

Detailed Section by Section List of Changes to the Regulations

| Old Regulations Section | New Regulations Section | Change |
|-------------------------|-------------------------|---|
| 2.01 | 2.01 | Added – 2.01 (2) “The provisions of 963 CMR 2.00 are intended to govern the relationship between the Authority and all the cities, towns, regional school districts, and independent agricultural and technical schools with respect to such projects and are not intended to confer rights, enforcement prerogatives, or causes of action on third parties, including contractors, abutters, or members of the general public.” |
| 2.02 | 2.02 | <p>Added terms and definitions to reflect current MSBA practices:</p> <ul style="list-style-type: none"> • Accelerated Repair Program • Core Program • Model School Program • Owner’s Project Manager • Post Occupancy Evaluation <p>Edited terms and definitions to clarify current MSBA practices:</p> <ul style="list-style-type: none"> • Design and Educational Program • Green Schools Guidelines • MSBA Space Standards and Guidelines (changed from MSBA Educational Program Space Standards and Guidelines) • Progress Payments • Proposed Project |
| 2.07 (3) | 2.03 (2) | Moved - “A Proposed Project for which the estimated total budget is less than \$250,000, as determined by the Authority, shall not be eligible for approval by the Authority as an Approved Project and the Authority shall have no obligation to provide a review of a Statement of Interest or any Application materials for said Proposed Project, and any Application materials submitted by the Eligible Applicant shall not warrant further consideration.” |
| 2.03 (2) | 2.03 (3) | <p>“The Eligible Applicant shall certify for any project for which a Total Facilities Grant is sought from the Authority; that the Authority’s Initial Compliance Certification requirements have been or will be met, including, but not limited to the following:”</p> <p>Edited to –</p> <p>“For any proposed project for which a Total Facilities Grant is requested from the Authority, the Eligible Applicant shall certify that the following requirements have been or will be met. Such certifications shall be in a format and manner that is acceptable to the Authority.”</p> |

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| Old Regulations Section | New Regulations Section | Change |
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| 2.03 (3) (c) | 2.03 (3) (d) | Moved - "The Eligible Applicant shall be current on any payments which it may owe to the Authority." |
| 2.03 (3) (c) | 2.03 (3) (e) | Moved - "The Eligible Applicant shall have submitted all documentation or information required or requested by the Authority." |
| 2.03 (3) (d) – 2.03 (3) (q) | 2.03 (3) (f) – 2.03 (3) (s) | Adjusted lettering after new subsections were added |
| 2.03 (3) | 2.03 (3) | <p>New subsections added -</p> <p>(t) "All Eligible Applicants within the Core Program shall review the Authority's Collaborative Purchasing Program to assess whether this Program is beneficial to the District."</p> <p>(u) "All Eligible Applicants within the Core Program shall review the Model School Program and investigate whether a Model School should be studied during Feasibility Study."</p> <p>(v) "The Authority may require that the Eligible Applicant make additional certifications related to a proposed project. Such certifications shall be provided in a format and manner that is acceptable to the Authority."</p> |
| 2.17 (1) | 2.03 (4) (a) | No substantive changes |
| 2.19 | 2.03 (5) (a) and 2.03 (5) (b) | No substantive changes |
| 2.20 | 2.03 (6) | <p>"The Authority may, upon written application in a format prescribed by the Authority and with the written recommendation of the Executive Director to the Board, grant a waiver of any of the requirements of 963 CMR 2.00."</p> <p>Edited to –</p> <p>"The Authority may, at its sole discretion and upon written application in a format prescribed by the Authority and with the written recommendation of the Executive Director to the Board, grant a prospective or retroactive waiver of any of the requirements of 963 CMR 2.00, subject to any conditions the Board may see fit to impose. The grant of any such waiver shall not entitle the same or any other applicant to the same or similar waiver relief."</p> |

