the grant recipient. Upon notice of award, grantees must return the Grant Award Notification, with the original signature of the designated official of the applicant, either the president of the board of directors of the nonprofit entity, or the superintendent of the local education agency.

- **Verification of Capacity Building Activities**

In an effort to encourage the development of high quality charter schools, each grant recipient must devote a portion of their P/I funds to targeted capacity building activities, to be verified through quarterly reporting (see: Appendix L) and the annual submission of a work plan (see: Appendix M). The capacity building activities must include all of the following:

- Governance training
- Fiscal management training
- Development of teacher effectiveness measures

A grantee may be exempt from this requirement if the grantee can demonstrate engagement in this activity prior to receiving grant funds. Demonstration of capacity building activities can be verified by submitting a description of the activities completed, **and** any of the following items for CDE review: training curriculum materials; certificate of completion; invoices or contracts related to training services; a letter from the training facilitators confirming that the training took place; or board minutes which confirm that training took place.

- **Cost Allocation Plan**

If grant funds are used to cover personnel costs, a cost allocation plan must be drafted which demonstrates that a lack of State or local sources are available for funding salaries. This document must be developed and maintained on file for monitoring and audit purposes. For more information, see the definition of Allowable Costs under Appendix A.

- **Contracting Standards (if contracts will be made with grant funds)**

If grant funds are used to contract for goods or services, federal regulations require grant recipients to report that they have developed standards for awarding contracts. Federal regulations for these contract standards are contained in Appendix C. The CDE will evaluate the use of these standards during its monthly review of grantee expenditures and may request to see the grantee's contracting standards at any time. Costs associated with contracts **not** negotiated in accordance with federal regulations will be disallowed.

- **Organizational and Governance Documents**

Upon notification of an award, grantees must certify that the following documents are on file at its business offices: organizational charts, signed articles of incorporation, and any other organizational and governance documents of the agency.

- **Student Enrollment Report**

The CDE will verify that the grant recipient has attained an enrollment of fifty students by the beginning of the first operational year of the school under the grant, and that the grant recipient will maintain an enrollment of fifty students throughout the duration of the grant. Verification may be requested from the grantee by CDE staff in the form of a California Basic Educational Data System (CBEDS) report, or by a signed letter from the charter authorizer that confirms enrollment. If the school does not reach the minimum enrollment required, the grant award will be reduced accordingly.

- **Staff Verification Report**

Grant recipients must submit a report of teachers hired adhering to NCLB “highly-qualified teacher” standards for core academics. More information about “highly-qualified teacher” standards may be found on the CDE Improving Teacher and Principal Quality Web page at <http://www.cde.ca.gov/nclb/sr/tq/>. Grant recipients must report that all staff have cleared health (e.g., tuberculosis) and criminal background (e.g., fingerprinting) checks.

- **External Review**

A rigorous process of review by a third party external reviewer, not affiliated with the charter school’s authorizing entity, is required of all grantees’ schools by the end of the grant project period. For the convenience of grantees, the CDE has identified four external reviewers (in alphabetical order): (1) Cambridge Education; (2) Charter Schools Development Center (CSDC); (3) Insight Educational Group; and (4) the Western Association of Schools and Colleges (WASC). However if a charter school proposes to use a reviewer other than those listed above, the reviewer must be approved in advance by the CDE. To receive the final year’s worth of payments, the findings of the review must be satisfactory and a copy kept on file at the school site.

If a grantee fails to conduct the external review before the end of his or her grant period, or if any items in the external review report are identified as being less than satisfactory, or receive a score that is less than satisfactory, the CDE may invoice the grantee for a base amount of 10% of the total grant award, up to the total amount of awarded Implementation Year 2 funds. This penalty is based on the discretion of CDE staff and reviewers.

- **Statewide Standardized Testing**

Grant recipients must participate annually in all state standardized testing programs required by state law.

- **Annual Budget**

An annual budget of projected expenditures funded by the grant will be submitted by the applicant during the application process, and by continuing grantees at the beginning of each fiscal year. For more information about allowable expenses that may be included in the annual budget, please see Appendix B.

- **Work Plan**

Applicants must fill out and submit a work plan that details the school’s strategy for developing into a high quality charter school. Grantees must continue to

update and file their work plan with the CDE on an annual basis, to be submitted with the grantee's annual budget at the beginning of each fiscal year under the grant. For more information, please see Appendix M.

Application Instructions

The online application form allows applicants to save draft versions of the application and to make edits. Once the application is submitted as final, edits are no longer possible. By submitting the application, the applicant agrees to be accountable for, and to abide by, the terms, conditions, and definitions of the PCSGP.

The application may be submitted once a charter school has been authorized by a school district, county office of education, or the State Board of Education.

The online application requires the applicant to provide the following:

- Identifying information about the charter school, including the applicants' contact information
- A work plan that demonstrates the school's strategy for becoming a high-quality charter school by implementing proven and innovative methods for improving student achievement, and must also include a timeline for the completion of capacity building activities (see: Appendix M)
- Narrative justification for the applicant's eligibility for a higher grant award (if applicable), which must include confirmation that the school identified for the purpose of establishing the applicant's eligibility for a higher grant award meets the following criteria:
 - The school in question shares at least one grade level as the applicant's school, and
 - The applicant's school is physically located within a reasonable proximity to serve students who reside in the attendance area of the school in question
- A budget for the first year of grant project expenditures

The budget is divided into quarters and the applicant is permitted to request any level of funding, based on need, up to the maximum annual allocation in any quarter. When submitting the budget in the on-line application, only the first year of expenditures, by quarter, should be entered into the budget sheet provided. Be sure to submit the budget for the grant project and NOT the school budget. Grantees will be required to submit additional budgets during the grant project period for the second and third years of funding.

All grant project budget line items should contain enough detail for the CDE to understand how funds will be used, such as the level of effort of employees and contractors and the volume/unit cost of supplies and equipment, and how ongoing costs, if charged to the grant, will be sustained at the conclusion of the grant project period. Budget items that are unreasonable or not allowable expenses (see Appendix B) will be disallowed. For example, grant funds cannot be used for fundraising or for the purchase of land or facilities. Construction and remodeling expenses are limited to bringing a facility up to code, or into compliance with the Americans with Disabilities Act, or when they relate to a specific educational program of the school.

Once a complete application has been submitted, the application will be scheduled to undergo peer review and scoring. The budget will not be scored but will be reviewed for compliance with federal and state requirements. Only the language contained in the grant application, approved charter, its attachments, and/or Memoranda of Understanding will be scored. (Please refer to the rubric in Appendix I for how scores will be determined.)

P/I Grant Scoring Criteria

During the scoring process, the application must receive a score of 3 or higher in each area for approval. A score of 1 or 2 in any area will result in application denial. Peer reviewers will examine and score eligible applications with respect to the following criteria:

1. **Autonomy:** Applicants must demonstrate that the charter school is a highly autonomous. Please see the "Eligible Applicants" section on pages six and seven of this RFA.
2. **Public Random Drawing/Lottery:** Applicants must demonstrate that their public random drawing (PRD)/lottery criteria and procedures comply with federal nonregulatory guidance. Please see Appendix J of this RFA.

Applicants whose charter petitions contain admissions policies that are not compliant with federal Non-Regulatory Guidance related to the public random drawing or preferential admission for certain groups of students **will be denied**.

3. The likelihood that the school will develop into a high quality charter school. In the work plan (see: Appendix M), the applicant must describe the following:
 - a) Efforts to plan and develop, or verification of prior engagement in, capacity building activities. Minimum capacity building activities must include:
 - i) Governance training
 - ii) Fiscal management training

- iii) Teacher effectiveness measures—the applicant’s school must develop teacher effectiveness measures which include student achievement data as a substantial portion of the teacher evaluation
- b) Strategy to improve academic achievement, taking into consideration the following criteria:
 - i) The charter school, operating for at least four years, must meet or exceed Academic Yearly Progress (AYP) growth targets.

Strategy to meet AYP goals must include a description for the school’s plan to develop, or verification of prior engagement in, the following practices:

- 1. Professional Development and teacher training programs
 - 2. Using data to inform instruction, evaluation of program, and professional staff
 - 3. Using varied instructional strategies to engage all students
 - 4. Using formative and summative assessments to improve targeted instruction
- ii) The charter school must retain a minimum 80 percent year-to-year retention rate.
 - iii) Charter high schools (excluding recovery high schools) that have operated for at least 5 years must report a minimum 80 percent cohort graduation rate.
- 4. The quality of the approved charter shall meet the requirements of California *Education Code* Section 47605(b)(5).
 - 5. If applicable, applicants must demonstrate that the school is eligible for a higher grant award. Please see Eligibility for Higher Grant Award on page 7, and Table 2 on pages 9-11 of this RFA.

The CDE may require an oral interview of members of the non-profit governing board. The interview may be used to determine the final score of the application using the rubric specified in Appendix I.

Applicants should note that the final score of an application is intended to indicate how well the charter school matches the goals and priorities of the federal CSP and the

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PCSGP, both of which are significantly weighted in the rubric, and the capacity of the applicant to ensure that the charter school achieves its goals and objectives.

