

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To provide the meaning of specific words and terms that are essential to these regulations.

Need for the Regulation

Form Definitions: It was necessary to change the revision date of Forms SAB 50-04, 50-05, 50-07, 50-08, 50-09, and 50-10 to "12/11" for the purpose of the continuity of the School Facility Program (SFP) Regulations and so that applicants can file the most current State Allocation Board (SAB) Forms.

Definition of "Labor Compliance Program:" It was necessary to amend this definition by adding the acronym "(DIR)" to accommodate abbreviated references to the Department of Industrial Relations in the School Facility Program Regulations.

Definition of "Total Projected Bond Apportionment:" It was necessary to add this definition for the purpose of complying with the statutory cap to the DIR Compliance Monitoring Unit (CMU) costs as calculated based upon a percentage of the State bond proceeds.

Reference Sections: It was necessary to add "Labor Code Section 1771.3" to this listing of reference citations because the proposed emergency regulatory amendments implement Senate Bill (SB) X2 9, Chapter 7, Statutes of 2010 (Padilla), as amended by Assembly Bill (AB) 436, Chapter 378, Statutes of 2011 (Solorio), and new Labor Code Section 1771.3 was an authoritative provision of AB 436.

Section 1859.71.4. New Construction Pupil ~~Additional~~ Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

Specific Purpose of the Regulation

To clarify the authority and funding of the existing additional grant for Labor Compliance Programs (LCPs) for new construction projects with construction contracts awarded prior to January 1, 2012, and to add new subsections implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add Labor Code Section 1771.3 to the list of authority citations, and Education Code Section 17072.30 to the list of reference citations.

Need for the Regulation

This Section implements provisions for increased SFP new construction funding for initiating and enforcing a LCP as authorized in Assembly Bill 1506, Chapter 868, Statutes of 2002. It was necessary to amend and add new subsections in order to implement the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436.

Regulation Section Title: It was necessary to change "Pupil Grant" to "Additional Grant" to more accurately describe the subject matter of this Section. It was necessary to expand "Labor Compliance Program" to "Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs" in order to include the additional grant for prevailing wage monitoring and

enforcement costs in compliance with SB X2 9 as amended by AB 436, effective for projects with construction contracts awarded on or after January 1, 2012.

Subsection (a): It was necessary through strikethrough and underline to clarify the authority and funding from Proposition 47 or Proposition 55 for the existing additional grant for LCP for construction contracts awarded prior to January 1, 2012 because SB X2 9 as amended by AB 436 changed this authority and funding for State bond-funded projects with construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

New Subsection (c): It was necessary to implement the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for qualifying projects with construction contracts awarded on or after January 1, 2012, because this is authorized by AB 436 and it will help school districts and charter schools to pay for the required prevailing wage monitoring and enforcement services by the DIR.

New Subsection (d): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (e): It was necessary to require school districts that fail to meet the requirements in subsection (d) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board's finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (f): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (e), if the DIR revokes approval of the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

Authority Citations: It was necessary to add Labor Code Section 1771.3 to the list of authority citations because it is an authoritative provision of AB 436.

Reference Sections: It was necessary to add Education Code Section 17072.30 to the list of reference citations because it authorizes the SAB to apportion funds for Field Act compliant projects upon local school district certification of its matching funds.

Section 1859.78.1. Modernization Pupil-Additional Grant Increase for Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs.

Specific Purpose of the Regulation

To clarify the authority and funding of the existing grant increase for LCPs for modernization projects with construction contracts awarded prior to January 1, 2012, and to add new subsections implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add Labor Code Section 1771.3 to the list of authority citations, and Education Code Section 17072.30 to the list of reference citations.

Need for the Regulation

This Section implements provisions for increased SFP modernization funding for initiating and enforcing a LCP as authorized in Assembly Bill 1506, Chapter 868, Statutes of 2002. It was necessary to amend and add new subsections in order to implement the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436.

Regulation Section Title: It was necessary to change “Pupil Grant” to “Additional Grant” and delete the word “Increase” to more accurately describe the subject matter of this Section. It was necessary to expand “Labor Compliance Program” to “Labor Compliance Program or Prevailing Wage Monitoring and Enforcement Costs” in order to include the additional grant for prevailing wage monitoring and enforcement costs in compliance with SB X2 9 as amended by AB 436, effective for projects with construction contracts awarded on or after January 1, 2012.

Subsection (a): It was necessary through strikethrough and underline to clarify the authority and funding from Proposition 47 or Proposition 55 for the existing additional grant for LCP for construction contracts awarded prior to January 1, 2012 because SB X2 9 as amended by AB 436 changed this authority and funding for State bond-funded projects with construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

New Subsection (b): It was necessary to implement the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for qualifying projects with construction contracts awarded on or after January 1, 2012, because this is authorized by AB 436 and it will help school districts and charter schools to pay for the required prevailing wage monitoring and enforcement services by the DIR.

New Subsection (c): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (d): It was necessary to require school districts that fail to meet the requirements in subsection (d) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board's finding. It was necessary

that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (e): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (d), if the DIR revokes approval of the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

Authority Citations: It was necessary to add Labor Code Section 1771.3 to the list of authority citations because it is an authoritative provision of AB 436.