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| 2.21 | 2.03 (7) | <p>2.03 (2) "If the Authority determines that said facility that will be sold, leased or removed from service is an Assisted Facility or was an Assisted Facility that has received a payment from the Authority or the Commonwealth, but has not met the 50-year service requirement, the Authority may recapture a portion of the financial assistance that said Assisted Facility has received."</p> <p>Edited to –</p> <p>2.03 (7) (b) "If the Authority determines that said facility that will be sold, leased or removed from service is an Assisted Facility or was an Assisted Facility that has received a payment from the Authority or the Commonwealth, but has not met the 50-year service requirement, the Authority may recapture a portion of the financial assistance that said Assisted Facility has received. In its sole discretion, the Authority may apply a 20-year service requirement to Accelerated Repair Program projects or other projects."</p> |
| 2.10 | 2.04 | <p>Added - #4 and #5 in this section</p> |

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| Old Regulations Section | New Regulations Section | Change |
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| 2.09 | 2.05 | <p>(1) "To be considered by the Authority in any Fiscal Year for approval of a Proposed Project for a Total Facilities Grant, an Eligible Applicant shall submit a Statement of Interest to the Authority by no later than July 31st of the Fiscal Year in which approval is being sought, unless otherwise agreed in writing by the Authority prior to said July 31st date or unless the Eligible Applicant has submitted an Emergency Statement of Interest pursuant to 963 CMR 2.09(6). Any Statement of Interest which is received after July 31st or is not completed to the satisfaction of the Authority may be considered by the Authority in a subsequent Fiscal Year."</p> <p>Edited to -</p> <p>(1) "To be considered by the Authority to participate in the Authority's grant program, an Eligible Applicant shall submit a Statement of Interest to the Authority according to the schedule set by the Authority or in accordance with the Emergency Statement of Interest process set forth in 963 CMR 2.05 Any Statement of Interest which is received after the deadline established by the Authority or which is not completed to the satisfaction of the Authority may not be considered by the Authority during that Statement of Interest assessment period ."</p> <p>Added - #2 in this section</p> |
| 2.10 (5) | 2.05 (7) | <p>Edited – "Educational Facilities Master Plan" to "Educational Facilities Capital Plan"</p> <p>Added – subsection c</p> |
| 2.10 | 2.06 | No substantive changes |
| 2.10 (3) | 2.06 (2) (b) | <p>Removed – ii. "...to provide advice relative to the effect of the Proposed Project on the community and to examine a building design and construction in terms of its constructability."</p> <p>Removed – v. "...past performance of the school building committee, the building committee, whether temporary or permanent, or any other committee responsible for the oversight, management, or administration of the construction of public buildings, the composition of the school building committee, and qualifications of its individual members, the powers and duties of the school building committee; and the school building committee's procedures for conducting its meetings; and"</p> |

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| | 2.06 (2) (c) | Added – new subsection “Educational Profile Questionnaire” |
| | 2.06 (2) (d) | Added – new subsection “Maintenance Summary” |
| 2.06 (2): Enrollment Projection | 2.06 (2) (e): Enrollment Certification | Section edited to reflect current MSBA policies and procedures |
| | 2.06 (2) (f) | Added – new subsection “Community Authorization” |
| | 2.06 (2) (g) | Added – new subsection “Feasibility Study Agreement” |
| | 2.06 (4) | Added – “Invitation to Feasibility Study” to further detail MSBA policies and procedures |
| 2.11 | 2.07 | (2) Removed – “All costs associated with the Owner’s Project Manager that are incurred prior to the execution of a Project Funding Agreement shall be borne exclusively by the Eligible Applicant, unless otherwise determined in writing by the Authority.” 2.11 (2) Edited to – 2.07(2)(b) |
| 2.11 (5) | 2.07 (2) (e) | Edited to reflect current MSBA policies and procedures |
| 2.12 (1) | 2.07 (3) | Edited to better reflect state law and MSBA practices |