Appendix A Definitions of PCSGP Terms

Admissions Criteria: see Public Random Drawing

Allowable Costs: Grant funds may only be used for:

- A. post-award planning and design of the educational program, which may include:
 - i. refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and
 - ii. professional development of teachers and other staff who will work in the charter school; and

- B. initial implementation of the charter school, which may include:
 - i. informing the community about the school;
 - ii. acquiring necessary equipment and educational materials and supplies;
 - iii. acquiring or developing curriculum materials; and
 - iv. other initial operational costs that cannot be met from State or local sources.

The charter school grant is a federal grant that is not guaranteed beyond 36 months, and in some cases, depending on the timing of a school's application, less than 36 months of funding may be awarded. Therefore, it would not be in a school's best interest to support essential staff with the federal grant money as salaries represent an ongoing and critical cost to the school and are best supported by funding from other permanent funding sources. Furthermore, the federal guidelines state that allowable grant costs are related to the initial operational costs of opening a school that "cannot be met from State or local sources" per Section 5204. ADMINISTRATION (f)(1)(B). If salaries are deemed a cost that cannot be met from State or local sources, a cost allocation plan must be developed and maintained on file for monitoring and audit purposes to document that a lack of State or local sources are available for funding salaries.

Subsequently, salaries that are funded by the grant are only permissible through the Planning Phase and First Implementation Year Phase for each grantee. Salaries will not be an allowable expense in the Second Implementation Year for each grantee. In accordance with the cost allocation plan, to be kept on file at the school, salary expenditures funded by the grant should demonstrate a lessening dependence on grant funds.

Approved Charter: A charter petition that has been approved by an authorizing entity for a public school in California. Formal minutes of the authorizing entity document the approval of the charter petition.

Authorized Agent: School board president or lead petitioner. The authorized agent must verify and sign all official documents related to the grant award.

Authorizer: See authorizing entity.

Authorizing Entity: A California school district, county office of education, or the State Board of Education (SBE) that has approved a charter petition, directly or on appeal.

Charter Developer: An individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out, as defined by Section 5210(2) of the Elementary and Secondary Education Act (ESEA).

Charter School: A charter school is a public school that provides instruction in any grades kindergarten through 12 and is approved by an authorized public chartering agency as a charter school under the provisions of *Education Code* Section 47600 et. seq. (Please see Appendix H, page 55 for further clarification).

Classroom-based: A classroom-based program is a program in which pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification. (Also referred to as Site-based.) See California *Education Code* Section 47612.5(e)(1).

Conflict of Interest: Charter school and non-profit, public benefit corporation board members are regarded as governmental representatives and are subject to provisions of the Fair Political Practices Act and federal regulations found in 34 *Code of Federal Regulations (CFR)* Section 75.525.

Conversion School: A conversion school is a traditional public school that converts to charter status under the processes established in *Education Code* sections 47605, 52055.5, 52055.55, or 52055.650. Conversion schools in Program Improvement Year 4 must abide by Appendix F.

Direct-Funded: Direct-funded is a funding designation under which charter schools receive funds and apply for grants independently from an LEA. A charter school annually selects its funding status via the Funding Survey distributed by the CDE. (Also see **Locally-Funded**.)

Locally-Funded: Locally-funded is a funding designation that provides funding for charter schools through an LEA. Charter schools can annually select their funding status. (Also see **Direct-funded**.)

Lottery: See Public Random Drawing

Newly Established Charter School: For purposes of the PCSGP, a newly established charter school is defined as:

- a charter school that has not operated as a private school or under another SBE number, **and** has been in operation as a charter school for no more than one school year.

or

an existing traditional school that converts to a charter school (see Appendix K for clarification).

Education Code section 47601 disallows the conversion of private schools to charter schools. Existing charter schools acquiring a new charter-authorizing entity are not eligible for PCSGP grant funds. Charter schools that close and then reopen with a new charter number and CDS code are not eligible for PCSGP funds. The merging of two schools does not constitute a newly established school. (See Appendix K for further clarification.)

Non Classroom-Based: A Non Classroom-based program is a program that does not meet the requirements defined for a Classroom-based program. (Also referred to as non-site based.) See California *Education Code* Section 47612.5(e)(2).

Public Random Drawing (Lottery): (See **Appendix H, Section 3:** CSP Non Regulatory Guidance and **Appendix J:** Matrix of Exemptions and Preferences in the Public Random Drawing.)

Restructured School: Under NCLB, a restructured school in PI Years 4-5 refers to changes made at a PI school that reorganizes the staffing, governance, or other aspects of the school but maintains the school intact as an entity, with the same student population, usually located at the same school facility and with the same school code. A restructured school, including a PI school converted to a charter school, will continue to retain its designation as a PI school and will exit PI only when the school has made AYP for two consecutive years.

Secondary school or students: A secondary school is a school that is composed of any combination of seventh through twelfth grades. A secondary student is any student enrolled in grades seven through twelve.

Single Audit: Federal law requires that all non-federal entities expending \$300,000 or more in **combined** federal funds (e.g., PCSGP and Title I funds), obtain and submit to the Federal Audit Clearinghouse a federal Single Audit. PCSGP recipients required to file federal Single Audits must submit a copy of the reporting package to the CDE Charter Schools Division as a PCSGP performance benchmark. Further information may be found at <http://www.harvester.census.gov/sac/sainfo>.

Weighted Lottery: (see **Public Random Drawing**)

Appendix B PCSGP Allowable Expenses California Cost Codes

Purpose

The purpose of the PCSGP is to plan and open high quality charter schools throughout California, and to share best practices developed within existing high quality charter schools with other charter and traditional public schools. All grant expenditures must support these overarching goals.

Grant funds may only be used for:

- A. post-award planning and design of the educational program, which may include:
 - i. refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and
 - ii. professional development of teachers and other staff who will work in the charter school; and

- B. initial implementation of the charter school, which may include:
 - i. informing the community about the school;
 - ii. acquiring necessary equipment and educational materials and supplies;
 - iii. acquiring or developing curriculum materials; and
 - iv. other initial operational costs that cannot be met from State or local sources.

General Federal Guidelines

The PCSGP is federally funded and must adhere to all applicable federal law and regulations. General guidance regarding allowable expenses for federal grant funds may be found on Office and Management and Budget (OMB) Circular A-87. It is located on the OMB Web site at <http://www.whitehouse.gov/omb/circulars>. Of particular interest to PCSGP applicants is the prohibition of using federal grant funds for fundraising, civil defense, legal claims against the state or federal government, and contingencies. Further federal regulations expressly prohibit the acquisition of facilities and construction (*Code of Federal Regulations*, Section 34 § 76.533). Furthermore, CSP funds shall be used so as to supplement the level of Federal, State, and local public

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funds that, in the absence of such availability, would have been expended for programs for charter schools and in no case to supplant such Federal, State, and local public funds. (20 U.S.C. §6825(g); PL 107-110, §3115(g)).

California Account Codes

1000 - Certificated Personnel Salaries

Salaries for credentialed teachers, school administrators, librarians, counselors, and school nurses. If grant funds are used for certificated personnel salaries, please justify why local and state funds are not enough to cover these ongoing costs. Personnel salaries are not permissible in the second Implementation Year phase for each grantee.

2000 - Classified Personnel Salaries

Salaries for non-credentialed administrators and managers, teachers' assistants, clerical staff, custodians, cooks, bus drivers, maintenance workers and others. If grant funds are used for classified personnel salaries, please justify why local and state funds are not enough to cover these ongoing costs. Personnel salaries are not permissible in the second Implementation Year phase for each grantee.

3000 - Employee Benefits

Benefits such as retirement (PERS or STRS), Social Security and Medicare, health and welfare benefits, unemployment insurance, workers compensation insurance, and other offered benefits. If grant funds are used for employee benefits, please justify why local and state funds are not enough to cover these ongoing costs.

4000 - Books and Supplies (Supplies w/ per unit cost under \$5000)

Costs for textbooks, instructional materials, office supplies, custodial supplies, food service supplies, gas and oil for buses, and shipping fees to receive them. The individual cost of all items listed in this category should be less than \$5,000. For more information on the definition of supplies versus equipment, please see Appendix D.

5000 - Services and Other Operating Expenditures

Costs for consultants, services contracts, maintenance contracts, dues, travel, insurance, utilities, attorney fees, and audit fees. If grant funds are used for contracted goods or services, you must specify this in the Quarterly Benchmark Report (QBR).

6000 - Capital Outlay (Purchase of real estate, i.e. buildings/property, is not allowable) (Equipment w/ per unit cost over \$5,000)

Cost of site improvements and remodeling for bringing a facility up to local building code, making it compliant with the Americans with Disabilities Act, or directly tied to a specific educational program. Equipment with an individual item cost greater than \$5,000. For more information on the definition of equipment versus supplies, please see Appendix D.

7000 - Other Outgo

Costs of tuition and fees to other entities, transfers of money to other funds or programs such as Special Education or Regional Occupational Centers and Programs (ROCP), and transfers to other districts or Joint Powers Agreements (JPAs). Federal law disallows Indirect Cost Rate fees as a PCSGP expense.

For more information regarding California Account Codes, please refer to the CDE Definitions, Instructions, and Procedures Web page at <http://www.cde.ca.gov/fg/ac/sa/> and review the *California School Accounting Manual (CSAM)*.

Appendix C Contract Standards

Public Charter School Grant Program (PCSGP) recipients must develop and use a written contract administration system that conforms to applicable federal and state standards when awarding contracts with federal PCSGP funds. All grant recipients are required to keep on file the contract standards they develop.