Reference Sections: It was necessary to add Education Code Section 17072.30 to the list of reference citations because it authorizes the SAB to apportion funds for Field Act compliant projects upon local school district certification of its matching funds.

Section 1859.79.2. Use of Modernization Grant Funds.

Specific Purpose of the Regulation

To add "Labor Code Section 1771.3(a)" to the list of authorized Code Sections for the expenditure of Modernization Grant funds. To correct Education Code Section "17070.15(f)" to "17070.15(i)" as an authorizing Code Section for the expenditure of Modernization Grant funds. To add "Labor Code Section 1771.3" to the list of reference citations.

Need for the Regulation

This Section specifies the permissible and impermissible uses of Modernization Grant Funds, including the permissible use for the costs incurred by a school district for the initiation and enforcement of a LCP.

Introductory Paragraph, line 2: It was necessary to correct Education Code Section "17070.15(f)" to "17070.15(i)" (definition of Modernization) because definitions added to this Code Section due to enacting legislation were inserted in alphabetical order changing it from (f) to (i).

Introductory Paragraph, line 3: It was necessary to add "Labor Code Section 1771.3(a)" to the list of authorizing Code sections for expenditure of Modernization grant funding because it was an authoritative provision of AB 436.

Reference Sections: It was necessary to add Labor Code Section 1771.3 to the list of reference citations because it was an authoritative provision of AB 436.

Section 1859.82. Facility Hardship.

Specific Purpose of the Regulation

To clarify the authority and funding of Facility Hardship projects to qualify for the additional grant for initiating and enforcing a LCP for which the construction contract is awarded prior to January 1, 2012, and to add new text implementing eligibility for an additional grant for the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section establishes the criteria a school district must meet to be eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates that there is an unmet need for pupil housing or that the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. Subsections (a) and (b) include the sentence: "The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4."

Third Paragraph above Subsection (b): It was necessary to clarify that the authority and funding for the existing additional grant for LCP applies to projects with construction contracts awarded prior to January 1, 2012, and as prescribed in Section 1859.71.4(a), and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to SFP Regulation Section 1859.71.4(c) and (d), for qualifying projects with construction contracts awarded on or after January 1, 2012.

Fourth Paragraph after Subsection (b): It was necessary to clarify that the authority and funding for the existing additional grant for LCP applies to projects with construction contracts awarded prior to January 1, 2012, and as prescribed in Section 1859.71.4(a), and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to new SFP Regulation Section 1859.71.4(c) and (d), for qualifying projects with construction contracts awarded on or after January 1, 2012.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.83. Excessive Cost Hardship Grant.

Specific Purpose of the Regulation

To clarify the authority and funding of Excessive Cost for rehabilitation of facilities for the additional grant for initiating and enforcing a LCP for which the construction contract is awarded prior to January 1, 2012, and to add new text implementing eligibility for an additional grant for the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth district eligibility criteria for excessive cost hardship grant funding as a result of specified unusual circumstances that create excessive project costs beyond the control of the district. It includes subsection (e) "Excessive Cost" for qualifying rehabilitation projects, which states in part: "The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4."

Subsection (e): It was necessary to clarify that the authority and funding of the existing additional grant for LCP applies to projects with construction contracts awarded prior to January 1, 2012; and to correct the prescribed reference Section from "1859.71.4" to "1859.78.1(a)" because funding of rehabilitation costs is as modernization projects; and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to new SFP Regulation Section 1859.78.1(b) and (c), for qualifying projects with construction contracts awarded on or after January 1, 2012.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.106. Program Accountability Expenditure Audit.

Specific Purpose of the Regulation

To expand the adjustments for SFP grants for purposes of the Program Accountability Expenditure Audit, in order to include an additional grant based on a school district incurring the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To specify that any such adjustments pursuant to this Section will be made only if sufficient bond authority is available, or placed on an Unfunded List created by the SAB.

To add Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section specifies, for purposes of the Program Accountability Expenditure Audit, the allowable district expenditures and State apportionments for new construction projects, Joint-Use projects, Critically Overcrowded School Facilities projects, charter school projects, modernization projects, and compliance with site acquisition guidelines. The proposed emergency amendments add new subsections (c) and (d):

New Subsection (c): It was necessary to an adjustment in the SFP grant for projects that received funding pursuant to Sections 1859.71.4(c) or 1859.78.1(b), to equal 50 percent or 60 percent, respectively, of one-fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount.

New Subsection (d): It was necessary to specify that any adjustments pursuant to this Section cannot exceed available bond authority because each school bond is passed by the Legislature and approved by the voters for a certain amount which cannot be exceeded. It was necessary to specify that if the SAB has created an Unfunded List because available bond authority has been exhausted, the adjustments would be placed on the Unfunded List.

Reference Sections: It was necessary to add Labor Code Section 1771.3 to the list of reference citations because it is an authoritative provision of AB 436.

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

Specific Purpose of the Regulation

To clarify the authority and funding of Joint-Use projects funded in whole or in part from Propositions 47 or 55 to qualify for the additional grant for initiating and enforcing a LCP for which the construction contract is awarded prior to January 1, 2012, and to add new text implementing eligibility for an additional grant for the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria for Joint-Use project grant determinations based upon square footage, and includes the sentence: “The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.”