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| Old Regulations Section | New Regulations Section | Change |
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| 2.10 (8) | 2.08 | <p>2.10 (8) (j) “The Eligible Applicant shall provide the Authority with the results of environmental assessment or assessments, if any, which the Eligible Applicant shall also make available for public review and shall provide a reasonable opportunity for public comment thereon. The Eligible Applicant shall submit to the Authority a summary of the public comments, in a format determined by the Authority, prior to the Project Scope and Budget Conference.”</p> <p>Edited to –</p> <p>2.08 (1) (j) “The Eligible Applicant shall provide the Authority with the results of environmental assessment or assessments, if any., which the Eligible Applicant shall also make available for public review and shall provide a reasonable opportunity for public comment thereon. The Eligible Applicant shall submit to the Authority a summary of the public comments, in a format determined by the Authority, prior to the Project Scope and Budget Conference. For purposes of 963 CMR § 2.08, the assessment of environmental factors is required primarily for to assess the feasibility and cost of construction and operation of a potential project to address the deficiencies identified in the Statement of Interest. The Feasibility Study may identify or consider other potential external environmental impacts (such as the effects on open space, traffic patterns, or noise levels), but is not required to do so. The requirement of a Feasibility Study and Schematic Design and related public review and comment procedures are is separate and independent of any applicable requirements of the Massachusetts Environmental Protection Act (MEPA) and MEPA regulations, including the filing of an Environmental Notification Form (ENF) and MEPA review procedures.”</p> |
| 2.10 (6) (d) | 2.08 (1) (m) | <p>Moved – “At the conclusion of the Assessment Feasibility Study, the Authority may determine that the Application does not warrant further consideration at that time, pursuant to the priority criteria established in M.G.L. c. 70B, including but not limited to M.G.L. c. 70B, §§ 6, 8, and 9(a).”</p> |
| | 2.08 (1) (n) | <p>Subsection added to clarify MSBA policies and procedures</p> |

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| Old Regulations Section | New Regulations Section | Change |
|-------------------------|-------------------------|--|
| 2.10 (4) | 2.08 (2) | <p>(a) "If the Authority determines that the Proposed Project has been deemed to merit further consideration, the Authority may require that an Eligible Applicant submit, in the format prescribed by the Authority, a Design and Educational Program, and a Budget Statement for Educational Objectives. The Eligible Applicant shall outline the specific educational program goals for a Proposed Project and how the Eligible Applicant proposes to align those goals with the operating budget for the District and Proposed Project."</p> <p>Edited to –</p> <p>(a) "As part of the Feasibility Study phase the Eligible Applicant shall submit, in the format prescribed by the Authority, a Design and Educational Program, and a Budget Statement for Educational Objectives. The Eligible Applicant shall outline the specific educational program goals for a Proposed Project and how the Eligible Applicant proposes to align those goals with the operating budget for the District and Proposed Project."</p> <p>Removed – (b) "The following spaces shall be categorically ineligible for Authority funding: swimming pools, skating rinks, field houses (only to the same extent as gymnasias), district administrative office space, indoor tennis courts, and other spaces which may be determined ineligible by the Authority."</p> |
| | 2.08 (3) | <p>Added - "In the preferred schematic submittal, the Eligible Applicant shall notify the Authority in writing of any existing or potential site ownership, control, or use issues, including but not limited to, site issues related to eminent domain, Article 97 of the Amendments to the Massachusetts Constitution, Massachusetts Environmental Policy Act (MEPA), title easements, and lease issues. The notification shall include the Eligible Applicant's plan and timeline to resolve these issues to ensure compliance with 963 CMR 2.09(5). The existence of such site issues at the time that the Board of Directors of the Authority considers a proposed project for Project Scope and Budget approval, may result in a conditional vote and may delay the execution of the Project Funding Agreement.</p> <p>After the Eligible Applicant has concluded a feasibility study and selected a preferred schematic option, such option may be presented to the Authority's Board of Directors for approval to move to the Schematic Design phase of the Authority's grant program."</p> |