A component of CDE's grant-monitoring site visit program is to review the charter school's process of awarding and administering contracts, including the contracts themselves. Contracts awarded in violation of federal and state standards are **not** eligible for PCSGP reimbursement.

Below are the federal regulations governing contracts. California PCSGP recipients are "sub recipients" for the purposes of these regulations.

b. Procurement standards.

1. Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
2. Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - i. The employee, officer or agent,
 - ii. Any member of his immediate family,
 - iii. His or her partner, or
 - iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for

award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

4. Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
5. To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.
6. Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
7. Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
8. Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
9. Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of

procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

10. Grantees and subgrantees will use time and material type contracts only:

- i. After a determination that no other contract is suitable, and
- ii. If the contract includes a ceiling price that the contractor exceeds at its own risk.

11. Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

12. Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

- i. Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
- ii. Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

c. Competition.

1. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §80.36. Some of the situations considered to be restrictive of competition include but are not limited to:

- i. Placing unreasonable requirements on firms in order for them to qualify to do business,
 - ii. Requiring unnecessary experience and excessive bonding,
 - iii. Noncompetitive pricing practices between firms or between affiliated companies,
 - iv. Noncompetitive awards to consultants that are on retainer contracts,
 - v. Organizational conflicts of interest,
 - vi. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
 - vii. Any arbitrary action in the procurement process.
2. Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
3. Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:
 - i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features

of the named brand which must be met by offerors shall be clearly stated; and

- ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

4. Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

d. Methods of procurement to be followed —

1. Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 *U.S.C.* 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
2. Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §80.36(d)(2)(i) apply.
 - i. In order for sealed bidding to be feasible, the following conditions should be present:
 - A. A complete, adequate, and realistic specification or purchase description is available;
 - B. Two or more responsible bidders are willing and able to compete effectively and for the business; and
 - C. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - ii. If sealed bids are used, the following requirements apply:
 - A. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known

suppliers, providing them sufficient time prior to the date set for opening the bids;

- B. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
 - C. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - D. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - E. Any or all bids may be rejected if there is a sound documented reason.
3. Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- i. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
 - ii. Proposals will be solicited from an adequate number of qualified sources;
 - iii. Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
 - iv. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- v. Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
4. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
- i. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
 - A. The item is available only from a single source;
 - B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - C. The awarding agency authorizes noncompetitive proposals;
or
 - D. After solicitation of a number of sources, competition is determined inadequate.
 - ii. Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
 - iii. Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.
- e. Contracting with small and minority firms, women's business enterprise and labor surplus area firms.
- 1. The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

2. Affirmative steps shall include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 - v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

- f. Contract cost and price.
 1. Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

2. Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
 3. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §80.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
 4. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.
- g. Awarding agency review.
1. Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
 2. Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
 - i. A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or
 - ii. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
 - iii. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

- iv. The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - v. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.
3. A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.
- i. A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
 - ii. A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.
- h. Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
- 1. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
 - 2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

3. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
- i. Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.
1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
 2. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
 3. Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 *CFR* chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
 4. Compliance with the Copeland “Anti-Kickback” Act (18 *U.S.C.* 874) as supplemented in Department of Labor regulations (29 *CFR* part 3). (All contracts and subgrants for construction or repair)
 5. Compliance with the Davis-Bacon Act (40 *U.S.C.* 276a to 276a–7) as supplemented by Department of Labor regulations (29 *CFR* part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)
 6. Compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 *U.S.C.* 327–330) as supplemented by Department of Labor regulations (29 *CFR* part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
 7. Notice of awarding agency requirements and regulations pertaining to reporting.

8. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
9. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
10. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
11. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.
12. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 *U.S.C.* 1857(h)), section 508 of the Clean Water Act (33 *U.S.C.* 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 *CFR* part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
13. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

Appendix D Equipment and Supplies Standards

Public Charter Schools Grant Program (PCSGP) recipients must follow federal regulations when purchasing, using, and disposing of grant project equipment and supplies.

- “Equipment” is defined as tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
- “Supplies” are defined as all tangible personal property other than equipment. (34 *Code of Federal Regulations* 80.3)

A requirement of the California Department of Education’s PCSGP grant-monitoring program is to verify that the equipment, supplies, and related records of grant recipients are in compliance with federal regulations.

PCSGP recipients are “subgrantees” for the purposes of these regulations.

34 Code of Federal Regulations 80.32

- a. Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.
- b. States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.
- c. Use.
 1. Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.
 2. The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects

supported by the awarding agency. User fees should be considered if appropriate.

3. Notwithstanding the encouragement in §80.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.
 4. When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.
- d. Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:
1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
 4. Adequate maintenance procedures must be developed to keep the property in good condition.
 5. If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- e. Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

1. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
 2. Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.
 3. In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.
- f. Federal equipment. In the event a grantee or subgrantee is provided federally-owned equipment:
1. Title will remain vested in the Federal Government.
 2. Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.
 3. When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.
- g. Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:
1. The property shall be identified in the grant or otherwise made known to the grantee in writing.
 2. The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow §80.32(e).
 3. When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

- h. The provisions of paragraphs (c), (d), (e), and (g) of this section do not apply to disaster assistance under 20 *U.S.C.* 241–1(b)–(c) and the construction provisions of the Impact Aid Program, 20 *U.S.C.* 631–647.

34 *Code of Federal Regulations* 80.33

- a. Title. Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.
- b. Disposition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

Appendix E

Financial Management Standards

Public Charter Schools Grant Program (PCSGP) recipients are required to adhere to federal regulations when developing and using a financial management system to administer federal PCSGP funds. A requirement of the California Department of Education's grant-monitoring program is to verify that the financial management systems of grant recipients is in compliance with federal regulations.

PCSGP recipients are "subgrantees" for purposes of these regulations.

34 Code of Federal Regulations 80.20

- a. A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
 1. Permit preparation of reports required by this part and the statutes authorizing the grant, and
 2. Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
- b. The financial management systems of other grantees and subgrantees must meet the following standards:
 1. Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
 2. Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
 3. Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

4. Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
 5. Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
 6. Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.
 7. Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.
- c. An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

Appendix F
No Child Left Behind Title I, Part A
Program Improvement School Contracts
Required Elements

Charter schools restructuring from traditional public schools in Program Improvement, Year 4, under Title I, Part A of the No Child Left Behind Act of 2001 must retain the services of a technical assistance provider that has previous experience and success in working with the same student population served by the grant recipient school.

All contracts awarded with federal funds must adhere to the guidelines presented in Appendix C. In addition, the following are specific elements that must be included:

- Assistance to grant recipients to ensure the involvement of parents, teachers, and community members in the development of the charter petition and program design of the school through surveys, community meetings, and other means. Activities must include surveys and community meetings scheduled at times convenient to parents.
- Assistance to grant recipient in identifying and implementing an educationally sound, standards-based educational program targeted to the specific student population of the school. The educational program must directly support the educational goals, objectives and measurable pupil outcomes delineated in the school's charter petition.
- Assistance to grant recipient in identifying and implementing an effective staffing structure and professional development program that will support the achievement of the educational goals, objectives, and measurable pupil outcomes delineated in the school's charter petition.
- Assistance to the grant recipient in identifying and implementing an effective governance structure for the school, including a process to ensure parent involvement that is aligned with the governance structure delineated in the charter petition.

Appendix G
PUBLIC CHARTER SCHOOLS GRANT PROGRAM
Assurances and Certifications

Public Charter Schools Grant Program
Specific Assurances

The signatures of the authorized agents on the Certificate of Award and Assurances form acknowledge that these specific and general assurances will be observed.

1. This grant shall be administered in accordance with the provisions of California law regarding charter schools and Title X, Part C of the Improving America's Schools Act of 1994. Expenditures shall comply with all applicable provisions of federal and state regulations and policies relating to the administration, use and accounting for public school funds. Any interpretations of law, regulations and procedures shall be the sole responsibility of the CDE.
2. The CDE reserves the authority to require the repayment of received funds, the return of all unused funds, and/or the termination of the grant if the grant recipient fails to meet the terms of this agreement, fails to meet established deadlines, or fails to act in good faith to carry out the activities described in the grant proposal.
3. The charter school or charter developer agrees to use the funding in a manner consistent with their applications as submitted, or as revised and approved by the CDE.
4. The grant recipient agrees to fulfill the performance benchmarks specific to its grant type and submit timely financial and status reports. Failure to do so could result in the forfeiture of the grant and repayment of funds.
5. The grant recipient agrees to cooperate with the U.S. Department of Education, the CDE, the Secretary of Education, and their independent contractors, if any, to conduct any external evaluation of the effectiveness of the grant process.
6. Auditable records will be maintained on file for five years following the grant closing date.
7. The grant recipient's name will be used in all communications.

General Assurances

Please refer to the CDE Funding Forms Web page at <http://www.cde.ca.gov/fg/fo/fm/ff.asp> for assurances, certifications, forms, and notices related to state and federal funds.

Discrimination

As the duly authorized representative of the applicant, I certify that the applicant will comply with all federal statutes relating to nondiscrimination, including (a) Title VI of the Civil Rights Act of 1964 (45 *United States Code* [U.S.C.] sections 2000d through 2000d-4) prohibiting discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (20 U.S.C. sections 1681-1683) prohibiting discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. Section 794) prohibiting discrimination on the basis of handicap; and The Age Discrimination Act (42 U.S.C. Section 6101, et seq.) prohibiting discrimination on the basis of age.

