

1 Adopt 17 Cal. Code of Regs. section 100701 to read:

2 **§ 100701. Grants Administration Policy for Academic and Non-Profit Institutions – Major**
3 **Facilities Grants.**

4 (a) In addition to the provisions of Title 2, California Code of Regulations section
5 100500, all recipients of a Major Facilities Grant (RFA 07-03) (a grant pursuant to Health and
6 Safety Code section 125290.70, subdivision (a)(4)) from the California Institute for Regenerative
7 Medicine (“CIRM”) agree to be bound by the terms and conditions of the “CIRM Grant
8 Administration Policy for Major Facilities (RFA 07-03),” as adopted by the Independent
9 Citizens Oversight Committee and incorporated herein by reference as identified below. The
10 terms of Title 17, California Code of Regulations section 100700 shall not apply to a Major
11 Facilities Grant.

12 (b) The “CIRM Grant Administration Policy for Major Grants (RFA 07-03)” is
13 incorporated by reference herein in its entirety except for its “Preface.”

14 (c) Amendments to this regulation (and the policy incorporated) herein will be applied to
15 already active grants on the anniversary date of the Notice of Grant Award following the
16 effective date of the regulation’s amendment, unless specified otherwise in the regulation or
17 policy amendment.

18 (d) The CIRM’s right to enforce the provisions of the policy incorporated herein shall
19 survive the end of the term of the grant and, should CIRM no longer exist, those rights may be
20 enforced by the State of California.

21 Note: Authority cited: California Constitution, article XXXV; Section 125290.40, subd.(j),
22 Health and Safety Code.

23 Reference: Sections 125290.30, subdivision (i), 125290.40, 125290.65, 125290.70, 125292.10,

1 Health and Safety Code.



**CIRM Grant Administration Policy for
Major Facilities Grants
(RFA 07-03)**

Preface

The California Institute for Regenerative Medicine (CIRM) has issued a Request for Applications (RFA) that will address facilities needs that are relevant to research activities supported by CIRM. The Major Facilities Grant Program RFA 07-03 was issued in August 2007, and it proposes to allocate up to \$227 million in construction funds and additional funds for research equipment (moveable equipment necessary to meet the program needs of research grants and costing more than \$5,000 (.e.g., cell sorters, microscopes, centrifuges, and freezers)), as approved by the Independent Citizens' Oversight Committee ("ICOC") for new research facilities throughout the state.

In December 2006, the ICOC adopted the "Interim CIRM Grant Administration Policy for Academic and Non-Profit Institutions" (referred to hereafter as the CIRM Grant Administration Policy or GAP). These policies apply generally to science and medical research grant funding of program costs, and do not specifically address facilities costs. Thus, this update of the GAP provides guidance and conditions that specifically apply to the Major Facilities Grant Program under RFA 07-03.

The GAP and all amendments adopted by the ICOC in December 2006 pertinent to facilities grants are hereby adopted to apply to RFA 07-03. Where the guidelines or policy expressed herein conflict with the December 2006 GAP, the policies adopted in Chapter VIII will govern. CIRM intends to address and resolve any conflicts that may exist within the GAP in future amendments to this document. Grant recipients will be expected to comply with any amendments to the GAP. Therefore, any suggested changes to these policies to resolve or further clarify the application of these policies should be directed to CIRM at cirm.ca.gov.

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VIII. POLICIES FOR MAJOR FACILITIES GRANT PROGRAM (RFA 07-03)

A. *General Policies applicable to Major Facilities Grants under Proposition 71*

1. Authority to Award Grants and Loans for Buildings, Building Leases and Capital Equipment.

Proposition 71 authorizes CIRM to make both grants and loans for buildings, building leases, and capital equipment (“facilities,” as defined in Subpart I, below). (Health & Saf. Code, § 125290.65(b)(1).) This Chapter addresses the provisions of law and administrative procedures that will govern the administration of facilities grants approved under RFA 07-03.

2. Eligibility for Facilities Grants.

Eligibility for facilities grants is limited to not-for-profit entities as defined in the Glossary related to these policies (as amended by the ICOC at its June 2007 meeting).

3. Preference for California Suppliers.

Proposition 71 requires the ICOC to establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers. (Health & Saf. Code, § 125290.30(i).) Applicants may be required to submit progress reports describing their compliance with the stated goal with respect to any award of a facilities or equipment grant including associated matching funds. At the conclusion of the project, grantees will provide a final report indicating the participation achieved on the project.