Third Paragraph after Subsection (b): It was necessary to clarify that the authority and funding for the existing additional grant for LCP applies to projects funded in whole or in part from Propositions 47 or 55 with construction contracts awarded prior to January 1, 2012, and as prescribed in Section 1859.71.4(a), and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to new SFP Regulation Section 1859.71.4(c) and (d), for qualifying projects with construction contracts awarded on or after January 1, 2012.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.125.1. Additional Type I Joint-Use Project Extra Cost Grant.

Specific Purpose of the Regulation

To clarify the authority and funding of Type I Joint-Use Project Extra Cost Grants funded in whole or in part from Propositions 47 or 55 to qualify for the additional grant for initiating and enforcing a LCP for which the construction contract is awarded prior to January 1, 2012, and to add new text implementing eligibility for an additional grant for the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria for additional Type I Joint-Use project “Extra Cost” grant funding in addition to the square footage Joint-Use Grant provided in Section 1859.125. It includes the sentence: “The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.”

Third Paragraph after Subsection (b)(2): It was necessary to clarify that the authority and funding for the existing additional grant for LCP applies to projects funded in whole or in part from Propositions 47 or 55 with construction contracts awarded prior to January 1, 2012, and as prescribed in Section 1859.71.4(a), and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to new SFP Regulation Section 1859.71.4(c) and (d), for qualifying projects with construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.145. Preliminary Apportionment Determination.

Specific Purpose of the Regulation

To clarify the authority and funding of Critically Overcrowded Schools (COS) Program preliminary apportionments funded in whole or in part from Propositions 47 or 55 to qualify for the additional grant for initiating and enforcing a LCP for which the construction contract is awarded prior to January 1, 2012, and to add new text implementing eligibility for an additional grant for the costs of the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria under the COS Program to determine preliminary apportionments, including the sentence: “The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.”

First Paragraph after Subsection (j): It was necessary to clarify that the authority and funding for the existing additional grant for LCP applies to projects funded in whole or in part from Propositions 47 or 55 with construction contracts awarded prior to January 1, 2012, and as prescribed in Section 1859.71.4(a), and to add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, pursuant to

new SFP Regulation Section 1859.71.4(c) and (d), for qualifying projects with construction contracts awarded on or after January 1, 2012. (Proposition 47, the Kindergarten-University Public Education Facilities Bond Act of 2002, and Proposition 55, the Kindergarten-University Public Education Facilities Bond Act of 2004, required State bond-funded school projects to have an approved LCP.)

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

Specific Purpose of the Regulation

To clarify the authority and funding of Preliminary Charter School New Construction apportionments to qualify for the existing additional grant for LCPs for projects with construction contracts awarded prior to January 1, 2012, and to add new subsections implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To specify guidance to charter schools paying their matching share through the form of lease payments pursuant to Regulation Section 1859.168 based upon the value of the lease as determined by the California School Finance Authority.

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria for eligible construction and site acquisition costs for preliminary charter school new construction apportionment determinations, including a cost factor for the amount to initiate and enforce a labor compliance program if required by the Labor Code.

Introductory Sentence: It was necessary through strikethrough and underline to delete that this Apportionment would be determined from two categories, and insert “determined as follows,” because the amendments add a third category for determining the Apportionment.

Subsection (a), line 1: It was necessary to change “(1) through (9) below” to “(1) through (8) below” because subsection (a)(9) is deleted by the amendments and restated in new subsection (c). This is a non-substantive change to maintain the numerical sequence of this Section and the SFP Regulations.

Subsection (a)(9): It was necessary to delete this cost component for initiating and enforcing a LCP in order to restate it in new subsection (c).

Subsection (a)(10): It was necessary to renumber this subsection as (a)(9) because the preceding subsection was deleted by these regulatory amendments. It was also necessary to change “(1) through (9) above” to “(1) through (8) above” because the preceding subsection was deleted by the amendments. These are non-substantive changes to maintain the numerical sequence of this Section and the SFP Regulations.

New subsection (c): It was necessary to add this subsection to set forth the alternative cost components for:

- (1) 50 percent of the amount to initiate and enforce a LCP for construction contracts awarded prior to January 1, 2012 as prescribed in Section 1859.71.4(a) if required by the Labor Code or
- (2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs for construction contracts awarded on or after January 1, 2012 as prescribed in Section 1859.71.4(c) if required by the Labor Code, and
- (3) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the California School Finance Authority attributable to either (1) or (2) above, as applicable.

Subsection (c): It was necessary to renumber this subsection as “(d)” because of the new subsection (c) added above. This is a non-substantive change to maintain the numerical sequence of this Section and the SFP Regulations. It was necessary to change the Preliminary Charter School Apportionment amount from the total of (a) and (b) to the total of (a), (b), and (c) because the cost components of new subsection (c) are authorized by law to be included.

New Subsection (e): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (f): It was necessary to require school districts that fail to meet the requirements in subsection (d) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (g): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (f), if the DIR revokes approval of the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.163.5. Preliminary Charter School Rehabilitation Apportionment Determination.

