



Charter School Implementation Grant Application and Instructions For Charter Systems

“The mission of the Georgia Public Charter Schools Program is to increase student achievement through academic and organizational innovation by encouraging local school districts to utilize the flexibility offered by chartering.”

**Charter Schools Division
2053 Twin Towers East
205 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30334
404-657-0515 (phone)
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http://public.doe.k12.ga.us/pea_charter.aspx

**Georgia Charter School
Implementation Grant Application for Charter Systems
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General Directions for Applicants Please Read and Follow All Directions

A. Introduction

The 2007-2010 Georgia Charter School Grant Program has undergone significant changes in policy and program. Applicants familiar with previous grant funding through the federal Charter Schools Program (“CSP”) should read this application carefully to ensure they are responding to the new requirements. The use of obsolete application forms or procedures may forfeit the submitted application.

The United States Department of Education administers the CSP, authorized by 20 U.S. Code sections 7221-7221j. 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 high quality charter schools. Georgia was awarded approximately \$17 million in grant funds for 2008-2010.

The general purpose of the CSP is to:

- expand the number of high-quality charter schools available to students by providing financial assistance for the planning, program design, and initial implementation of charter schools;
- increase understanding of the charter school model; and
- evaluate the effects of charter schools, including their effects on students, student academic achievement, staff, and parents.

In addition, the Georgia Department of Education will give priority to charter schools in the following categories:

- A charter school that serves students most at risk for not meeting Georgia Performance Standards, especially among underserved students in urban and rural areas;
- A charter school that serves secondary students in school districts that does not currently have a charter school serving a secondary population.

To be eligible to apply for an implementation grant, your charter system petition must have been approved by the State Board of Education.

B. Submission Requirements

In assembling the implementation grant application and accompanying materials, please adhere to the following guidelines:

- All applications must be typewritten or computer generated.
- Each page (including appendices and attachments) should be consecutively numbered. Tab and paginate all attachments/appendices.
- Do not enclose the application in a notebook, binder, or folder.
- Staple or bind the pages of the original and of each copy. Do not use paperclips.
- All pages must be standard letter size, 8½" X 11" using 12 point, Times New Roman, or comparable font, double-spaced, one-inch margins.
- The original must contain original signatures in blue ink. Stamped signatures will not be accepted.
- Applications that are faxed or e-mailed will not be accepted.

Only applications that are complete and follow these guidelines will be considered for approval. **Applications will not be returned.** Please keep a copy for your records.

Applicants must send or deliver one (1) original and three (3) copies (**a total of 4 submitted documents**) of the completed application to:

Georgia Department of Education
Charter Schools Division
2053 Twin Towers East
205 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30334

C. Types of Charter School Program Federal Grants

- **Implementation Grant** - Grant funds are intended to provide support for the program design and initial implementation of charter schools. Implementation grant funds are also intended to enhance parent and student choices among public schools and give more students the opportunity to demonstrate proficiency on challenging state standards. A developer is limited to a maximum of **24-month** implementation grant in each 3-year grant cycle, although the Georgia Department of Education may consider waivers to this limitation depending on individual circumstance.

Additionally, due to the federal financial cycle, CSP funding may not be available for an entire 24-month period.

- **Dissemination Grants** - (Available in 2008 and 2009 through a separate application) Individual Charter schools within a Charter System may apply for a grant to distribute best practices to traditional public school and charter school practitioners during the 2007-2010 grant cycle.

D. Amount of Awards

The 24-month baseline funding levels for charter systems that can be created in Georgia is as follows:

1. Charter Systems with three (3) or more schools: \$600,000 (\$200,000/24 months)

Schools awarded these funds are eligible to utilize them over a twenty-four month period. For purposes of this application and completing required budget forms, applicants should use the baseline amount listed above.

E. Selection of Awards

Federal law requires a peer review of all CSP applications. The Georgia peer review panel is comprised of urban and rural state charter school developers, governing board members, operators, and policy experts. Reviewers are required to recuse themselves from the evaluation of any application for which they have a perceived or real conflict of interest.