Costs

As the duly authorized representative of the applicant, I certify that the applicant will comply with the general cost principles set forth in federal regulations, 34 *Code of Federal Regulations* (CFR) Section 74.27 and 34 CFR Section 80.22, and the Office of Management and Budget circulars applicable to my entity.

I further certify that the applicant will comply with the expenditure requirements set forth in the federal Education Department Guidelines and Administrative Regulations (EDGAR) contained in Title 34 of the *CFR*.

Records

As the duly authorized representative of the applicant, I certify that the applicant will make reports to the state or federal agency designated in the application as may reasonably be necessary to enable those agencies to perform their duties. The applicant will maintain and provide access to all records used in the preparation of such reports for a period of five years. Such records shall include, but not be limited to, records which fully disclose the amount and disposition by the recipient of funds, the total cost of the activity for which the funds are used, the share of the cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activities for which the funds are used.

Applicable Law

As the duly authorized representative of the applicant, I certify that the applicant will comply with all state and federal statutes, regulations, program plans, and eligibility requirements applicable to each program under which federal and state funds are made available through the application.

Certifications

Drug-free Workplace

Please see the CDE Drug-free Workplace Web page at <http://www.cde.ca.gov/fg/fo/fm/drug.asp>.

Lobbying

Please see the CDE Lobbying Web page at <http://www.cde.ca.gov/fg/fo/fm/lobby.asp>.

Debarment and Suspension

Please see the CDE Debarment and Suspension Web page at <http://www.cde.ca.gov/fg/fo/fm/debar.asp>.

Appendix H
Non-Regulatory Guidance
Title V, Part B
Charter Schools Program

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Charter Schools Program

Title V, Part B

Non-Regulatory Guidance



July, 2004

Non-Regulatory Guidance Title V, Part B Charter Schools Program

The Charter Schools Program (CSP) was authorized in October 1994, under Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, 20 U.S.C. 8061-8067. The program was amended in October 1998 by the Charter School Expansion Act of 1998 and in January 2001 by the No Child Left Behind Act of 2001. The program, which provides support for the planning, program design, and initial implementation of charter schools, is intended to enhance parent and student choices among public schools and give more students the opportunity to learn to challenging standards. Enhancement of parent and student choices will result in higher student achievement, however, only if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of those choices, are available to all students. Every student should have an equal opportunity to attend a charter school.

The non-regulatory guidance addresses questions the Department has received regarding various provisions of the CSP statute, including those related to student admissions to charter schools, the use of lotteries, private school conversions, and the involvement of for-profit organizations in charter schools. The non-regulatory guidance also addresses how businesses, faith-based communities and other community-based organizations and individuals associated with them can be involved in the development and operation of charter schools. These guidelines do not contain all of the information you will need to comply with CSP requirements, but are intended to provide guidance on the CSP and examples of ways to implement it. For additional information about the CSP, please contact the Charter Schools Program office, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E116, Washington, D.C. 20202-5961. Telephone: (202) 260-1882.

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Summary of Major Changes

This updated version of the Charter School Program draft non-regulatory guidance responds to additional issues that the Department has resolved, regarding charter school lotteries, since releasing the previous version of the CSP guidance on August 31, 2003. More specifically, the new guidance addresses the issues of whether:

- A charter school that receives funds under the CSP program may weight its lottery in favor of students seeking to change schools under the Title I public school choice provisions. Item C-3 clarifies that this is permitted.
- A charter school may create separate lottery pools for girls and boys, in order to ensure that it has a reasonably equal gender balance. Item C-5 clarifies that such an action is not permitted. A school seeking to achieve greater gender balance should do so by targeting additional recruitment efforts toward male or female students.
- A tuition-based private preschool that becomes a public charter school at the kindergarten level may permit children enrolled in the preschool program to continue in the elementary school program without going through a lottery process. Item I-6 clarifies that this action is not permitted. However, a school in this situation might hold its lottery a few years early, giving students who will enroll in the preschool program and those who will not an equal chance of receiving the opportunity to enroll in the charter school (elementary) program.
- A charter school receiving its final year of CSP funds may select students for the next school year (when the school will not be receiving program funds) without using a lottery. Item C-7 describes the circumstances in which this action is permitted.

The new version includes no other significant changes.

Charter Schools Program Guidance

A. General Provisions of the Charter Schools Program (CSP)

A-1. What is the purpose of the CSP?

The primary purpose of the CSP (Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB)), is to expand the number of high-quality charter schools available to students across the Nation by providing Federal financial assistance for charter school program design, initial implementation, and planning; and to evaluate the effects of charter schools, including their effects on students (in particular, on student academic achievement), staff, and parents. The program also encourages, through the use of funding priorities, the creation of strong charter school laws, in the States, that are designed to provide for the establishment of high-quality charter schools. An additional purpose (embodied in the “Per-Pupil Facilities Aid” portion of the program, which has not yet received funding) is to encourage States to provide support to charter schools for facilities financing in amounts commensurate with the amounts they have typically provided for traditional public schools.

A-2. How does the statute define a charter school?

Charter schools are established according to individual State charter school laws. The enactment of State charter school laws is solely a State prerogative, and the definition of a “charter school” under State law is a matter of State policy. However, in order to receive CSP funds, a charter school must meet the definition in Section 5210(1) of ESEA, which is as follows:

“The term ‘charter school’ means a public school that:

1. In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph [the paragraph that sets forth the Federal definition];
2. Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
3. Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
4. Provides a program of elementary or secondary education, or both;

5. Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
6. Does not charge tuition;
7. Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act;
8. Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
9. Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program [the PSCP];
10. Meets all applicable Federal, State, and local health and safety requirements;
11. Operates in accordance with State law; and
12. Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.”

A-3. What new provisions enacted by NCLB affect the operation of the CSP?

NCLB amended the CSP in two key ways:

- NCLB amended the definition of “eligible applicant” under the CSP to eliminate the requirement that a charter school developer enter into a partnership with an authorized public chartering agency in order to qualify for a CSP start-up grant. Under the new legislation, an eligible applicant that is not a State Educational Agency (SEA) must (a) apply to an authorized public chartering agency for a charter; and (b) notify that agency of its application for CSP funds. The Secretary or the SEA may waive these requirements in cases where the eligible applicant is applying for a pre-charter planning grant or subgrant (ESEA § 5210(3); 20 U.S.C. 7221i(3)).

- NCLB amended the CSP by adding a specific provision prohibiting local educational agencies (LEAs) from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant voluntarily enters into a mutually agreed upon arrangement for administrative services with the LEA (ESEA § 5204(f)(4)(B); 20 U.S.C. 7221c(f)(4)(B)). This provision puts into law, the Department's interpretation of the Office of Management and Budget's cost principles.

A-4. In addition to the provisions of Title V, Part B, Subpart 1 of ESEA, what other significant Federal statutory and regulatory authorities apply to the CSP?

Recipients of funds under this program should be aware of the following significant statutory requirements in addition to those in Title V, Part B, Subpart 1 (formerly Title X, Part C) of the ESEA: (a) the definitions set out in Title IX of ESEA, which establishes general provisions for all programs authorized under ESEA; (b) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin; (c) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability; (e) the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; (f) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability by public entities, including public charter schools and public school districts, regardless of whether they receive Federal financial assistance; and (g) Part B of the Individuals with Disabilities Education Act, which requires States to make available a free appropriate public education to children with disabilities. The Education Department General Administrative Regulations (EDGAR), Parts 75, 76, 77, 79, 80, 81, 82, 85, and 86 also apply to this program.

B. Eligibility and Use of Funds

B-1. Which SEAs are eligible to apply for a CSP grant?

SEAs in States with a specific State statute authorizing the establishment of charter schools are eligible to apply for CSP grants. An "eligible applicant" (defined as a charter school developer that has applied for a charter and notified the charter granting entity of its application for CSP funds) in such States may apply to the SEA for a subgrant.

B-2. What if a State elects not to participate or does not have an application approved?

If a State elects not to participate in the CSP or is denied funding, an eligible applicant may apply directly to the Department for a grant. Charter schools located in States that have not enacted charter school legislation do not qualify as eligible applicants (ESEA § 5210(1)(A), 5202(a) and (b); 20 U.S.C. 7221i(1)(A)).

B-3. May the Secretary or the SEA waive any eligibility or application requirements?

Although the statute permits a charter school to apply for and receive (from the Secretary or the SEA, as the case may be) waivers of statutory and regulatory requirements, it prohibits waivers of any requirement relating to the elements of a “charter school,” as defined in section 5210(1) of ESEA. As stated in A-3 above, however, in the case of an application for a pre-charter planning grant, the Secretary or the SEA may waive the requirements that an eligible applicant (a) apply for a charter; and (b) notify the charter granting entity of its CSP application. In accordance with section 5204(e), the eligible applicant must request the waiver in its CSP application.

B-4. How may CSP grant funds be used?

SEAs may use CSP funds to award subgrants to charter schools in the State, and charter schools may use the funds only for post-award planning and design of the educational program, and for initial implementation of a charter school. Planning and implementation grants may be awarded for a period of up to three years, with no more than 18 months used for planning and program design, and no more than two years used for initial implementation of the charter school. SEAs may also reserve up to 5 percent of CSP grant funds for administrative expenses related to operating the charter school grant program, and up to 10 percent of their CSP grant funds to support dissemination activities. These dissemination activities are carried out through separate dissemination grants to charter schools and may be awarded for a period of up to two years.

B-5. What are dissemination grants?