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| | 2.09 (1) | Added to clarify MSBA practices |
| 2.04 | 2.09 (2) | No substantive changes |
| 2.04 (1) | 2.09 (3) | <p>(c) "The Authority prohibits an Eligible Applicant from utilizing chlorofluorocarbon-based (CFC) refrigerants in any new system for building heating, ventilating, air conditioning, or refrigeration."</p> <p>Edited to –</p> <p>(c) "Projects shall adhere to the Authority’s Green School Program policies, and should exceed such standards when possible."</p> <p>Removed (d) "...space and provide space within the building that is dedicated to the separation, collection, and storage of materials for recycling, including, at a minimum, paper (white ledger and mixed), cardboard, glass, plastics, aluminum cans, and metals."</p> |
| 2.04 (2) | 2.09 (4) | <p>"An Eligible Applicant shall make all reasonable efforts to ensure suitable indoor air quality in an Approved Project. Without regard to any other contract provisions, an Eligible Applicant shall meet the following indoor air quality requirements, to the extent that they apply to an Approved Project, as determined by the Authority."</p> <p>Edited To –</p> <p>"An Eligible Applicant shall make all reasonable efforts to ensure suitable indoor air quality in an Approved Project. Such efforts shall include meeting the Authority’s Indoor Air Quality standards. When feasible, the Eligible Applicant shall make reasonable efforts to meet or exceed the leading indoor air quality standards"</p> <p>Removed – subsections 2.04 (2) (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k)</p> |

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| 2.05 | 2.09 (5) | <p>(1) "The site of an Approved Project shall be owned by the city, town, regional school district, or independent agricultural and technical school, or be under control of the school district or Eligible Applicant pursuant to a lease which assures the school district or the Eligible Applicant exclusive jurisdiction and control of the land for the anticipated useful life of the Approved Project to be constructed thereon.</p> <p>Edited to –</p> <p>(a) "The site of an Approved Project shall be owned by the city, town, regional school district, or independent agricultural and technical school, or be under control of the school district or Eligible Applicant pursuant to a lease which assures the school district or Eligible Applicant legal authority to control and use the Assisted Facility and Project Site, for the useful life of the Assisted Facility, to the extent required for continued operations, construction, and repair of the Assisted Facility and Project Site in a manner consistent with the proposed project submitted to the Authority. In its sole discretion, the Authority may impose additional or different requirements in circumstances where the Authority deems the site ownership to be incompatible with the foregoing regulation."</p> <p>Added - (b) "The selection of a site for a Proposed Project is a local process..."</p> <p>Added - (c) "Eligibility for a renovation project at a school facility that is currently located in a flood plain, will be evaluated by the Authority in its sole discretion on a case-by-case basis."</p> |
| 2.10 (8) | 2.09 (5) (g) | <p>Moved – "Unless otherwise required by law or regulation, the Authority may require, at its sole discretion, subsequent environmental testing be performed at a site agreed upon by the Authority and the Eligible Applicant. Said subsequent environmental testing shall, when required or appropriate, include the regulatory authority or authorities having jurisdiction or be in accordance with the requirements of said appropriate regulatory authority or authorities."</p> |

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| 2.06 | 2.09 (6) | <p>Removed – 2.06 (2) and 2.06 (3)</p> <p>2.06 (4) Edited to 2.09 (6) (b) (1) “The Authority shall authorize design plans based upon the design enrollment certification of the Proposed Project”</p> <p>2.06 (b) (4) Removed – “...not exceed 225 gross square feet per pupil and any additional programmatic requirements”</p> <p>2.09 (b) (6) (a) “Special Education Spaces. Spaces for special education classes/programs may receive special consideration at the discretion of the Authority. The gross square feet per student defined herein includes a baseline assumption that 8% of the total planned enrollment will be enrolled in separate special education programs. Notwithstanding the gross square footage maximum standards established herein, additional space consideration may be given, at the sole discretion of the Authority, if the Eligible Applicant documents and certifies to the Authority why there is a need to exceed the maximum gross square footage allowances.”</p> <p>Edited to –</p> <p>2.09 (6) (b) (5) “Special Education Spaces. Spaces for special education classes/programs may receive special consideration at the sole discretion of the Authority if the Eligible Applicant documents and certifies to the Authority why there is a need for the proposed spaces.”</p> <p>2.09 (6) (b) (6) Added – “...or for another specified amount of time that is agreed upon by the Authority in writing prior to project approval”</p> |
| Tables 1 - 3 | | Removed to reflect current MSBA policies and procedures |
| Table 4 | Table 1 | Adjusted numbering after edits |