F. Grant Monitoring

The Charter School Division will monitor grants by reviewing and approving both budgets and status/completion reports. All information in these reports is subject to verification, and the Charter School Division may require additional information from the school system and/or each charter school within the system, 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 Charter School Division will also conduct site visits to CSP sub-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 Charter School Division to ensure that CSP sub-grantees utilize their grant award efficiently and in compliance with CSP regulations. CSP sub-grantees must demonstrate financial internal controls are in place and are being utilized specifically as it relates to the CSP grant. CSP sub-grantees that expend funds out of compliance with federal and state regulations may be subject to forfeiture of their award and may be required to repay all or a portion of the awarded grant funds. Additionally, suspected theft or fraud of CSP funds will require a comprehensive investigation by both state and federal authorities.

G. Implementation Grant Specifications

The purpose of the Implementation grant is to provide financial assistance for the initial operations of newly established and conversion charter schools. Refer to Appendix A for the definitions of “newly established” and “high quality” as they apply to this application.

Implementation grant funding is a new design element of the 2008-2010 CSP, and it is important for applicants to note changes and new definitions within this category of funding.

- Implementation activities refer to only those that occur after the charter system has a State Board of Education approved charter and are limited to 24 continuous months.
- If not approved for a grant, applicants may revise their grant application so that it better addresses the application criteria and resubmit it within 30 business days of receiving notice that the application did not receive the number of affirmative responses from the review panel.

H. Eligible Applicants

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

- Grant applicants must conform to the definition of a public charter school in the No Child Left Behind Act [P.L.107-110, section 5210(1)]; and,
- The applicant must have an approved charter for a newly established charter school(s) that has not yet opened (as a charter) or has been open for no more than

one school year. Refer to Appendix A for definition of newly established charter school.¹

I. 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 **must be returned** to the Georgia Department of Education.

The Charter School Division of the Georgia Department of Education 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. Please refer to Appendix B for a description of allowable costs.

J. Grant Payment Schedule

Unless the Georgia Department of Education determines that a different disbursement schedule is necessary, all payments will be released to the local school system using the State accounting system, GAORS. The local school system may choose to distribute these funds as either advances on a consistent basis, pending the submission and approval of quarterly status and expenditure reports, or as reimbursements, via submitted and approved invoices and receipts. Implementation grant funding **should not** be held in reserve.

K. Certification of Assurances

The Certification of Assurances (included in Appendix G on pages 44 and 46 of this document) is a legally binding document between the Georgia Department of Education and the grant recipient. Such assurances shall be included with each properly submitted application.

- **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 GDOE will evaluate the use of these standards during its monthly review of grantee

¹ Please note that if your charter school is designed to be dual-enrollment (*i.e.*, students attend the charter school for only a portion of the day), you may not be eligible for Implementation grant funding.

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.

- **Statewide Standardized Testing**

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

L. Application Instructions

To apply for a competitive Implementation grant from the Georgia Department of Education ("GDOE"), a charter system must fill out the cover sheet form and provide an abstract and a project narrative answering sections **A through J** specified herein. Additionally each charter system must submit all appropriate assurances and certifications with the submitted application. For purposes of this application, grant applications will be deemed submitted to the Department if they are fully completed, along with all proper supporting documentation, and postmarked by the grant application deadline. An electronic submission will **not** be accepted.

1. Cover Sheet (1 page).
2. Project Narrative (up to 30 pages). The *Project Narrative* should address Sections A - I, in that order. Applicants should be self-contained and must include all relevant language in the *Project Narrative*, not merely refer to language in attachments, such as the Charter Application.
3. Project Budget Detail (up to 10 pages). Must cover the entire 24 month project period.
4. Assurances pages. (not included in page limit)
5. ED 80-0013 - Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters and Drug-Free Workplace Requirements form.

The complete application, including attachments, cannot exceed 50 consecutive pages.