Specific Purpose of the Regulation

To clarify the authority and funding of Preliminary Charter School Rehabilitation apportionments to qualify for the existing additional grant for LCPs for projects with construction contracts awarded prior to January 1, 2012, and to add new subsections implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To specify guidance to charter schools paying their matching share through the form of lease payments pursuant to Regulation Section 1859.168 based upon the value of the lease as determined by the California School Finance Authority.

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria for eligible construction and site acquisition costs for preliminary charter school rehabilitation apportionment determinations, including a cost factor for the amount to initiate and enforce a labor compliance program if required by the Labor Code.

Second Paragraph, line 2: It was necessary to change “determined in (a) through (g) below” to “determined in (a)(1) through (a)(6) and (b) below” because of the renumbering of the subsections and deletion of subsection (g) by these regulatory amendments, plus the inclusion of new subsection (b) to add the alternative cost components for initiating and enforcing a LCP or initiating the DIR prevailing wage monitoring and enforcement service. This is a non-substantive change to maintain the numerical references of this Section and the SFP Regulations.

Subsections (a) through (f): It was necessary to re-letter and renumber 22 existing consecutive subsections in order to make them all part of subsection (a). These are non-substantive changes to maintain the numerical references of this Section and the SFP Regulations. It was necessary to change 17 letter and number references within the text of these subsections to reflect their new letters and numbers. These are non-substantive changes to maintain the numerical references of this Section and the SFP Regulations.

Subsection (g): It was necessary to delete this cost component for initiating and enforcing a LCP in order to restate it in new subsection (b).

Subsection (h): It was necessary to renumber this subsection as (7) in order to make it part of subsection (a). This is a non-substantive change to maintain the numerical references of this Section and the SFP Regulations. It was also necessary to change two letter and number references within the text of this subsection to reflect the re-lettering and renumbering of 22 preceding subsections and the deletion of former subsection (g). These are non-substantive changes to maintain the numerical references of this Section and the SFP Regulations.

New subsection (b): It was necessary to add this subsection to set forth the alternative cost components for:

(1) 50 percent of the amount to initiate and enforce a LCP for construction contracts awarded prior to January 1, 2012 as prescribed in Section 1859.71.4(a) if required by the Labor Code or

(2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs for construction contracts awarded on or after January 1, 2012 as prescribed in Section 1859.71.4(c) if required by the Labor Code, and

(3) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the California School Finance Authority attributable to either (1) or (2) above, as applicable.

First Paragraph after Subsection (b): It was necessary to change “determined in (a) and (e)” to “determined in (a)(1) and (a)(5)” because those subsections were re-lettered and renumbered by these regulatory amendments. This is a non-substantive change to maintain the numerical references of this Section and the SFP Regulations.

New Subsection (c): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (d): It was necessary to require school districts that fail to meet the requirements in subsection (d) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (e): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (d), if the DIR revokes approval of the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

Section 1859.193. Career Technical Education Facilities Grant Determination.

Specific Purpose of the Regulation

To add the authority and funding of Career Technical Education Facilities Program (CTEFP) apportionments to qualify for the prevailing wage monitoring and enforcement cost component of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations.

Need for the Regulation

This Section sets forth the criteria under the CTEFP to determine grants to local educational agencies/school districts for constructing qualifying new facilities, or modernizing or reconfiguring existing school buildings. The proposed emergency amendments add new subsections allowing CTEFP projects to qualify for the new additional grant for prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), for public works projects awarded on or after January 1, 2012.

New Subsection (a)(1)(C): It was necessary to add the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), for public works projects awarded on or after January 1, 2012, as an additional component for determining the CTEFP grant amount, in order to apply this provision of AB 436 to this school bond-funded Program.

Subsection (a)(1)(D): It was necessary to re-letter this subsection as “(D)” because of the new subsection (C) immediately preceding it. This is a non-substantive change to maintain the numerical sequence of this Section and the SFP Regulations.

New Subsection (a)(4): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (a)(5): It was necessary to require school districts that fail to meet the requirements in subsection (a)(4) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (a)(6): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (a)(5), if the DIR revokes approval of the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

New Subsection (b)(1)(D): It was necessary to add the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), for public works projects awarded on or after January 1, 2012, as an additional component for determining the CTEFP grant amount, in order to apply this provision of AB 436 to this school bond-funded Program.

New Subsection (b)(5): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and

enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (b)(6): It was necessary to require school districts that fail to meet the requirements in subsection (b)(5) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board's finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (b)(7): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (b)(6), if the DIR revokes approval of the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

New Subsection (c)(1)(C): It was necessary to add the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), for public works projects awarded on or after January 1, 2012, as an additional component for determining the CTEFP grant amount, in order to apply this provision of AB 436 to this school bond-funded Program.

New Subsection (c)(5): It was necessary to set forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b).

New Subsection (c)(6): It was necessary to require school districts that fail to meet the requirements in subsection (c)(5) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board's finding. It was necessary that the rate of interest to be paid upon returning State bond funds be the higher of the rate paid on moneys in the Pooled Money Investment Account or the highest rate of interest for the most recent issue of State general obligation bonds pursuant to the State General Obligation Bond Law, Government Code Section 16720 et seq.