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| 2.07 | 2.09 (7) | <p>2.07 (1) "The Authority shall develop construction and soft cost standards based upon the cost experience of recently completed and recently bid school projects, taking into account the cost effectiveness of design, construction and programming techniques utilized in such school projects. For the purposes of developing cost standards, the Authority shall, pursuant to M.G.L. c. 70B, § 9(b), develop cost standards for prototypical school components, as outlined in the MSBA Educational Program Space Standards and Guidelines."</p> <p>Edited to –</p> <p>2.09 (7) (a) "The Authority shall develop construction and soft cost standards based upon the cost experience of recently completed and recently bid school projects, taking into account the cost effectiveness of design, construction and programming techniques utilized in such school projects"</p> <p>Removed – 2.07 (3)</p> <p>2.07(7) (7) "The provisions of 963 CMR 2.00 shall not preclude an Eligible Applicant from adding additional project elements to an Approved Project, in addition to the project scope defined in the Project Scope and Budget Agreement as approved by the Authority. Any and all costs related to said additional project elements, including but not limited to, the design, construction and implementation of said additional project elements, shall be the sole responsibility of the Eligible Applicant. Project elements that exceed or diverge from the project scope detailed in the Project Scope and Budget Agreement are categorically ineligible to receive funding from the Authority. The Eligible Applicant may retain such elements only by accepting sole financial responsibility for them in writing in a format prescribed by the Authority, prior to said Eligible Applicant including such elements in any designs"</p> <p>Edited to –</p> <p>2.09 (7) (f) "The provisions of 963 CMR 2.00 shall not preclude an Eligible Applicant from adding additional project elements, any and all costs related to said additional project elements, including but not limited to, the design, construction and implementation of said additional project elements, shall be the sole responsibility of the Eligible Applicant. Project elements that exceed or diverge from the project scope detailed in the Project Scope and Budget Agreement may result in a rescission of approval by the Board and/or recapture of grant funds by the Authority"</p> |

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| 2.08 | 2.09 (8) | Removed – 2.08 (2) |
| 2.10 (9) | 2.09 (9) | <p>2.10 (9) “After completion of a Facilities Assessment, if any, and Feasibility Study, if authorized and approved by the Authority, the Authority may invite the local chief executive officer, Chair and or members of the school committee, the Chair and or members of the school building committee, the superintendent of the Eligible Applicant’s school district, a representative from the office or body that is authorized by law to construct a school building or undertake a school capital project in that city, town or regional school district, and other local officials as required by the Authority, to meet with authorized representatives of the Authority to discuss proposed solutions to the issues identified through the Statement of Interest, verified by the Facilities Assessment, if any, and analyzed in the Feasibility Study. The Eligible Applicant, or his agent, shall invite members of the public to attend said meeting and said meeting shall be at a location and in a format determined by the Authority, however, the provisions of M.G.L. c. 30A, § 11A½ and M.G.L. c. 39, § 23b shall not apply. No Proposed Project shall receive approval or funding from the Authority unless a Project Scope and Budget Conference is held to the reasonable satisfaction of the Authority, unless the Authority determines in writing that a Project Scope and Budget Conference is not required.”</p> <p>Edited to –</p> <p>“At the end of the Schematic Design Phase, the Authority may invite the local chief executive officer, Chair and/or members of the school committee, the Chair and or members of the school building committee, the superintendent of the Eligible Applicant’s school district, a representative from the office or body that is authorized by law to construct a school building or undertake a school capital project in that city, town or regional school district, and other local officials as required by the Authority, to meet with authorized representatives of the Authority to discuss the scope, budget, and other details of the Proposed Project. Said meeting shall be at a location and in a format determined by the Authority. No Proposed Project shall receive approval or funding from the Authority unless a Project Scope and Budget Conference is held to the reasonable satisfaction of the Authority, unless the Authority determines in writing that a Project Scope and Budget Conference is not required.”</p> |
| | 2.09 (10) | New section added to clarify MSBA process |