M. Selection Criteria for Grant Applicants

The standard scoring criteria are based on a 100-point scale, with a minimum score of 70 points necessary for an application to be considered for funding. A proposal must have a score of at least 70 before preference points may be earned. The maximum possible score for each criterion is indicated in parentheses following each criterion. In evaluating an application, grant raters will consider the following criteria:

N. Project Narrative

Executive Summary and Project Goals

A. Abstract. Briefly describe your charter system, including the educational program, the school system's community, and the vision of the charter system. Describe how the school system plans to use grant funds to implement the system's vision. (5 Points)

B. Project Goals. List four project goals, with indicators, for the proposed grant that encompass the 24-month project period. At least one goal must address student academic achievement as measured by either the CRCT or the GHSGT. Additionally, one goal must address Adequate Yearly Progress (AYP) using the federal definition in the No Child Left Behind Act. Each listed goal should be specific, measurable, attainable, research-based and time-phased (SMART). As an example, "**ABC Charter System Staff will be trained in professional development that raises student achievement as measured by the CRCT to 95% in both Reading and English Language Arts.**" (GOAL)

- 100% of all staff will receive training on the Success For All curriculum in year 1 at a cost of \$30,000,
- 95% of staff will receive training in reading intervention, writing mastery, and student learning styles in year 2 at a cost of \$20,000, and
- 95% of staff will participate in needs-based training in year 3 with mastery of training topics measured by survey and classroom observation by the administration at a cost of \$15,000 (Indicators)

Project goals should directly relate (but should not mimic) to the system's goals listed in the approved charter system application. (10 Points)

Research-based Educational Program/ Comprehensive Design Aligned to Standards

C. Educational Program. Describe the comprehensive research-based educational program that is or will be implemented by each charter school within the system. Demonstrate that the chosen curriculum is well suited for the target or actual student population of each charter school. If the charter school serves grades 9-12, list the graduation requirements. Discuss how the charter system plans to increase the graduation rate for each school that serves secondary students. **(20 points)**

D. Literacy. Specify the core reading program selected by the elementary schools within the charter system and any supplemental and/or intervention programs or materials selected. Explain why it was chosen. **(5 Points)**

E. Support for Standards and Use of Data. Describe how the program is designed to support state and local academic content standards. Describe how the system plans to align the curriculum with the Georgia Performance Standards, particularly during the first years of operation. Explain which software each school will use to maintain achievement data. Describe the data disaggregation and manipulation capabilities along with an explanation of who on the charter school's staff will be managing the data. **(10 Points)**

Continued Operation

F. Describe how the local school board and governing board of the charter schools within the system will provide for continued operation of the school once the CSP grant has expired. **(5 Points)**

Parent/Community Involvement and Board Governance

G. Parent/Community Involvement. Describe how parents and other members of the community will be involved in the design and implementation of each charter school within the charter system. **(5 Points)**

H. Charter School Governing Board. Describe the composition of the governing board, *e.g.* parents, community members or staff, and their responsibilities or decision-making authority. List any prerequisites for individuals to serve on the governing board. Describe how board members were (or will be) selected and their qualifications. Detail the training needs of the governing board and what (if any) board training has already occurred. Describe how each governing board will directly be involved with budget priorities and spending as they relate to the CSP grant funds. **(10 Points)**

Budget Narrative

I. Overview. Provide an overview of how grant funds will be used to address project goals and meet the needs of the charter system. Explain how the system will ensure

that all funds are distributed in an equitable fashion among the eligible schools. Explain how the system will ensure that all grant funds are spent according to federal grant regulations and how the system will ensure that all funds are accounted for in a clear and consistent manner for future audits. Fully describe the internal controls that the system will put in place to ensure that individuals who are familiar with the unique nature of the CSP grant and federal grant management standards manage all grant funds. **(20 Points)**

J. Budget Detail. Using the budget detail excel spreadsheet found on the www.gadoe.org/pea_charter.aspx website, list the main line items for each project goal. The budget detail page in the Excel spreadsheet should include all detail sufficient to explain how the total line item amount was reached. No single line item should exceed \$30,000 for any individual school without proper justification (*e.g.*, a technology line item should be broken down to the number of units and the cost per unit). Line items without proper justification will be denied. Fully describe the proposed budget for twenty-four months. The proposed budget should not exceed the baseline amounts listed in Section D of this application. **(10 Points)**

PREFERENCE POINTS (optional)

You may choose to address these areas in your application, but there is no requirement that you do so. These elements are not included in the rubric, but may be awarded to qualifying applicants.