New Subsection (c)(7): It was necessary to require school districts to return to the State all State funding for a project, including interest as described in subsection (c)(6), if the DIR revokes approval of the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred. This is because the law prior to January 1, 2012 required a DIR-approved LCP (Labor Code Section 1771.7) as a condition of a school construction project receiving State bond funding, and if that DIR approval were to cease, the school district would then have to comply with the current requirement in law (Labor Code Section 1771.3), which would be to utilize the DIR prevailing wage monitoring and enforcement service.

Reference Sections: It was necessary to add Education Code Section 17250.30 and Labor Code Section 1771.3 to the list of reference citations because they are authoritative provisions of AB 436.

SCHOOL FACILITY PROGRAM FORMS

Application for Funding, Form SAB 50-04 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To amend an existing certification to clarify that the requirement to initiate and enforce a LCP for projects funded from Propositions 47 or 55 (Labor Code Section 1771.7) applies to projects with construction contracts awarded before January 1, 2012.

To add a certification that applicants agree: 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b); and 2) that an applicant failing to meet this requirement will be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-04 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current State Allocation Board (SAB) Forms.

Page 5, Specific Instructions, Column 1, Section 16.a.: It was necessary to clarify that applicants should submit the date(s) for more than one construction contract for eligible project(s), if applicable, and to attach a separate listing if more space is needed. These are non-substantive changes to facilitate submitting necessary information. It was necessary to change the date the contract was “signed” to the date the contract was “awarded” because AB 436 applies to State bond-funded projects with construction contracts “awarded” on or after January 1, 2012.

Page 5, Specific Instructions, Column 1, Section 16.b.: It was necessary to clarify that applicants should submit the date(s) for more than one Notice to Proceed, if applicable. This is a non-substantive change to facilitate submitting necessary information.

Page 5, Specific Instructions, Column 1, Section 16.c.: It was necessary to add this new subsection to clarify the eligibility criteria to request the additional grant for the cost of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012 (Labor Code Section 1771.7), in order to distinguish it from Section 17, which sets forth the criteria for the additional grant for the costs of implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

Page 5, Specific Instructions, Column 1, Section 17. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Prevailing Wage Monitoring and Enforcement Costs” because these amendments set forth the criteria for the additional grant for the costs of implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436.

Page 5, Specific Instructions, Column 1, Section 17.: It was necessary to delete the text of this Section regarding initiating and enforcing LCPs because these amendments have relocated that criteria to Section 16. It was necessary to add the criteria for the prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement the legislation and distinguish it from the previously applicable LCP criteria set forth in Section 16.

Page 7, Column 2, Section 16.a.: It was necessary for this data field to clarify that applicants should submit the date(s) for more than one construction contract, if applicable, and to attach a separate listing if more space is needed. These are non-substantive changes to facilitate submitting necessary information. It was necessary to change the date the contract was “signed” to the date the contract was “awarded” because AB 436 applies to State bond-funded projects with construction contracts “awarded” on or after January 1, 2012.

Page 7, Column 2, Section 16.b.: It was necessary to clarify that applicants should submit the date(s) for more than one Notice to Proceed, if applicable. This is a non-substantive change to facilitate submitting necessary information.

Page 7, Column 2, Section 16.c.: It was necessary to add this new subsection to clarify the criteria for initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012 (Labor Code Section 1771.7), in order to distinguish it from Section 17, which sets forth the criteria for the prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012.

Page 8, Column 1, Section 17. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Prevailing Wage Monitoring and Enforcement Costs” because these amendments set forth the criteria for the prevailing wage monitoring and enforcement requirements for projects with construction contracts awarded on or after January 1, 2012.

Page 8, Column 1, Section 17.: It was necessary to set forth the criteria for the additional grant for the DIR prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement the legislation and distinguish it from the previously applicable LCP criteria set forth in Section 16.

Page 9, Certifications, Column 2, Bullet #8: It was necessary to change “has or will initiate and enforce” to “has initiated and enforced” because this reference to having a LCP under Labor Code Section 1771.7 applied prior to January 1, 2012. “Labor Compliance Program” is shortened to “LCP” and “Department of Industrial Relations” is shortened to “DIR” because these Program and Agency acronyms were identified earlier in this document.

Page 9, Certifications, Column 2, Bullet #9: It was necessary to add a new certification to verify that applicants agree to the requirement to contract with the DIR for prevailing wage monitoring and enforcement services, for State bond-funded projects with construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to hold applicants accountable in complying with the law. It was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Fund Release Authorization, Form SAB 50-05 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add a certification that applicants agree 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b); and 2) that an applicant failing to meet this requirement would be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-05 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current SAB Forms.

Page 1, General Information, Column 1, Second Paragraph #1.: It was necessary to change “Parts IV and/or VI” to “Parts V and/or VII” in order to refer to the intended sections. This is a non-substantive change to correct an inadvertent oversight from an earlier regulatory action.