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| 2.10 (10) | 2.09 (11) | <p>2.09 (11) (a) Added – “After a vote of the Board to approve the Proposed Project and enter into a Project Scope and Budget Agreement and a Project Funding Agreement...”</p> <p>2.09 (11) (a) (1) Removed – “...Authority specifying the remaining actions to be taken by the Authority including the date of an upcoming Board vote on the Proposed Project as detailed in the Project Scope and Budget Agreement and the identification of an initial minimum and maximum”</p> <p>2.09 (11) (b) Removed – “After the execution of Project Scope and Budget Agreement the Proposed Project will be submitted to the Board for approval. No Proposed Project will be presented to the Board unless the Authority and the Eligible Applicant have executed a Project Scope and Budget Agreement”</p> |
| 2.10 (11) | 2.10 (1) | Section edited and updated to reflect current MSBA policies and procedures regarding the Project Funding Agreement |
| 2.14 | 2.10 (2) | Section edited and updated to reflect current MSBA policies and procedures regarding the Total Facilities Grant |
| 2.18 | 2.10 (3) | <p>Added – 2.10 (3) (a) (6) “The Authority, in its sole discretion, may award incentive points in accordance with its policies, guidelines, and as set forth in 963 CMR 2.10(3)(b)”</p> <p>Added – 2.10 (3) (b) (2) (b) “Indoor Air Quality. The Authority, in its sole discretion, may allocate up to one incentive percentage point (1%) for an Approved Project where the Authority makes a determination that the Approved Project meets thresholds established in the Green Schools Program Policies.”</p> <p>Removed – 2.18 (2) (d) School Facility Maintenance Trust</p> <p>Removed – 2.18 (2) (e) Model School Program</p> <p>Removed – 2.18 (2) (f) Construction Management at Risk</p> |

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| Old Regulations Section | New Regulations Section | Change |
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| 2.15 | 2.10 (4) | <p>2.15 (6) "The Authority may review and monitor the completed facility, in operation, to assess whether the Approved Project has been maintained and operated as delivered."</p> <p>Edited to</p> <p>2.10 (4) (f) "The Authority may review and monitor the completed facility, in operation, to assess whether the Approved Project has been maintained and operated as delivered. The Authority shall not be responsible for any identified deficiencies pursuant to such review"</p> <p>2.15 (12) "Each Eligible Applicant shall submit the contractor and designer evaluations to the Division of Capital Asset Management and Maintenance and the Authority in a form, manner and timeline prescribed in M.G.L. c. 149, § 44D and M.G.L. c. 7, § 38E."</p> <p>Edited to</p> <p>2.10 (4) (l) "Each Eligible Applicant shall submit the contractor and designer evaluations to the Division of Capital Asset Management and Maintenance and the Authority in a form, manner and timeline prescribed in M.G.L. c. 149, § 44D and M.G.L. c. 7, § 38E. Further, the Eligible Applicant shall submit the Authority's Contractor and Designer Evaluation Notification Forms to the Authority."</p> |