B. *Construction Process--Prevailing rate of per diem wages on construction.*

Proposition 71 requires that the criteria, requirements, and standards for awarding facilities grants shall include the requirement that all workers employed on the new construction or construction modifications of a facility funded by a CIRM facilities grant receive the prevailing wage. (Health & Saf. Code, § 125290.65(b)(1)(E).) This requirement applies generally to California state agencies. Private non-profit entities that are facilities grant recipients will be required to certify compliance with prevailing wage requirements for work on the new construction or construction modifications of a facility paid for with CIRM funds. (Labor Code, § 1720 et seq.) Except as provided in Section H.1.b.1, CIRM will not release grant funds until the grantee and its general contractor complete this certification in the form attached as Appendix A. For grantees who receive grant funds pursuant to Section H.1.b.1, the certification shall be submitted within 45 days of signing a construction contract or receiving grant funds, whichever is later.

C. *Provisions Applicable to Equipment Purchases*

The ICOC has approved the award of additional funds to grantees for the purchase of research equipment (moveable equipment necessary to meet the program needs of research grants and costing more than \$5,000 (.e.g., cell sorters, microscopes, centrifuges, and freezers) within the currently approved award ranges for CIRM Institutes, CIRM Centers of Excellence, and CIRM Special Projects.. The allocation of these funds as part of a grant award shall be in CIRM’s sole discretion.

D. *Matching Funds*

CIRM’s Major Facilities Grant Program requires that applicants provide matching funds in cash equal to 20 percent of the CIRM amount. Health & Saf. Code, § 125290.65(b)(1)(G). This match cannot be expended on the project until the day after the ICOC approves the Part Two grant application for funding. Any funds expended prior to approval will not be treated as matching funds. As discussed in paragraph (E) however, funds expended prior to approval may be considered “project leverage”.

E. *Project Leverage*

RFA 07-03 encourages applicants to commit additional funds to the CIRM-funded project beyond the required cash match. These funds are referred to as project leverage and will be a basis for competitive evaluation of grant applications in the technical review. Project leverage includes funds expended on the CIRM-funded project from other than CIRM or matching funds including: (1) funds used to purchase land and/or a building at the documented cost to the institution; (2) funds used or budgeted to purchase the initial complement of research equipment (Group 2 equipment) to be located in the CIRM-funded facility at the time it becomes operational; and (3) other capitalized project costs including funds expended at any time for planning, design or partial construction of the CIRM-funded project. When considering project leverage, the amount attributable to internal project overhead and architectural and engineering services (other than structural and seismic engineering services) in excess of 10 percent of the budgeted construction contract costs shall not be included.

F. *Commitment to Use Space for Stem Cell-Related Research*

CIRM funded facilities will house stem cell and related research funded by CIRM and other sources. Grantees must assign CIRM funded facilities to stem cell related research for a minimum of ten years.

G. *Recognition of CIRM Funding*

1. *Ceremonies*

Grantees shall conduct ceremonies for groundbreaking and dedication of facilities funded under RFA 07-03 in recognition of the substantial

contribution of the State of California in construction of new facilities for stem cell research. At such ceremonies, the Grantee shall provide the opportunity for recognition of the funding provided by CIRM with participation by CIRM leaders drawn from the ICOC, the Facilities Working Group and CIRM staff.

2. Naming of Facilities

In recognition of the substantial contribution of the State of California in construction of new facilities for stem cell research, grantees shall include CIRM in the naming or designation of a building that was funded or partially funded under RFA 07-03 subject to approval of the ICOC. The naming may include recognition of other donors, honorees or contributors. CIRM recognizes that the primary third-party donors would be expected to receive primary and/or dominate recognition in the naming of the building. Such naming shall remain in effect for the useful life of the facility for as long as it houses stem cell related programs. Naming proposals shall be submitted to CIRM for approval by the ICOC prior to completion of the project.

