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September 19, 2017

Hilary Malawer
U.S. Department of Education
400 Maryland Avenue SW
Room 6E231
Washington, DC 20202

RE: DEPARTMENT OF EDUCATION, 34 CFR Subtitle A and Chapters I Through VII [Docket ID: ED–2017–OS–0074] Evaluation of Existing Regulations

Dear Ms. Malawer:

This letter provides feedback with respect to regulations and procedures implementing the Credit Enhancement for Charter School Facilities Program.

By way of background, I am an independent registered municipal advisor engaged almost exclusively in structuring facilities financing for charter public schools. I have represented over 15 different charter schools on over $800 million of transactions, some of which have involved USDOE Credit Enhancements.

In response to your request for public feedback on Department regulations and guidance pertaining to charter schools, I offer the following:

1. The "metric" for determining leverage of grant funds should be carefully selected to (i) avoid unnecessary incentives in favor of specific financing structures and (ii) ensure accurate reflection of the true outcomes of each supported financing. This is particularly important when multiple grantees are involved in a single financing. A numeric example:

| | Option A | Option B |
|---|---|---|
| Senior Loan | $8,000,000* | $7,000,000 |
| Junior Loan | $0 | $1,000,000* |
| School Equity | $2,000,000 | $2,000,000 |
| Total Funding | $10,000,000 | $10,000,000 |

* Enhanced with $1,000,000 cash guaranty sourced from USDOE grant funds.

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This numeric example identifies two financing structures which both result in the School obtaining $8,000,000 of debt to fund a $10,000,000 project (there are many more variations that would work as well). Option A, where an $8,000,000 loan is directly enhanced with $1,000,000, should NOT receive a better "grade" than Option B where a $1,000,000 loan is directly enhanced with $1,000,000—both result in a total of $8,000,000 financing for a $10,000,000 project. Both effectively get 8:1 leverage through different structures.

In this example if multiple grantees participate with $500,000 each, the total financing leverage is still 8:1, it should not be deemed to be 16:1 for each grantee.

**Recommendation: the school/borrower and grant recipient should be free to select a structure which provides the lowest overall cost of capital rather than being incentivized to select a structure which provides a better "grade" for the grant recipient**.

2. The numeric example Option B incorporates a Junior Loan of $1,000,000 directly enhanced with $1,000,000 grant funds. In my experience, the lowest cost of capital is often obtained with this structure. However, the Junior Lender, despite the existence of cash collateral, typically adds a "spread" (profit) of 100 bps to 300 bps over the cost of funds, which spread and cost of funds contribute to the overall cost of capital paid by the school/borrower (in addition to any guaranty fees imposed by the grant recipient). The cost of this spread and cost of funds could be virtually eliminated if the grant funds were **loaned directly to the borrower rather than used as cash collateral**. In my experience, the cost of capital for the school/borrower would be minimized if the grant funds could be loaned directly to the borrower.

**Recommendation: the regulations should allow grant funds to be used to directly make loans (which otherwise would have been credit enhanced)**.

As a strong supporter of charter public schools and the Credit Enhancement for Charter School Facilities Program, I would be pleased to meet with you to discuss these comments and/or provide additional feedback which might benefit the program and public schools.

Please feel free to contact me at (888) 236-6757 if you have any questions.

Best regards,

Dwight E. Berg

Dwight E. Berg, P.E.

cc: Stefan Huh, Director, Charter Schools Programs