Page 1, General Information, Column 1, Second Paragraph #3.: It was necessary to clarify the criteria for projects required to initiate and enforce LCPs for projects with construction contracts awarded prior to January 1, 2012 (Labor Code Section 1771.7), in order to distinguish it from the criteria in new #4 for the DIR prevailing wage monitoring and enforcement requirements for projects with construction contracts awarded on or after January 1, 2012.

Page 1, General Information, Column 1, Second Paragraph New #4.: It was necessary to require document submittal that a school district has notified the DIR to initiate the prevailing wage monitoring and enforcement service for projects with construction contracts awarded on or after January 1, 2012. This notification alerts the DIR’s Compliance Monitoring Unit (CMU) to provide the service for the construction project. If the construction contract was awarded between January 1, 2012 and July 1, 2012, the district may submit a copy of the notice it sent to the DIR with proof of mailing in lieu of the DIR acknowledgement of receipt; this is to facilitate districts proving their compliance in the startup months of the DIR’s service. However, for construction contracts awarded after July 1, 2012, districts must submit the DIR receipt of the district’s notice. Further, it was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used only in compliance with State law.

Page 1, General Information, Column 1, Second Paragraph #5.: It was necessary to renumber this subparagraph as “5” because a new numbered paragraph (#4) was added. This is a non-substantive change to maintain the numerical sequence of this Form. It was necessary to change “Part IV” to “Part V” in order to refer to the intended section. This is a non-substantive change to correct an inadvertent oversight from an earlier regulatory action.

Page 1, Specific Instructions, Column 2, Part V.c.: It was necessary to change “project” to “project(s)” to clarify that applicants should submit the date for the Notice to Proceed for more than one project, if applicable. This is a non-substantive change to facilitate submitting necessary information.

Page 1, Specific Instructions, Column 2, Part V.d.: It was necessary to change “Signature date of the initial construction contract” to “Award date(s) of the construction contract(s)” because AB 436 applies to projects with construction contracts “awarded” on or after January 1, 2012, and because projects might have more than one award date and more than one construction contract. It was necessary to advise attaching a separate listing if more space was needed. This is a non-substantive change to facilitate submitting necessary information.

Page 2, Column 2, Part V. Box #2: It was necessary to change “Notice to Proceed” to “Notice(s) to Proceed,” and to change “contract” to “contracts” because projects might have more than one Notice to Proceed and more than one construction contract. It was also necessary to change “signed” to “awarded” because AB 436 applies to projects with construction contracts “awarded” on or after January 1, 2012. Further, it was necessary to advise attaching a separate listing if more space was needed. This is a non-substantive change to facilitate submitting necessary information.

Page 3, Certifications, Bullet #8: It was necessary to change “will enforce” to “enforced” because this reference to having a LCP under Labor Code Section 1771.7 applied prior to January 1, 2012. AB 436 and Labor Code Section 1771.3 superseded this LCP requirement for State bond-funded projects with construction award dates on or after January 1, 2012. “Department of Industrial Relations” is shortened to “DIR” because this Agency is identified with this acronym earlier in the Form.

Page 3, Certifications, New Bullet #9: It was necessary to add a new certification to verify that applicants agree to the requirement to contract with the DIR for prevailing wage monitoring and enforcement services, for State bond-funded projects with construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to hold applicants accountable in complying with the law. It was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Page 3, Bottom of Page, Signature Block: It was necessary to add “or JPA” (Joint Powers Authority) to the signature block for the submitter’s signature because JPAs are authorized to sign and submit the Form (in addition to school districts).

Page 3, Bottom of Page, Data Fields: It was necessary to add these data fields for the printed name of the district or JPA representative, his or her title, e-mail address and telephone number, in order to facilitate identifying and communicating with the applicant.

Application for Joint-Use Funding, Form SAB 50-07 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To amend an existing certification to clarify that the requirement to initiate and enforce a LCP for projects funded from Propositions 47 or 55 (Labor Code Section 1771.7) applies to projects with construction contracts awarded prior to January 1, 2012.

To add to the certifications that an applicant failing to meet the requirements for contracting with the DIR for prevailing wage monitoring and enforcement service for a project funded from State bond funds would be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-07 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current SAB Forms.

Page 2, Specific Instructions, Column 1, Section 12.(a): It was necessary to clarify that applicants should submit the date(s) for more than one construction contract for eligible project(s), if applicable, and to attach a separate listing if more space is needed. These are non-substantive changes to facilitate submitting necessary information. It was also necessary to change the date the contract was “signed” to the date the contract was “awarded” because AB 436 applies to State bond-funded projects with construction contracts “awarded” on or after January 1, 2012.

Page 2, Specific Instructions, Column 1, Section 12.(c): It was necessary to add this new subsection to clarify the eligibility criteria to request the additional grant for the cost of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012 (Labor Code Section 1771.7), in order to distinguish it from Section 13, which sets forth the criteria for the additional grant for the costs of implementing the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

Page 2, Specific Instructions, Column 1, Section 13. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Prevailing Wage Monitoring and Enforcement Costs” because this Section specifically addresses the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for projects with construction costs awarded on or after January 1, 2012.

Page 2, Specific Instructions, Column 1, Section 13.: It was necessary to delete the text of this Section regarding initiating and enforcing LCPs because these amendments have relocated that criteria to Section 12. It was also necessary to add the criteria for the prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement the legislation and distinguish it from the previously applicable LCP criteria set forth in Section 12.