Dissemination grants are awarded to charter schools to support activities that help open new public schools (including public charter schools) or share the lessons learned by charter schools with other public schools. The following activities may qualify as dissemination activities: (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting

charter school and its developers and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools designed to improve student performance; (c) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

B-6. Who is eligible to apply for a dissemination grant?

A charter school may apply for a dissemination grant, regardless of whether it has applied for or received a planning or implementation grant under the CSP, if the charter school has been in operation for at least three (3) consecutive years and has demonstrated overall success, including the following: (a) substantial progress in improving student achievement; (b) high levels of parent satisfaction; and (c) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. For more information about dissemination grants, see section 5204(f)(6) of ESEA, 20 U.S.C. 7221c(f)(6).

B-7. What are some limitations on the use of dissemination funds?

Like all Federal grants, CSP dissemination grants must be used in accordance with statutory and regulatory requirements. A charter school may not use dissemination grant funds, either directly or through a contractor, for marketing or recruitment activities designed to promote itself or the programs offered by it or by a contractor to parents or the community. In particular, grant funds may be used to develop materials documenting successful practices of the charter school for the educational purpose of assisting other public schools in improving student achievement, but not for the purpose of recruiting students or promoting the program of the school or its contractor. Any charter school receiving a dissemination grant should provide thorough and high-quality information that meets the needs of other schools trying to learn from the charter school's experience.

B-8. Is a private school eligible to receive CSP funds?

No, only charter schools that meet the definition of a "charter school" under ESEA are eligible to receive CSP funds. Section 5210(1) defines a charter school as, among other things, a "public school" that is created by a developer as a public school, or adapted by a developer from an existing public school, and operated under public supervision and direction (§ 5210(1)(B) of ESEA).

B-9. Is a private school that converts to charter status eligible to receive CSP funds?

As stated in B-8 above, the statute defines a charter school as a newly created public school or one adapted from an existing public school. There is no provision or mechanism in the law that recognizes conversions of private schools into public charter schools. On the other hand, the statute does not prevent a newly created public school from using resources previously used by a closed private school or from involving the parents and teachers who may have been involved in the closed private school.

It should be noted, however, that any newly created public school must be just that; it cannot be a continuation of a private school under a different guise. The public charter school must be separate and apart from any private school. It must be established as a public school, and comply with applicable State and Federal laws regarding public schools. In its creation, development, and operation, the charter school must not have any affiliation “with a sectarian school or religious institution” (§ 5210(1)(E) of ESEA). Because a newly created public school would not have any “previously enrolled” students, *all* students would need to apply for admission and would have to be selected by lottery if there are more applicants than spaces available. Similarly, the charter school must inform the community of its public school status and have a fair and *open* admissions process.

B-10. Is a for-profit entity that holds a legal charter eligible to apply for a grant or subgrant?

A for-profit entity does not qualify as an eligible applicant for purposes of the CSP. A charter school receiving CSP funds may, however, enter into a contract with a for-profit entity to have the for-profit entity manage the charter school on a day-to-day basis. The charter school also must supervise the administration of the CSP grant and is directly responsible for ensuring that grant funds are used in accordance with statutory and regulatory requirements. (See EDGAR, Part 75, Subpart F.)

C. Lottery, Recruitment, and Admissions

C-1. What is a lottery for purposes of the CSP?

A lottery is a random selection process by which applicants are admitted to the charter school.

C-2. Under what circumstances must a charter school use a lottery?

A charter school receiving CSP funds must use a lottery if more students apply for admission to the charter school than can be admitted. A charter school with fewer applicants than spaces available does not need to conduct a lottery.

C-3. Are weighted lotteries permissible?

Weighted lotteries (lotteries that give preference to one set of students over another) are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Protection Clause of the Constitution, or applicable State law.

In addition, a charter school may weight its lottery in favor of students seeking to change schools under the public school choice provisions of ESEA Title I, for the limited purpose of providing greater choice to students covered by those provisions. For example, a charter school could provide each student seeking a transfer under Title I with two or more chances to win the lottery, while all other students would have only one chance to win.

C-4. May a charter school exempt certain categories of applicants from the lottery and admit them automatically?

A charter school that is oversubscribed and, consequently, must use a lottery, generally must include in that lottery all eligible applicants for admission. A charter school may exempt from the lottery only those students who are deemed to have been admitted to the charter school already and, therefore, do not need to reapply.

Specifically, the following categories of applicants may be exempted from the lottery on this basis: (a) students who are enrolled in a public school at the time it is converted into a public charter school; (b) siblings of students already admitted to or attending the same charter school; (c) children of a charter school's founders (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment); and (d) children of employees in a work-site charter school (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). When recruiting students, charter schools should target all segments of the parent community. The charter school must recruit in a manner that does not discriminate against students of a particular race, color, national origin, religion, or sex, or against students with disabilities; but the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs. Once a student has been admitted to the charter

school through an appropriate process, he or she may remain in attendance through subsequent grades. A new applicant for admission to the charter school, however, would be subject to the lottery if, as of the application closing date, the total number of applicants exceeds the number of spaces available at the charter school.

C-5. May a charter school create separate lottery pools for girls and boys, in order to ensure that it has a reasonably equal gender balance?

No, the legislation requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Therefore, a charter school receiving funds under the program is precluded from holding separate lotteries for boys and girls. Nor may a school weight its lottery in favor of one gender over another. A school seeking to avoid gender imbalance should do so by targeting additional recruitment efforts toward male or female students.

C-6. May a tuition-based private preschool program that becomes a public charter school at the kindergarten level permit children enrolled in the preschool program to continue in the elementary program without going through a lottery process?

No, because the preschool program is private, charges tuition, and most likely does not admit all students, allowing its students to gain admission to the elementary program without going through a lottery process would violate the statute. Therefore, all applicants to the charter school (the elementary program) would have to be selected by lottery if there are more applicants than there are spaces available.

However, the statute does not preclude an elementary charter school in this type of situation from holding its lottery a few years early – e.g., when students are ready to enroll in the preschool. Under this approach, the charter school would have an affirmative responsibility to inform prospective applicants that winning the lottery would not require them to enroll in the private preschool. Thus, any child selected through the lottery would be guaranteed a slot in kindergarten, a few years later, whether or not she or she enrolls in the preschool program.

Additionally, given the high mobility of children and families, schools that choose to exercise this option should ensure that families new to the area or who were not aware of the previous lottery are given the opportunity to apply for admission. Such actions must meet the admissions requirements of the CSP and might include holding a second lottery to fill vacancies created by normal attrition or failure of early lottery winners to enroll in the charter school.

C-7. May a charter school receiving its final year of CSP funds select students for the next school year (when the school will not be receiving program funds) without using a lottery?

A charter school receiving its final year of CSP funds may select students for the upcoming school year without using a lottery, provided that the school obligates all funds under its CSP grant before those students actually enroll in the school. If the school has carry-over funds or extends its grant period, then it must continue to meet all program requirements, including the requirement to hold a lottery if it receives more applications for enrollment than it can accommodate for the upcoming school year.

C-8 In addition to Title V, Part B, Subpart 1 of the ESEA, what other statutory or regulatory authorities should a charter school consider when developing its admissions policies?

To be eligible for Federal start-up grants, a charter school's admissions practices must comply with State law and applicable Federal laws. Exemptions from enrollment lotteries are permissible only to the extent that they are consistent with the State's charter school law, other applicable State law, the school's charter, and any applicable Title VI desegregation plans or court orders requiring desegregation. A charter school's admissions practices must also comply with Part B of the Individuals with Disabilities Education Act and Federal civil rights laws, including, but not limited to, Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, as applicable.

C-9. What are a charter school's responsibilities with regard to outreach and recruitment?

Section 5203(b)(3)(I) of ESEA requires CSP applicants to inform students in the community about the charter school and to give each student "an equal opportunity to attend the charter school" (20 U.S.C. 7221b(b)(3)(I)). Further, section 5203(b)(3)(E) requires charter schools receiving CSP grants or subgrants to involve parents and other members of the community in the planning, program design, and implementation of the charter school. 20 U.S.C. 7221b(b)(3)(E).

C-10. May a charter school receiving CSP funds set minimum eligibility criteria for admission to the charter school?

The ESEA does not specifically prohibit charter schools from setting minimum qualifications for determining who is eligible to enroll in a charter school and, thus, to be included in the lottery. As stated above, however, charter schools receiving CSP funds must inform students in the community

about the charter school and give them an “equal opportunity to attend the charter school.”

Thus, a charter school funded under the CSP may set minimum qualifications for admission only to the extent that such qualifications are: (a) consistent with the statutory purposes of the CSP; (b) reasonably necessary to achieve the educational mission of the charter school; and (c) consistent with civil rights laws and Part B of the Individuals with Disabilities Education Act. CSP grantees should consider using program funds to assist “educationally disadvantaged” and other students to achieve to challenging State content and performance standards.

D. Involvement of Religious and Community-Based Organizations With Charter Schools

D-1. May a charter school be religious in nature?

No. As public schools, charter schools must be non-religious in their programs, admissions policies, governance, employment practices and all other operations, and the charter school’s curriculum must be completely secular. As with other public schools, charter schools may not provide religious instruction, but they may teach about religion from a secular perspective. And though charter schools must be neutral with respect to religion, they may play an active role in teaching civic values. The fact that some of these values are also held by religions does not make it unlawful to teach them in a charter school. Furthermore, as discussed below, faith-based and religious organizations can be involved with charter schools in many ways, and religious expression by students is allowed in charter schools to the same extent as in other public schools. See also the Department’s guidance on Constitutionally protected prayer in public elementary and secondary schools of ESEA, available at: <http://www.ed.gov/policy/gen/guid/religionandschools/index.html> .