1. The charter system serves or intends to serve a significant number of students (30% or higher) most at risk for not meeting state academic standards, especially among under-resourced students in rural or urban areas. **(5 Preference Points)**
2. The charter system details an ambitious but realistic plan to increase the graduation rate among secondary students. **(5 Preference Points)**

All budget line items should contain enough detail for the Georgia Department of Education 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. The Charter School Division may require grantees to amend or modify their budgets if they contain unreasonable or non-allowable costs under federal guidelines.

Notes:

- Grant funds **cannot** be used for fundraising, lobbying, student transportation, or for the purchase of vehicles, land, or facilities.

- Construction and remodeling expenses are limited to repairs expressly required to meet relevant law, local codes, ordinances or other applicable law or local regulation, or to ensure compliance with the Americans with Disabilities Act.
- Grant funds **cannot** be distributed to magnet schools, pre-K programs, after school programs that are funded through Title 1, alternative schools, or any other entity that by definition is not consistent with the federal and state definition of a charter school.

Georgia Charter School Program Implementation Grant Cover Page Charter System Application

System _____ System _____

System Address _____

System Contact Person _____

Telephone Number of System Contact _____

E-Mail of System Contact _____

E-Mail of Additional System Contact _____

Number of Students projected for the System _____

Number of Schools within the System _____

If your local board's grant approval policy requires board action, please complete this section. If board action is not required, please note and only the Charter School Principal or Board Chair's and Local School System Superintendent's signature is required.

The signatures below affirm that submission of this application has been approved through official action of the _____ Board of Education at its _____ (Date) board meeting.

School System Chief Financial Officer

Date

School System Superintendent

Date

Please submit one (1) original and three (3) copies (for a total of 4 submitted documents) of your application. Applications should be submitted to:

Charter Schools Division
Georgia Department of Education
2053 Twin Towers East
205 Jesse Hill Jr. Drive
Atlanta, Georgia 30334

Application Checklist

- **ALL APPLICANTS:** Be sure that you have included each of the following as part of your implementation grant application. All applicants must submit an **ORIGINAL** and **THREE COPIES** of each of the materials listed below, unless otherwise indicated.
 - Cover Page (original and three copies- total of 4) (form attached above)**
 - Project Narrative, including Abstract and Project Budget Detail and Narrative (original and three copies - total of 4) (instructions attached above)**
 - Assurances (original and three copies- total of four)(Appendix G)**
 - ED 80-0013 - Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters and Drug-Free Workplace Requirements form (original and three copies - total of four) (Appendix G)**
 - Note: Formatting of this document must be typewritten or computer generated and must adhere to the guidelines specified herein.**

Applicants must send or deliver completed applications (**one original and three copies for a total of four (4) submitted documents**) to:

Georgia Department of Education
Charter Schools Division
2053 Twin Towers East
205 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30334

APPENDICES

APPENDIX A.

Definitions of CSP Terms

Admissions Criteria: see Public Random Drawing

Approved Charter: A charter petition that has been approved by both the local authorizing entity and the State Board of Education (SBOE).

Authorized Agent: Superintendent of local education agency applying for funds. The authorized agent must verify and sign all official documents related to the grant award.

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

Charter School: A charter school is a public school that provides instruction in any grades kindergarten through 12 grades and is approved by an authorized public chartering agency as a charter school under the provisions of *Education Code* Section 47600 et. seq.

Conflict of Interest: see Appendix C and the Non-Regulatory Guidance. 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* 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.

High Quality: A high quality charter school is a school that has achieved NCLB Adequate Yearly Progress (AYP) goals and whose current annual independent audit contains no material exceptions or deficiencies.

Locally-Funded: Locally-funded is a funding designation that provides funding for charter schools through an LEA.

Lottery: See Public Random Drawing

Newly established Charter School: For purposes of the CSP, 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. Education Code section disallows the conversion of private schools to charter schools.

Public Random Drawing (Lottery): A lottery is a random selection process by which students are admitted to the charter school. The federal CSP program requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Charter schools cannot create separate lottery pools for any purpose, including the desire to ensure balance in areas such as gender, disabilities, languages, nationality and poverty.

A school seeking to avoid any imbalance in its student population should do so through its recruitment efforts. However, recruitment must be conducted in a manner that does not discriminate against students by race, color, national origin, religion, or sex, or against students with disabilities. Rather, the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs.