Page 3, Column 2, Section 12.a.: It was necessary for this data field to change the date the contract was “signed” to the date the contract was “awarded” because AB 436 applies to State bond-funded projects with construction contracts “awarded” on or after January 1, 2012.

Page 3, Column 2, Section 12.c.: It was necessary to add this new field to clarify the criteria for initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012 (Labor Code Section 1771.7), in order to distinguish it from Section 13, which sets forth the criteria for the prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012.

Page 3, Column 2, Section 13. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Prevailing Wage Monitoring and Enforcement Costs” because this Section specifically addresses the prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for projects with construction contracts awarded on or after January 1, 2012.

Page 3, Column 2, Section 13.: It was necessary to set forth the criteria for the additional grant for the DIR prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement the legislation and distinguish it from the previously applicable LCP criteria set forth in Section 12.

Page 4, Certifications, Column 2, Bullet #9: It was necessary to change “has or will initiate and enforce” to “has initiated and enforced” because this reference to having a LCP under Labor Code Section 1771.7 applied prior to January 1, 2012.

Page 4, Certifications, Column 2, Bullet #10: It was necessary to add a new certification to verify that applicants agree to the requirement to contract with the DIR for prevailing wage monitoring and enforcement services for State bond-funded projects with construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to hold applicants accountable in complying with the law. It was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Application for Preliminary Apportionment, Form SAB 50-08 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To amend an existing certification to clarify that the requirement to initiate and enforce a LCP for projects funded from Propositions 47 or 55 (Labor Code Section 1771.7) applies to projects with construction contracts awarded prior to January 1, 2012.

To add a certification that applicants agree: 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b); and 2) that an applicant failing to meet this requirement would be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-08 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current SAB Forms.

Page 2, Specific Instructions, Column 2, new Section 9.: It was necessary to add the criteria for the DIR prevailing wage monitoring and enforcement requirements pursuant to Labor Code Section 1771.3 in order to implement SB X2 9 as amended by AB 436.

Page 2, Specific Instructions, Column 2, Section 10.: It was necessary to renumber this Section as “10” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 2, Specific Instructions, Column 2, Section 11.: It was necessary to renumber this Section as “11” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 2, Specific Instructions, Column 2, Section 12.: It was necessary to renumber this Section as “12” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 2, Specific Instructions, Column 2, Section 13.: It was necessary to renumber this Section as “13” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 3, Column 2, new Section 9.: It was necessary to set forth the criteria for the additional grant for the DIR prevailing wage monitoring and enforcement requirements pursuant to Labor Code Section 1771.3, in order to implement SB X2 9 as amended by AB 436 and to verify that applicants are complying with the law when requesting the State to partner on their project(s).

Page 3, Column 2, Section 10.: It was necessary to renumber this Section as “10” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 3, Column 2, Section 11.: It was necessary to renumber this Section as “11” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 3, Column 2, Section 12.: It was necessary to renumber this Section as “12” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 4, Certification, Column 1, Section 13.: It was necessary to renumber this Section as “13” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 4, Certifications, Column 2, last bullet: It was necessary to delete the existing text pertaining to the previous requirement for LCPs, and to add new language that applicants agree: 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b), in order to hold applicants accountable in complying with the law; and 2) that an applicant failing to meet this requirement would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Application for Charter School Preliminary Apportionment, Form SAB 50-09 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction

contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To amend an existing certification to clarify that the requirement to initiate and enforce a LCP for projects funded from Propositions 47 or 55 (Labor Code Section 1771.7) applies to projects with construction contracts awarded prior to January 1, 2012.

To add a certification that applicants agree: 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b); and 2) that an applicant failing to meet this requirement would be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-09 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current SAB Forms.

Page 2, Specific Instructions, Column 2, Section 8. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Project Progress Dates” because the existing title may not pertain to the LCP if the project construction contracts were awarded on or after January 1, 2012.

Page 2, Specific Instructions, Column 2, Section 8.: It was necessary to delete the existing text and add new subsections a., b. and c. to require submittal of construction contract award dates, Notice to Proceed date, and whether required LCPs were initiated and enforced in order to ensure applicants are/were complying with State law and that State bond funds are/were used in compliance with State law.

Page 3, Specific Instructions, Column 1, new Section 9.: It was necessary to add this Section to set forth the criteria for the DIR prevailing wage monitoring and enforcement requirements pursuant to Labor Code Section 1771.3 in order to implement SB X2 9 as amended by AB 436 and to verify that Form applicants are in compliance with the law.

Page 3, Specific Instructions, Column 1, Section 10.: It was necessary to renumber this Section as “10” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 3, Specific Instructions, Column 1, Section 11.: It was necessary to renumber this Section as “11” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 3, Specific Instructions, Column 1, Section 12.: It was necessary to renumber this Section as “12” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 4, Column 2, Section 8. Title: It was necessary to change the title of this Section from “Labor Compliance Program” to “Project Progress Dates” because the existing title may not pertain to the LCP if the project construction contracts were awarded on or after January 1, 2012.