D-2. May charter schools use public funds to support religious programs or activities?

No. All activities of a charter school must be non-religious, as is the case for all public schools. Public funds may not be used for religious purposes or to encourage religious activity. In addition, even if funded by non-public sources, religious activity may not be conducted, promoted, or encouraged during charter school activities by charter school employees or by other persons working with charter schools. However, to the extent that their involvement promotes academic learning and the mission of the charter school, religious organizations and their members may partner with and be involved with charter schools so long as the charter school’s decision to partner with the religious organization is made without regard to the

religious character or affiliation of the organization and is not otherwise reasonably perceived as an endorsement of religion.

D-3. May charter schools enter into partnerships with religious organizations to provide secular services?

Yes. Like other public schools, charter schools may enter into partnerships with community groups for secular purposes, such as tutoring or recreational activities. Religious groups may be partners for these types of activities so long as charter schools select partners without regard to their religious affiliation, ensure that no public funds are used for religious purposes, and do not engage in or encourage religious activity. Charter schools may not limit participation in the partnership to religious groups or certain religious groups, and they may not select students or encourage or discourage student participation with particular partners based on the religious or secular nature of the organization.

D-4. May charter schools use the facilities of a religious organization?

Yes. A charter school may use the facilities of a religious organization to the same extent that other public schools may use these facilities. Generally, this means that a charter school may lease space from a religious organization so long as the charter school remains non-religious in all its programs and operations. Most importantly, a landlord affiliated with a religion may not exercise any control over what is taught in the charter school.

D-5. May charter schools conduct outreach activities in churches or through religious organizations?

Yes. A charter school's outreach and recruitment activities should be designed to reach all segments of the parent community. Thus, a charter school may conduct outreach or recruitment activities in churches or through religious organizations as part of a broad-based and balanced effort to inform parents in the community about the charter school and to recruit a diverse student body.

D-6. Can community-based organizations and business entities play a role in charter schools?

Yes. Community-based organizations and businesses can play a positive role in creating and supporting charter schools. Examples of ways in which non-religious organizations can get involved in charter schools include helping to plan or design a new school, developing curriculum and assessment strategies, serving on governing boards, participating in the day-to-day management of charter schools, establishing partnerships with

charter schools, and even creating work-site charter schools. A broad range of community-based organizations and businesses are currently involved with charter schools, including plastics and automobile manufacturers; hospitals, museums, and homeless shelters; and courts and social service agencies. Like all charter schools, charter schools operated by or affiliated with community-based organizations or business entities must be public schools of choice, must be non-religious, and must operate in a nondiscriminatory manner.

E. Administrative and Fiscal Responsibilities

E-1. What are the administrative and fiscal responsibilities of a charter school grantee under the CSP?

Charter schools receiving CSP grants must comply with applicable statutes, regulations, and approved applications; and must use Federal funds in accordance with those statutes, regulations, and applications. Grantees must directly administer or supervise the administration of the project, and must use fiscal control and fund accounting procedures that ensure proper disbursement of, and accounting for, Federal funds. 34 CFR 75.700-75.702.

E-2. What are the rules governing “conflicts of interest” in the administration of CSP grants?

CSP grantees must avoid apparent and actual conflicts of interest when administering grants. Department regulations at 34 CFR 75.525(a) prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family member; and (b) the person is a public official or has a family or business relationship with the grantee. Section 75.525(b) provides further that a person may not participate in a project to use his or her 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. 34 CFR 75.525.

E-3. What procedures must a CSP grantee follow in order to avoid a “conflict of interest” when purchasing equipment or services?

When using Federal funds to enter into a contract for equipment or services, a charter school must comply with the procurement standards set forth in the Department’s regulations at 34 CFR 74.40-74.48. Those standards require Federal grant recipients to develop written procurement procedures and to conduct all procurement transactions in a manner to provide, to the maximum extent possible, open and free competition. No employee, officer, or agent of the charter school may participate in the selection,

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award, or administration of any contract supported by Federal funds if a real or apparent conflict of interest exists. 34 CFR 74.42-74.44.

Appendix I Planning and Implementation Grant Rubric

The information provided in the grant application and approved charter will be scored using the rubrics below. A numerical score ranging from 1 to 4 will be applied to the response for each criterion. A score of 1 or 2 in any area renders the application ineligible for funding.

- **4 points: Excellent.** There are major strengths contained in the response to the criteria. This score applies to a response that can be overall characterized as very likely to lead to the development of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.
- **3 points: Good.** Strengths outweigh weaknesses. This score applies to a response that contains a number of strengths. There are weaknesses but, neither singly or collectively, are they likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.
- **2 points: Fair.** Some important weaknesses. This score applies to a response that contains some strengths, but some weaknesses are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 2 in any area renders the application ineligible for funding
- **1 point: Inadequate/Unsatisfactory.** Major weaknesses outweigh any strengths. This score applies to a response that contains a number of weaknesses that are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 1 in any area renders the application ineligible for funding.

Appendix J
Matrix of Exemptions and Preferences in the Public Random Drawing (Lottery)
Admission to Charter Schools in California

Background. State and federal provisions are somewhat different as to terminology and specific requirements regarding the admission of students to charter schools. This document provides technical assistance as to how the state and federal provisions may be reconciled where necessary to ensure that charter schools participating in the Public Charter Schools Grant Program (PCSGP) operate in a manner consistent with both sets of provisions.

General Provisions Regarding Admission

Though the wording is slightly different, the general state and federal provisions are essentially the same in regard to admission of students.

State	Federal
Per state law ¹ , a charter school is a public school that: <ul style="list-style-type: none"> • No pupil is required to attend. • Admits all pupils who wish to attend and who are residents of California, regardless of their place of residence. • Determines admission by a public random drawing if the number of pupils who wish to attend exceeds the school's capacity. 	Per federal law ² , a charter school is a public school that: <ul style="list-style-type: none"> • Parents choose. • Admits students on the basis of a lottery, if more students apply for admission than can be accommodated. • Operates in accordance with State law.

Exemptions and Preferences in the Public Random Drawing (Lottery)

If a charter school has more students who wish to attend than it has space available, a public random drawing/lottery (hereafter "lottery") must be held to determine admission. However, in regard to the lottery, questions arise in regard to exemptions (sometimes referred to exceptions) and preferences. A student who is exempt is admitted without participation in the lottery. A student with preference is generally understood to mean a student who has a higher weighting in a single lottery. However, under state law, preference may also be expressed in the form of exemption or selection by categories (i.e., lotteries within categories to establish overall order of admission). The same is not true under federal Non-Regulatory Guidance.

¹ See *Education Code* sections 47605(d)(2), 47605(f), and 47612

² See Section 5210 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act (NCLB)

The following tables describe typical categories of students for whom exemptions and preferences are traditionally considered and/or implemented.

Category of Students	State Law	Federal Law and Guidance	Reconciliation
Existing pupils of the charter school	Per state law, <ul style="list-style-type: none"> • Existing pupils are exceptions to the lottery. 	Per federal law, <ul style="list-style-type: none"> • The lottery is exclusively for applicants for admission, not existing students. • A charter school must operate in accordance with State law. Per Non-Regulatory Guidance, <ul style="list-style-type: none"> • Students already admitted do not need to reapply. 	No reconciliation needed. Students already enrolled are exempt from the lottery.
Students who reside in the district in which the charter school is located. ³	Per state law, <ul style="list-style-type: none"> • Preference must be given to students in this category. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than 	Per federal law, <ul style="list-style-type: none"> • A charter school must operate in accordance with State law. Per Non-Regulatory Guidance, <ul style="list-style-type: none"> • A charter school may not have separate lottery pools, but may have weighted lotteries when they are necessary to comply with applicable State law. 	Because preference is required in accordance with State law, the only way to directly reconcile these provisions is for the charter school to employ a single lottery with a higher weighting for students in this category . The weighting factor needs to be established by agreement between the charter school and its chartering authority. In the alternative, the chartering

³ Does not apply to a charter school that is approved by a county board of education and is a countywide charter school or a school that serves students typically served by the county office of education. See Special Cases section below.