H. Oversight and Payment Procedure

1. Payment of Construction Grant Funds.

a) CIRM will not disburse grant funds until CIRM and the grantee have executed a Notice of Grant Award setting forth the terms of the grant award, including a commitment by the grantee to deliver a project of the scope described in its application and on the same schedule, regardless of the level of CIRM funding approved. Prior to the execution of the Notice of Grant Award, the grantee must submit a letter to CIRM, signed by an Authorized Executive Officer (AEO), identifying additional institutional funds or cost savings relating to the type and quality of construction to cover the difference between the amount of funds requested and the amount of the approved grant.¹

b) CIRM grant funds shall be disbursed to grantees, pursuant to one of the following methods of disbursement:

(1) CIRM funds may be disbursed in full within thirty (30) days of the execution of the Notice of Grant Award, provided that the grantee agrees: (i) to pass on a contractually-agreed dollar amount of savings to CIRM in the form of a discount on the grant funds awarded in exchange for the upfront payment; to execute a completion guarantee and performance provisions; at its own

¹ An AEO is an individual, named by the applicant organization, who has the authority, or who has been delegated the authority, to commit organizational funds and resources.

expense, to provide an independent, post-completion financial audit pursuant to Section H.4 and to pay a penalty (as qualified in Section H.2) for any variance between the actual completion date and the completion date projected on Part Two of the application; and (ii) the ICOC approves the terms of the disbursement; or

(2) CIRM funds, except for the final 10% of the grant award, may be disbursed as the last funds advanced after CIRM's receipt of certification by the grantee's Chief Finance or Administrative Officer, or their designee, that the grantee has spent, or in the case of the purchase of equipment (to be paid for by grantee), encumbered, its funding from all non-CIRM sources, including matching funds, as defined in Chapter VIII, section D, and project leverage, as defined in Chapter VIII, section E.

c) The disbursement of funds pursuant to paragraph (b)(2) shall be paid in arrears, based on submission of the actual expenditures incurred on the project. Grantees shall submit documentation of expenditures to CIRM for processing on a quarterly basis (January 2, April 1, July 1, and October 1). This documentation shall include accounting records substantiating funds actually spent for project costs up to that point in time. The grantee's Chief Financial or Administrative Officer, or their designee, shall certify the accuracy of these accounting records before CIRM will disburse funds. CIRM will disburse funds based on the grant amount as approved by the ICOC. If disbursement is pursuant to paragraph (b)(2), the grantee becomes eligible to receive the final 10 percent of the award when it submits final documentation including but not limited to: a copy of the Notice of Completion; a certification that all lien periods have expired and that there are no liens pending or of record; and documentation to substantiate the efforts made by the grantee to meet the California supplier goals of Proposition 71.² The final payment may be discounted (or recovered from advances under paragraph (b)(1) above) by a penalty assessed for any variance between the actual completion date and the completion date projected on Part Two of the application, as discussed in section H.2, and to reflect any project cost savings, as discussed in paragraph (f) of this section.

d) A grantee that receives CIRM funds pursuant to paragraph (b)(1) shall, on a quarterly basis (January 2, April 1, July 1, October 1), submit to CIRM accounting records substantiating funds actually spent for project costs up to that point in time. The grantee's Chief Financial or Administrative Officer, or their designee, shall certify the accuracy of these records. Upon filing of its Notice of Completion, the grantee

² CIRM, in its sole discretion, may authorize grantees to submit this information to CIRM as part of the post-completion audit required by Section H.4.

shall also submit additional information to substantiate the efforts made by the grantee to meet the California supplier goals of Proposition 71.³

e) A grantee that submitted estimates rather than contracted costs in its Part Two application, shall, within ten days of awarding a construction contract, submit to CIRM a revised budget, signed by an AEO, that reflects the grantee's actual construction contract costs. The amount of CIRM funds disbursed will be adjusted if actual costs of the project are lower than estimated (e.g., construction contract costs). The adjustment will be based on (i) the revised total cost based on award of a construction contract, and (ii) the proportion of CIRM funding to applicant funding (including matching funds and leverage funds) originally approved by the ICOC. This adjustment will be made prior to allocation of any CIRM funds. The adjustment made pursuant to this paragraph shall not include cost savings related to the type or quality of construction that are made to cover the difference between the amount of the funds requested and the amount of the grant award pursuant to Section H.1.a, provided that CIRM determines, in its sole discretion, that the project cost savings do not: (1) affect the scope or specifications of the facility, as described in the application;⁴ (2) compromise the scientific value of the facility; or (3) exceed the amount of the reduction recommended by the Facilities Working Group, as modified by the ICOC (whether the amount of the reduction is increased or decreased).