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| Old Regulations Section | New Regulations Section | Change |
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| 2.13 | 2.11 | <p>2.13 (2) "Authority Review of Project Plans. The Authority shall implement a technical peer review of each Approved Project at certain phases of design, including but not limited to, the schematic design, design development, and final design phases, or at such other times determined by the Authority. Such a review shall assess the designs for constructability, technical adequacy and compliance with the approved Design and Educational Program, the Project Scope and Budget Agreement and standards set forth by the Authority. Project elements that exceed or diverge from the project scope detailed in the Project Scope and Budget Agreement are categorically ineligible to receive funding from the Authority. The Eligible Applicant may retain such elements only by accepting sole financial responsibility for said elements in writing in a format prescribed by the Authority, prior to said Eligible Applicant including such elements in any designs."</p> <p>Edited to –</p> <p>2.11 (2) "The Authority shall implement a-review of each Approved Project at certain phases of design, including but not limited to, design development, 60% construction documents, and 90% construction documents, or at such other times determined by the Authority. Such a review shall assess the designs for constructability, technical adequacy and compliance with the approved Design and Educational Program, the Project Scope and Budget Agreement and standards set forth by the Authority. Project elements that exceed or diverge from the project scope detailed in the Project Scope and Budget Agreement are-ineligible to receive funding from the Authority; certain, limited elements that exceed or diverge from the project scope may be considered eligible as determined by the Authority in its sole discretion. The Eligible Applicant may retain such elements only by accepting sole financial responsibility for said elements in writing in a format prescribed by the Authority, prior to said Eligible Applicant including such elements in any designs."</p> <p>2.13 (3) (a) "The Eligible Applicant shall meet the timelines established by the Project Scope and Budget Agreement. If the Eligible Applicant does not meet said timelines, the Authority reserves the right to rescind approval of the Approved Project and/or recapture all or a portion of any Total Facilities Grant paid to the Eligible Applicant for any project."</p> |

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| 2.13 | 2.11 | <p>2.13 (3) (a) "The Eligible Applicant shall meet the timelines established by the Project Scope and Budget Agreement. If the Eligible Applicant does not meet said timelines, the Authority reserves the right to rescind approval of the Approved Project and/or recapture all or a portion of any Total Facilities Grant paid to the Eligible Applicant for any project."</p> <p>Edited to –</p> <p>2.11 (3) (a) "The Eligible Applicant shall meet the timelines established by the Project Scope and Budget Agreement. If the Eligible Applicant does not meet said timelines, the grant amount will not be increased to account for cost increases, and the Authority reserves the right to rescind approval of the Approved Project and/or recapture all or a portion of any Total Facilities Grant paid to the Eligible Applicant for any project."</p> <p>Removed – 2.13 (5)</p> |
| 2.13 (6) | 2.11 (5) | |
| | 2.12 | This section was added to outline the requirements of Module 7. |
| | 2.13 | This section was added to outline the requirements of Module 8. |
| | 2.14 | This section was added to outline the requirements of Module 9. |
| | 2.15 | This section was added to acknowledge and differentiate the Accelerated Repair Program. |
| | 2.16 | This section was added to acknowledge the Model School Program. |

Exhibit C

| Old Regulations Section | New Regulations Section | Change |
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| 2.16 | 2.17 | <p>Removed – 2.17 (1) (c) “...To advise the Authority on appropriate audit guidelines, the Authority may convene an MSBA Audit Advisory Council, which may consist of representatives from the Office of the Auditor of the Commonwealth, the Office of the Inspector General of the Commonwealth, the Comptroller of the Commonwealth, Division of Local Services of the Massachusetts Department of Revenue, local officials, or other members which the Authority may determine.”</p> <p>Removed – 2.17 (1) (d) (3) “is making frivolous or non-meritorious appeals”</p> |