Category of Students	State Law	Federal Law and Guidance	Reconciliation
	<p>that of students not in this category if using a single lottery.</p>	<ul style="list-style-type: none"> Students in this category are not listed among those who may be exempted from the lottery or given preference. Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>authority may submit a waiver request on the school's behalf per <i>EC</i> Section 33050 to eliminate the requirement that the charter school give preference to students in this category. The waiver would be effective if approved by the SBE.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
<p>Students who reside in the “former attendance area” of a charter school created by conversion of an existing public school.</p>	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference must be given to students in this category. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per federal law,</p> <ul style="list-style-type: none"> • A charter school must operate in accordance with State law. <p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • A charter school may not have separate lottery pools, but may have weighted lotteries when they are necessary to comply with applicable State law. • Students in this category are not listed among those who may be exempted from the lottery or given preference. • Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>Because preference is required in accordance with State law, the only way to directly reconcile these provisions is for the charter school to employ a single lottery with a higher weighting for students in this category. The weighting factor needs to be established by agreement between the charter school and its chartering authority.</p> <p>In the alternative, the chartering authority may submit a waiver request on the school’s behalf per <i>EC</i> Section 33050 to eliminate the requirement that the charter school give preference to these students. The waiver would be effective if approved by the SBE.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
<p>Students for whom special consideration is required to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, or the Equal Protection Clause of the United States Constitution.</p>	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per federal law,</p> <ul style="list-style-type: none"> • A charter school complies with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Part B of the Individuals with Disabilities Education Act. <p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • A charter school may not have separate lottery pools, but may have weighted lotteries when they are necessary to comply with the provisions cited here. • Students in this category are not listed among those who may be exempted from the lottery. • Preference must be in the form of a weighted lottery, not an exemption from the lottery • Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>Because preference is required under federal law, but only a weighted lottery is permissible under federal guidance, the only way to directly reconcile these provisions is for the charter school to employ a single lottery with a higher weighting for students in this category. The weighting factor needs to be established by agreement between the charter school and its chartering authority.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
Students seeking to change schools under the public school choice provisions of ESEA Title I	Per state law, <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) Selection ahead of students not in this category, using a separate lottery if necessary; or (3) A weighting higher than that of students not in this category using a single lottery. 	Per federal non-regulatory guidance, <ul style="list-style-type: none"> • A charter school may weight its lottery in favor of students seeking to change schools under the public school choice provisions of ESEA Title I. 	Because preference may be granted to these students under federal law, a charter school may employ a single lottery with a higher weighting for students in this category. The weighting factor needs to be established by agreement with the charter school and its chartering authority.

Category of Students	State Law	Federal Law and Guidance	Reconciliation
Siblings of existing pupils	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • Students in this category may be exempted from the lottery. • A charter school may not have separate lottery pools, and may have weighted lotteries only when they are necessary to comply with applicable State law. 	<p>Because preference is optional under State law, use of a weighting factor is precluded by the federal provision. Students in this category may be exempted from the lottery with the approval of the chartering authority.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
Children of faculty	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • Students in this category may be exempted from the lottery, provided the total number of students allowed under the exemption constitutes a small percentage of the school's total enrollment. • A charter school may not have separate lottery pools, and may have weighted lotteries only when they are necessary to comply with applicable State law. 	<p>Because preference is optional under State law, use of a weighting factor is precluded by the federal provision. Students in this category may be exempted from the lottery with the approval of the chartering authority. Under the State RFA, the sum of all exceptions that are subject to the "small percentage" limitation is not to exceed 10 percent of total enrollment.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
<p>Children of employees other than faculty, regardless of whether the school is work-site charter school</p>	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • Students in this category are not listed among those who may be exempted from the lottery or given preference. • A charter school may not have separate lottery pools, and may have weighted lotteries only when they are necessary to comply with applicable State law. 	<p>Because preference is optional under State law, use of a weighting factor is precluded by the federal provision. Moreover, students in this category may not be exempted from the lottery under the federal provisions. Therefore, students in this category may neither be exempted nor given preference.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
Children of founders	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • Students in this category may be exempted from the lottery, provided the total number of students allowed under the exemption constitutes a small percentage of the school's total enrollment. • A charter school may not have separate lottery pools, and may have weighted lotteries only when they are necessary to comply with applicable State law. 	<p>Because preference is optional under State law, use of a weighting factor is precluded by the federal provision. Students in this category may be exempted from the lottery with the approval of the chartering authority. Under the State RFA, the sum of all exceptions that are subject to the "small percentage" limitation is not to exceed 10 percent of total enrollment.</p>

Category of Students	State Law	Federal Law and Guidance	Reconciliation
<p>Other preference categories, such as (1) children from families in which neither parent attended college (“first to college”), (2) children of governing board or advisory board members (non-founders), or (3) children who qualify for free or reduced-price meals</p>	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference may be given if the preference is approved by the chartering authority. • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • Students in this category may be exempted from the lottery, provided the total number of students allowed under the exemption constitutes a small percentage of the school’s total enrollment. • A charter school may not have separate lottery pools, and may have weighted lotteries only when they are necessary to comply with applicable State law. 	<p>Because preference is optional under State law, use of a weighting factor is precluded by the federal provision. Moreover, students in these categories may not be exempted from the lottery under the federal provisions. Therefore, students in these categories may neither be exempted nor given preference.</p>

Special Cases

Category of Students	State Law	Federal Law (PCSGP)	Reconciliation
<p>Countywide Benefit Charter Schools (<i>Education Code</i> Section 47605.6)</p>	<p>Per state law,</p> <ul style="list-style-type: none"> • Preference must be given to students who reside in the county. • Other preferences may be given if, in each case, the preference is approved by the chartering authority (i.e., the county board of 	<p>Per federal law,</p> <ul style="list-style-type: none"> • A charter school must operate in accordance with State law. <p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> • A charter school may not have separate lottery pools, but may have weighted lotteries when they are 	<p>To the extent preference is required in accordance with State law, the only way to directly reconcile these provisions is for the charter school to employ a single lottery with a higher weighting for students in this category. The weighting factor needs to be</p>

Category of Students	State Law	Federal Law (PCSGP)	Reconciliation
	<p>education) and does not discriminate based upon ethnicity, national origin, gender, or disability.</p> <ul style="list-style-type: none"> • Preference may be reflected as: <ol style="list-style-type: none"> (1) exemption from the lottery; (2) selection ahead of students not in this category, using a separate lottery if necessary; or (3) a weighting higher than that of students not in this category if using a single lottery. 	<p>necessary to comply with applicable State law.</p> <ul style="list-style-type: none"> • Students in this category are not listed among those who may be exempted from the lottery or given preference. • Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>established by agreement between the charter school and its chartering authority. In the alternative, the chartering authority may submit a waiver request on the school's behalf per <i>EC</i> Section 33050 to eliminate the requirement that the charter school give preference to students in this category. The waiver would be effective if approved by the SBE. Optional preferences (e.g., for siblings or faculty) are governed as described above.</p>

Category of Students	State Law	Federal Law (PCSGP)	Reconciliation
<p>Charter schools serving pupils for whom county offices of education would otherwise be responsible (<i>EC</i> Section 47605.5)</p>	<p>Per state law,</p> <ul style="list-style-type: none"> Admission is limited to pupils for whom a county office would otherwise be responsible. 	<p>Per federal law,</p> <ul style="list-style-type: none"> A charter school must operate in accordance with State law. <p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> A charter school may not have separate lottery pools, but may have weighted lotteries when they are necessary to comply with applicable State law. Students in this category are not listed among those who may be exempted from the lottery or given preference. Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>Consistent with state law and federal non-regulatory guidance, the charter school needs to establish minimum eligibility requirements that permit enrollment only by students in this category.</p> <p>In the alternative, the chartering authority may submit a waiver request on the school’s behalf per <i>EC</i> Section 33050 to eliminate the requirement that the charter school only serve students in this category. The waiver would be effective if approved by the SBE.</p> <p>Optional preferences (e.g., for siblings or faculty) are governed as described above.</p>

Category of Students	State Law	Federal Law (PCSGP)	Reconciliation
<p>Nonclassroom-based charter schools (<i>EC</i> 47612.5 and 47634.2)</p>	<p>Per state law,</p> <ul style="list-style-type: none"> Admission is limited (as a consequence of funding) to pupils who reside in the county in which the charter has been approved and adjacent counties. 	<p>Per federal law,</p> <ul style="list-style-type: none"> A charter school must operate in accordance with State law. <p>Per Non-Regulatory Guidance,</p> <ul style="list-style-type: none"> A charter school may not have separate lottery pools, but may have weighted lotteries when they are necessary to comply with applicable State law. Students in this category are not listed among those who may be exempted from the lottery or given preference. Minimum qualifications may be established for enrollment eligibility and, thus, eligibility for participation in the lottery. 	<p>Consistent with state law and federal non-regulatory guidance, the charter school needs to establish minimum eligibility requirements that permit enrollment only by students in this category.</p> <p>In the alternative, the chartering authority may submit a waiver request on the school's behalf per <i>EC</i> Section 33050 to eliminate the requirement that the charter school only serve students in this category. The waiver would be effective if approved by the SBE.</p> <p>Optional preferences (e.g., for siblings or faculty) are governed as described above.</p>

Appendix K

Definition of a New School for the Purpose of Receiving Federal PCSGP Funding

CFDA 84.282, Discretionary/Competitive Grants, also known as Public Charter Schools Grant Program (PCSGP) or CSP, has the purpose of “providing financial assistance for the planning, program design, and **initial** implementation of charter schools....

Section 5202(d)(1) of the Elementary and Secondary Education Act (ESEA) provides in pertinent part that “[a] charter school may not receive . . . more than one grant for [planning and implementation activities].”

Pursuant to Section 5203 of the ESEA, a state educational agency (SEA) may require “other assurances” that a charter/community school is eligible to apply for a PCSGP grant. Therefore:

If a school that previously received PCSGP funding closes or is closed, and a subsequent school that intends to open in the same general location/city seems to be essentially a replacement for the previous school, the subsequent school can establish that it is eligible for one-time PCSGP funding by demonstrating autonomy from the previous school by such criteria as:

1. new authorizer
2. majority new governing authority
3. majority of new administration
4. new operator’s clearly defined role that will ensure successful operation of the new school
5. different educational program that is research based
6. new teachers and staff in any areas of previous AYP deficiency
7. measurable objectives to show how the new school will remedy/avoid the problems of the closed school
8. informing previous students that they can select a currently higher-performing school
9. parental/community involvement with the school’s new program

Appendix L Grant Monitoring: Quarterly Benchmark Reports (QBR)

The purpose of grant monitoring is to ensure proper use of federal funds, compliance with state and federal statutes, and to ensure that the grantee is taking adequate measures to meet specified goals in the grant application.