The CSP limits exemptions to the lottery to currently enrolled students (including students reside in the attendance area of a public school converted to a charter school), siblings of currently enrolled students. Children of founders and teachers may also be exempted from the lottery as long as the total number of students in this category is less than 10% of the total enrollment.

The CSP allows preferences only through a weighted lottery, and that they be given 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, applicable state law related to addressing these federal laws.

Schools that exempt students or give preferences to them for other reasons than those stated above are not eligible for grant funding through the federal Charter School Program.

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. A CSP applicant may be eligible for preference points if a majority of its students are in secondary grades.

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

Appendix B

Allowable Expenses

Georgia Cost Codes

Purpose

The purpose of the CSP is to plan and open high quality charter schools throughout Georgia, 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. CSP funds are to be utilized at the school level for the support of K-12 academic programs within each eligible charter school. CSP funds should be directly related to classroom instruction.

General Federal Guidelines

The CSP 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 page at <http://www.whitehouse.gov/omb/circulars>. Of particular interest to CSP 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* 34 § 76.533).

Georgia Account Codes

Function Code

1000 - Books and Supplies (Per unit cost under \$5000)

Costs for textbooks, supplementary curricular items, computers, instructional materials, office supplies, general office equipment, classroom equipment, and shipping fees to receive them.

2400 - Certificated Personnel Salaries

Salaries for credentialed teachers, school administrators, librarians, counselors, and school nurses. This function code cannot exceed \$30,000 in any one year for each individual school and should not consist of more than 3 months of salary for any one employee.

2400 - Employee Benefits

Benefits such as retirement (TRS), Social Security and Medicare, health and welfare benefits, unemployment insurance, workers compensation insurance, and other offered benefits. This function code cannot exceed \$15,000 in any one year for each individual school and should not consist of more than 3 months for any one employee.

2500 - Services and Other Operating Expenditures

Costs for consultants, services contracts, dues, travel, insurance.

4000 - Capital Outlay (Purchase or Design of real estate, i.e. buildings/property, is not allowable) Cost of site improvements and remodeling for bringing a facility up to code, making it compliant with the Americans with Disabilities Act, or directly tied to a specific educational program. This cost cannot exceed \$5000.

5100 - Other

Federal law disallows Indirect Cost Rate fees as a CSP expense.

Contract Standards

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

A component of the Georgia Charter School Division'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 may **not** be eligible for CSP reimbursement.

Below are the federal regulations governing contracts. Georgia CSP grant recipients are "sub recipients" for the purposes of these regulations.

34 Code of Federal Regulations 80.36

(b) Procurement standards. (1) Grantees and sub grantees 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 sub grantees will maintain a contracts administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and sub grantees 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 sub grantee 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 grantees or sub grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Grantee and sub grantees 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 sub grantee'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 sub grantee 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 sub grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and sub grantees 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 sub grantees 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 sub grantees 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 sub grantees will maintain records sufficient to detail the significant history of 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 sub grantees 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 sub grantees 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 sub grantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or sub grantee 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 sub grantees 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 sub grantee 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 sub grantee'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 sub grantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 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 sub grantees 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 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 sub grantees 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 sub grantees 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 Sec. 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 sub grantees 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 sub grantees 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 sub grantees 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 sub grantee 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 sub grantees 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 sub grantees 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 Sec. 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 sub grantees 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 sub grantee 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 sub grantees 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 sub grantee'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 sub grantee 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 sub grantee 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 sub grantee 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 sub grantee that it is complying with these standards. A grantee or sub grantee 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 sub grantee 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 contracts price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contracts.

(3) A payment bond on the part of the contractor for 100 percent of the contracts 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 contracts.

(i) Contract provisions. A grantee's and sub grantee’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 sub grantee 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 sub grantees)

(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 sub grants 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 sub grantees when required by Federal grant program legislation)

(6) Compliance with sections 103 and 107 of the Contracts 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 sub grantees 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 contracts.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the sub grantee, 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 contracts for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or sub grantees 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 sub grants 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).

Conflict of Interest

All employees of the Charter School shall make every effort to avoid even the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person would conclude from the circumstances that the employee's ability to protect the public interest, or perform public duties, is compromised by personal interest. An appearance of conflict could exist even in the absence of a true conflict of interest.