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| Old Regulations Section | New Regulations Section | Change |
|-------------------------|-------------------------|---|
| 2.16 | 2.17 | <p>2.16 (2) (b) "If an Eligible Applicant does not concur with the findings of the summary letter, the Eligible Applicant shall respond, in writing of their intent to appeal, within ten calendar days of the date of said letter. The Eligible Applicant's written correspondence shall include a detailed listing of the specific ineligible costs to which the Eligible Applicant does not concur and is appealing. For each ineligible cost being contested by the Eligible Applicant, the Eligible Applicant shall submit to the Authority, documentation that supports the Eligible Applicant's position. If no supporting documentation is submitted within ten days after the date of the Eligible Applicant's letter of intent to appeal, or within a reasonable amount of time as determined by the Authority, the Eligible Applicant's appeal of the Authority's determination of ineligible costs shall not be accepted and the Authority's audit findings shall stand. The Authority shall review properly submitted documentation to determine if the Eligible Applicant's appeal has merit and take the appropriate action thereafter. If the Authority determines that the Eligible Applicant's supporting documentation is insufficient, the audit findings will stand and the Eligible Applicant will have exhausted any further appeal opportunities for those specific non-concurred ineligible costs. In no event including, but not limited to the final Audit, shall the Authority reconsider ineligible costs once an appeal has been completed. All costs related to an appeal may be assessed to an Eligible Applicant."</p> <p>Edited to -</p> <p>2.17 (2) (b) "If an Eligible Applicant does not concur with the findings of the summary letter, the Eligible Applicant shall respond, in writing within ten business days of the date of said letter. The Eligible Applicant's written correspondence shall include a detailed listing of the specific ineligible costs to which the Eligible Applicant does not concur. For each ineligible cost being contested by the Eligible Applicant, the Eligible Applicant shall submit to the Authority, documentation that supports the Eligible Applicant's position. If no supporting documentation is submitted within ten business days after the date of the Eligible Applicant's letter, or within a reasonable amount of time as determined by the Authority, the Eligible Applicant's objection the Authority's determination of ineligible costs shall not be accepted and the Authority's audit findings shall stand. The Authority shall review properly submitted documentation to determine if the Eligible Applicant's objection has merit and take the appropriate action thereafter. If the Authority determines that the Eligible Applicant's supporting documentation is insufficient, the audit findings will stand, in no event including, but not limited to the final Audit, shall the Authority reconsider ineligible costs once the process outlined above has been completed. All costs related to a further review may be assessed to an Eligible Applicant."</p> |

Exhibit C

| Old Regulations Section | New Regulations Section | Change |
|-------------------------|-------------------------|---|
| 2.16 | 2.17 | <p>2.16 (4) (c) "The Eligible Applicant shall maintain all records related to an Approved Project, including a full set of the Project Documents, requests for proposals, proposals and evaluations, and "As-Built" drawings, for as long as the Approved Project is in service as a public school. For the purposes of 963 CMR 2.16(4), "all records" shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. all executed contracts and purchase orders, including contract amendments and change orders; 2. all Owner's Project Manager's reports, including monthly progress reports; 3. issues log; 4. the potential change order log; 5 all meeting minutes; 6. a schedule or milestone summary; 7. all requests for reimbursement and forms as submitted to the Authority; 8. all invoices and contractors' applications for payment; and 9. other such other information, data, logs, documentation, or records as may be required by the Authority." <p>Edited to –</p> <p>2.17 (4) (c) "The Eligible Applicant shall maintain all records related to an Approved Project, including, but not limited to, a full set of the Project Documents, requests for proposals, proposals and evaluations, and "As-Built" documents, for as long as the Approved Project is in service as a public school. For the purposes of 963 CMR 2.17(4), "all records" shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. all executed contracts and purchase orders, including contract amendments and change orders; 2. all Owner's Project Manager's reports, including monthly progress reports; 3. issues log; 4. the logs for potential change orders and executed change orders; 5 all meeting minutes; 6. a schedule or milestone summary; 7. all requests for reimbursement and forms as submitted to the Authority; 8. all commissioning reports, final reports and commissioning certifications; 9. all close-out documents and training materials; 10. all contractor and designer evaluations as submitted to the Division of Capital Asset Management and Maintenance and the Authority; 11. all invoices and contractors' applications for payment; and 12. other such other information, data, logs, documentation, or records as may be required by the Authority. |

Exhibit C

| Old Regulations Section | New Regulations Section | Change |
|-------------------------|-------------------------|--|
| 2.16 (5) | 2.17 (5) | <p>2.16 (5) (v) "All costs associated with the demolition of buildings, unless such costs are deemed by the Authority in writing prior to said demolition, to be the most cost effective option."</p> <p>Edited to –</p> <p>2.17 (5) (v) "Demolition costs not approved by the Authority in writing prior to said demolition"</p> <p>Added – "All costs associated with the abatement or remediation of any contaminated soils, fuel storage tanks, or floor and ceiling tiles."</p> |