Page 4, Column 2, Section 8.: It was necessary to delete the previous text and add new subsections a., b. and c. to require submittal of construction contract award dates, Notice to Proceed date, and whether required LCPs were initiated and enforced in order to ensure applicants are/were complying with State law and that State bond funds are/were used in compliance with State law.

Page 4, Column 2, new Section 9.: It was necessary to add this Section by setting forth the criteria for the DIR prevailing wage monitoring and enforcement requirements pursuant to Labor Code Section 1771.3, in order to implement SB X2 9 as amended by AB 436 and to verify that applicants are in compliance with the law.

Page 5, Column 1, Section 10.: It was necessary to renumber this Section as “10” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 5, Column 1, Section 11.: It was necessary to renumber this Section as “11” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 5, Column 2, Section 12.: It was necessary to renumber this Section as “12” because a new numbered Section (Section 9) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 6, Certifications, Column 1, Bullet #6: It was necessary to change “has or will initiate and enforce” to “has initiated and enforced” because this reference to having a LCP under Labor Code Section 1771.7 applied prior to January 1, 2012. “Labor Compliance Program” is shortened to “LCP” and “Department of Industrial Relations” is shortened to “DIR” because this Program and Agency are identified with these acronyms earlier in this document. It was necessary to add “if the project is funded from Propositions 47 or 55 and the Notice to Proceed for the construction phase of the project is issued on or after April 1, 2003, and before January 1, 2012” because these are the applicable Propositions and dates for charter schools, and because AB 436 and Labor Code Section 1771.3 superseded this LCP requirement for State bond-funded projects with construction award dates on or after January 1, 2012.

Page 6, Certifications, Column 1, Bullet #7: It was necessary to add a new certification to verify that applicants agree to the requirement to contract with the DIR for prevailing wage monitoring and enforcement services for State bond-funded projects with construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3), in order to hold applicants accountable in complying with the law. It was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Application for Career Technical Education Facilities Funding, Form SAB 50-10 (Revised 12/11).

Specific Purpose of the Form

To provide instructions, qualifying criteria, data fields, and authority under the Labor Code to request additional grants for the costs of initiating and enforcing LCPs for projects with construction contracts awarded prior to January 1, 2012, or for the costs of implementing the DIR prevailing wage monitoring and enforcement requirements of SB X2 9 as amended by AB 436, for construction contracts awarded on or after January 1, 2012.

To add a certification that applicants agree 1) to contract with the DIR for prevailing wage monitoring and enforcement service for State bond-funded projects with construction contracts awarded on or after January 1, 2012, unless the requirement is waived pursuant to Labor Code Section 1771.3(b); and 2) that an applicant failing to meet this requirement would be required to repay all the State bond funds received including interest.

Need for the Form

Heading on All Pages: It was necessary to change the revision date of Form SAB 50-10 to “12/11” for the purpose of continuity of the SFP Regulations and so that applicants can file the most current SAB Forms.

Page 2, Specific Instructions, Column 1, Section 12.: It was necessary to delete the previous text and add new subsections a. and b. to require submittal of construction contract award dates, to list all dates on a separate attachment if additional space is needed, and to submit the date for the Notice to Proceed for the construction phase of the project, in order to ensure applicants are complying with State law and that State bond funds are used in compliance with State law.

Page 2, Specific Instructions, Column 1, New Section 13.: It was necessary to add this Section to set forth the criteria for the DIR prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement SB X2 9 as amended by AB 436 and to ensure applicants are complying with State law and that State bond funds are used in compliance with State law.

Page 3, Column 2, Section 12.: It was necessary to add the parenthetical sentence that if the space provided is not sufficient, to list all the dates on a separate attachment. This sentence is consistent with other SAB forms and is a non-substantive change to facilitate submitting necessary information.

Page 3, Column 2, new Section 13.: It was necessary to add this Section by setting forth the criteria for the DIR prevailing wage monitoring and enforcement requirements for construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to implement SB X2 9 as amended by AB 436, and to ensure applicants are complying with State law and that State bond funds are used in compliance with State law.

Page 3, Column 2, Section 14.: It was necessary to renumber this Section as “14” because a new numbered Section (Section 13) was added. This is a non-substantive change to maintain the numerical sequence of this Form.

Page 4, Certifications, Column 2, Bullet #5: It was necessary to add a new certification to verify that applicants agree to the requirement to contract with the DIR for prevailing wage monitoring and enforcement services for State bond-funded projects with construction contracts awarded on or after January 1, 2012 (Labor Code Section 1771.3) in order to hold applicants accountable in complying with the law. It was necessary to add that an applicant failing to meet these requirements would be required to repay all the State bond funds received including interest, in order to ensure that State bond funds were used in compliance with State law.

Technical Documents Relied Upon

The State Allocation Board’s Action item, dated December 14, 2011, entitled “Prevailing Wage Monitoring Proposed Regulations.”

The Economic Impact Assessment prepared pursuant to Government Code Section 11346.3(b).

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulations do not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulations will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulations, nor will they benefit from or be disadvantaged by the regulations.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. They will not require local agencies, school districts or charter schools to incur additional costs in order to comply with the proposed regulations.