In addition to undergoing a site visit, each grantee under the PCSGP will have to submit quarterly benchmark reports, known as QBRs, for review by CDE staff. Reports will be due fifteen days following the end of a quarter; due dates are as follows: January 15, April 15, July 15, and October 15.

Reports for the 2010-2014 cycle will be submitted electronically through a new CDE online database. Grantees will log into the system using their unique RFA login information established during the application process. Based on the start date of the grant, and the opening date of the school, the database will automatically generate necessary reports to be filed.

Continuing grantees from the 2007-2010 grant cycle will file their reports through the new online database system, and will be subject to reporting requirements identified in the 2010-2014 RFA.

Information in the reports is broken down into three sections: the Performance Benchmark Checklist, the Financial Report of Expenditures, and the Narratives section.

The Performance Benchmark Checklist

Compliance with items in the Performance Benchmark Checklist will be indicated by a marked checkbox. CDE staff may request verification of compliance at any time. Verification will be required during the site visit. The items are as follows:

- Written school organization and governance documents are on file at the school.
- Enrollment report has been submitted. The enrollment report may be CBEDS data, or a signed letter from the school's authorizer that confirms enrollment. The school must attain an enrollment of 50 students by the beginning of Implementation Year 1 in order to receive Implementation Year funds.
- P/I funds have been used for capacity building activities, as required by the 2010-2014 RFA. Further information will be provided in the Progress Toward Becoming a High-Quality Charter School Narrative section.

- If grant funds are used for personnel wages or salaries, a cost allocation plan has been developed to document that a lack of State or local sources are available for funding salaries, and is maintained on file for monitoring and audit purposes.
- If grant funds are used for contracted goods or services, written internal standards that meet federal regulations for awarding contracts are on file at the school. Information about federal standards for awarding contracts may be found in the 2010-2014 RFA: Appendix C
- External Review has been completed and a copy of the final report is kept on file at the school. Failure to comply may result in your school being invoiced by the CDE for grant funds awarded.

The Financial Report of Expenditures

The Financial Report of Expenditures documents all expenditures reimbursed using grant funds. It does not document total expenditures of the school. All information in the Financial Report of Expenditures is subject to verification through request by CDE staff for supporting documentation, or during the site visit.

Data in the Financial Report of Expenditures is organized in a spreadsheet according to account codes. For more information on account codes and allowable expenses, see Appendix B.

Narratives

For each report, grantees are required to respond to narrative prompts that request written, infrastructural data about the grantee's charter school. The prompts are as follows:

- Governance and Infrastructure
 - Identify dates of school board meetings. Describe *how* public notice was given for school board meetings. Identify any changes established, pertaining to: governance structure, new board members, board/school policies and/or community/parent involvement. For schools in Planning Phase, provide timeline for school opening and include a description of efforts to attain adequate facilities.
- Education program

- Provide dates of when statewide testing is conducted. Describe assessments other than state standardized testing. Describe how student progress is being measured and monitored.
- Progress Toward Becoming a High-Quality Charter School
 - Provide verification that charter school has undertaken capacity building activities. Describe efforts taken to meet objectives identified in the work plan. Provide an assessment of the effects of these efforts; indicate any demonstrable effects to student achievement.
- Student Admissions
 - (FOR ALL GRANTEES: Enrollment report must be submitted before the end of Implementation Year 1.) Include the number of students enrolled at the school, and the percentage of capacity filled. If under-enrolled, describe outreach and recruitment efforts. If a public-random drawing was held, or will be held, describe the school's procedures for conducting a public random drawing, and include a summary of preferences criteria.
 - REQUIRED: If the school received a higher grant award, describe the efforts and strategies to recruit students from the school identified in the grant application to be in Program Improvement Years 3, 4, or 5 and having an Academic Performance Index (API) of 1 or 2; or is eligible for Title 1 SIG funding.
- Staffing
 - List all teaching staff, the credentials they hold, and the courses they teach. In accordance with NCLB teacher requirements, teachers of core academic subjects must meet the following criteria: a bachelor's degree; State certification or enrollment or completion of an approved California Commission on Teacher Credentialing intern program; and demonstrated subject matter competence for the grade span and core academic subject area to be taught.
- Financial Status and Sustainability
 - Describe relevance of purchases to grant-specific goals identified in the grant application. Describe any changes made to budget submitted in PCSGP on-line application or in the annually-submitted budget. Clarify any items of concern from the Financial Report of Expenditures. Describe the status of the school's annual revenue surplus or deficit, and cash flow. Describe school's plan to achieve financial sustainability beyond the

duration of the grant. For schools in Planning Phase, describe efforts to raise funding other than PCSGP funding.

- Special Education
 - Provide a brief description of how eligible students enrolled in your charter school receive special education and related services.
- External Review
 - Once open, describe efforts to complete the external review. Identify the organization that will be providing the external review, date of site visit, and results. A copy of the final report is to be on file at the school. Failure to meet this benchmark during the grant project period may result in the school being invoiced for grant funds awarded.

Training, Technical Assistance, and Review

CDE staff will provide training to grantees, for filling out and filing the QBR, on a quarterly basis to coincide with reporting due dates. Training will be mandatory for new grantees who have not yet submitted their first QBR.

CDE staff will provide technical assistance to any grantee to assist him or her in filling out and filing the QBR. Inquiries may be submitted through e-mail or by phone to CDE staff members affiliated with the grant.

Each submitted report is subject to review and approval by CDE staff. A grantee may continue to receive grant payments if a previously submitted QBR has not been approved, but only at the discretion of CDE staff. All required reports must be submitted, reviewed, and approved before the grant may be closed.

Failure to Comply

Failure to comply with the benchmark reporting, or should the grantee consistently supply inadequate or incorrect information and is non-responsive to suggested corrections and revisions, one or more of the following disciplinary actions may be taken against the grantee:

- Withholding of future grant payments
- Invoicing for grant payments issued to date
- Termination of grant

Appendix M: Work Plan for High Quality Charter Schools

The following is a sample of the work plan form that applicants will file during the application process, and that grantees will continue to file on an annual basis under the grant. Once awarded funding, grantees must submit subsequent work plans with their proposed annual budgets, at the beginning of each fiscal year under the grant (see page 14 of this RFA for a description of work plan and annual budget). A description of efforts taken to meet goals defined in the work plan will also be included in the Quarterly Benchmark Report (for more information, see Appendix L).

2010-14 PCSGP – Work Plan for FY 20__

In the work plan below, please include information on how you plan to meet your goals of becoming a high quality charter school and how the goals will be met through the capacity building activities required of the grant, and all other goals that have been set under your charter and PCSGP application:

Measureable Objectives	Planned Activities / Activities	Timeline for Completion	Person(s) Responsible for Ensuring Success	Budgeted Amount from PCSGP Funds
<p>I. Sustainability through Capacity Building</p> <p>1. Governance Training Leadership and Governance training to overcome initial start-up challenges and establish a thriving, financially viable charter school</p> <p>Must be completed by end of first Implementation year if activities have not been completed prior to grant award. For more information, see page</p>				

Measureable Objectives	Planned Activities / Activities	Timeline for Completion	Person(s) Responsible for Ensuring Success	Budgeted Amount from PCSGP Funds
12 of the 2010-2014 PCSGP RFA.				
<p>2. Fiscal Management Training</p> <p>Must be completed by end of first Implementation year if activities have not been completed prior to grant award. For more information, see page 12 of the 2010-2014 PCSGP RFA.</p>				
<p>3. Development of teacher effectiveness measures</p> <p>Development of teacher effectiveness measures must include student achievement data as a substantial portion of teacher evaluations. A copy of teacher evaluations must be submitted for CDE review before the end of the grant project period.</p>				

Measureable Objectives	Planned Activities / Activities	Timeline for Completion	Person(s) Responsible for Ensuring Success	Budgeted Amount from PCSGP Funds
II. Improving Student Academic Achievement				
<p>1. Meeting and Exceeding Academic Progress Goals Explain how school will meet or exceed API growth and meet or exceed AYP goals. Include information about the school's plan for implementing the following practices:</p> <ul style="list-style-type: none"> a. Professional development/teacher training b. Using data to form instruction, evaluation of program, and professional staff c. Using varied instructional strategies to engage all students d. Using formative and summative assessments to improve targeted instruction. e. Any other student achievement goals established in your charter 				

Measureable Objectives	Planned Activities / Activities	Timeline for Completion	Person(s) Responsible for Ensuring Success	Budgeted Amount from PCSGP Funds
2. Student Retention Explain specific strategies for achieving a minimum 80 percent year-to-year student retention rate.				
3. Graduation Rate For high schools (excluding dropout-recovery high schools), explain specific strategies for achieving a minimum 80 percent cohort graduation rate after 5 years of operation.				
III. Services received from charter authorizer 1. Status of Services Received Describe status of services received from charter authorizer. Are services satisfactory? May include, but is not limited to, facilities (Proposition 39).				