Appendix D

Equipment and Supplies Standards

Charter School Program grant 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 Georgia Department of Education’s Charter School Division grant-monitoring program is to verify that the equipment, supplies, and related records of grant recipients are in compliance with federal regulations.

CSP recipients are “sub grantees” 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 sub grant will vest upon acquisition in the grantee or sub grantee 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 sub grantees will follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment shall be used by the grantee or sub grantee 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 sub grantee 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 Sec. 80.25(a) to earn program income, the grantee or sub grantee 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 sub grantee 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 sub grantee 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 sub grant 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 sub grantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or sub grantee 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 sub grantees 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 sub grantee 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 Sec. 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 sub grant will vest, upon acquisition, in the grantee or sub grantee 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 sub grantee shall compensate the awarding agency for its share.

Appendix E

Financial Management Standards

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

CSP recipients are "sub-grantees" 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 sub-grantees 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 sub grantees 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 sub grant.

(2) Accounting records. Grantees and sub grantees 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 sub grant 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 sub grant cash, real and personal property, and other assets. Grantees and sub grantees 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 sub grant. 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 sub grant 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 sub grant 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, contracts and sub grant 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 sub grantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on sub grantees' 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 draw downs as close as possible to the time of making disbursements. Grantees must monitor cash draw downs by their sub grantees 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 pre-award 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 these Appendices. 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

Charter Schools 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 Georgia 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 Georgia Department of Education (GaDOE).
2. The GaDOE 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 Georgia Department of Education.
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 GaDOE, 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

Georgia Department of Education

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* [USC] 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 USC sections 1681-1683) prohibiting discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (20 USC Section 794) prohibiting discrimination on the basis of handicap; and The Age Discrimination Act (42 USC 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.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 *Code of Federal Regulations* Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled A Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

**Certification Regarding State and Federal Drug-Free Workplace Requirements
Grantees Other Than Individuals**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 *Code of Federal Regulations* (CFR) Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace

(2) The grantee's policy of maintaining a drug-free workplace

(3) Any available drug counseling, rehabilitation, and employee assistance programs

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted

employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f)

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

NAME OF APPLICANT

NAME OF PROJECT

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE

DATE

CERTIFICATION REGARDING LOBBYING

Applicants must review the requirements for certification regarding lobbying included in the regulations cited below before completing this form. Applicants must sign this form to comply with the certification requirements under 34 *Code of Federal Regulations (CFR) Part 82, "New Restrictions on Lobbying."* This certification is a material representation of fact upon which reliance was placed when this transaction was entered into.

As required by Section 1352, Title 31 of the *U.S. Code*, and implemented at 34 *CFR Part 82*, for persons entering into Federal contract, grant or cooperative agreement over \$100,000, as defined at 34 *CFR Part 82, Sections 82.105 and 82.110*, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants and contracts under grants and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

NAME OF APPLICANT

PROJECT NAME

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE DATE

General Assurances and Signatures

1. This charter system/school petition was approved by the _____
_____ Board of Education on _____.
Date

2. Petitioner assures that the charter school programs, services, and activities will operate in accordance with the terms of the Charter and all applicable federal, state, and local laws, rules, and regulations.

Superintendent Date

(if applicable) Representative, Charter School Date

Appendix H

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.

General Provisions of the Charter Schools Program (CSP)

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.

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:

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];

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;

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;

Provides a program of elementary or secondary education, or both;

Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

Does not charge tuition;

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;

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;

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 CSP];

Meets all applicable Federal, State, and local health and safety requirements;

Operates in accordance with State law; and

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.”

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 sub grant (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 sub grant 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.

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.

Eligibility and Use of Funds

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.

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)).

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.

How may CSP grant funds be used?

SEAs may use CSP funds to award sub grants 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.

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.

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).

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.

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).

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.

Is a for-profit entity that holds a legal charter eligible to apply for a grant or sub grant?

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.)

Lottery, Recruitment, and Admissions

What is a lottery for purposes of the CSP?

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

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.

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.

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.

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.

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.

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.

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.

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).

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.

Involvement of Religious and Community-Based Organizations With Charter Schools

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>.

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.

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.

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.

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.

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.

Administrative and Fiscal Responsibilities

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.

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.

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, 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.