f) Any project cost savings achieved at the completion of the project (e.g., remaining contingency) will be shared between CIRM and the applicant proportionate to the respective percentage share of the overall costs of the project. The calculation of project savings pursuant to this paragraph shall not include cost savings related to the type or quality of construction that are made to cover the difference between the amount of the funds requested and the amount of the grant award pursuant to section H.1.a, provided that CIRM determines, in its sole discretion, that the project cost savings do not: (1) affect the scope or specifications of the facility, as described in the application; (2) compromise the scientific value of the facility; and (3) exceed the amount of the reduction recommended by the Facilities Working Group, as modified by the ICOC (whether the amount of the reduction is increased or decreased). If an applicant is able to deliver additional value, either by adding square feet to the facility or equipment, which is committed for use in stem cell research and which is not identified in

³ CIRM, in its sole discretion, may authorize grantees to submit this information to CIRM as part of the post-completion audit required by Section H.4.

⁴ For purposes of Paragraph (f)(1) and (e)(1), the President may determine, in his sole discretion, that a modification to the specifications of a facility does not affect the specifications because the modification is equivalent to the original specification.

the application, it shall not be treated as project cost savings subject to recapture by CIRM pursuant to this paragraph.

Notwithstanding paragraph (e) and (f), grantees who provide a discount to CIRM in exchange for the upfront payment of the grant award pursuant to section H.1.b.1, shall not be required to share any project savings with CIRM, provided that CIRM determines, in its sole discretion, that the project savings do not affect the scope or specifications of the facility, as described in the application, and do not compromise the scientific value of the facility.

2. Provisions Related To On-Time Completion

Proposition 71 specifies that the criteria, requirements, and standards for awarding facilities grants shall include “priority for applicants that provide for facilities that will be available for research no more than two years after the grant award.” Health & Saf. Code, § 125290.65(b)(1)(B).

Where CIRM has awarded a grant based on an application that projects completion within two years from the date of Notice of Grant Award, the grantee must use best efforts to achieve the projected completion date. These efforts may include but are not limited to payment for premium time and overtime, expedited charges and shipping, contract completion incentives and expedited resolution of any and all contractual or regulatory issues that might otherwise delay the project. At the completion of the project, the President of CIRM will review any delays and may assess a penalty if, the President, in his or her sole discretion, determines that the grantee did not use best efforts to complete the project within two years⁵. The penalty for failure to use best efforts will be one (1) percent of the CIRM grant for each month of delayed project completion with a maximum penalty of 10 percent for a 10 month delay. The completion date projected in the application will be adjusted to account for the actual issuance date of the Notice of Grant Award.

A penalty for delay imposed on a grantee who provides a discount to CIRM in exchange for the upfront payment of the grant award pursuant to section H.1.b.1, shall be offset up to the amount of the grantee’s discount, provided that the grantee makes a good faith effort to complete the project according to the proposed schedule set forth in its application; undertakes all commercially reasonable efforts to complete on the proposed schedule; and the delay does not exceed six months.

⁵ For purposes of this Chapter, “completion” shall mean that the facility is ready for operation or fixturization.

3. Progress Reports and Project Close-Out.

- a) A grantee must provide a progress report to CIRM every three months after issuance of the Notice of Grant Award (see Appendix B). This progress report must compare the grantee's actual progress to date with the schedule projected in its grant application. All variances must be explained, and a revised completion date indicated.
- b) CIRM staff and members of the Facilities Working Group may visit the site of CIRM funded facilities projects to review progress. Grantees shall provide access to CIRM or its designated representative as requested by CIRM.
- c) In submitting the final request for payment, Grantees shall provide a copy of the Notice of Completion. The President of CIRM will review all documentation and will authorize the final payment if the President determines that all requirements of the grant have been satisfied. If the President determines that all requirements have not been satisfied, the final payment will be postponed or the amount adjusted. This paragraph shall not apply to grantees who have received grant funds pursuant to Section H.1.b.1.

4. Post Audit.

Grantees shall conduct, at the Grantees' expense, an independent post-completion audit of project expenditures to ensure that the grantee has complied with all applicable provisions of CIRM's grant administration policies and shall submit such audit to CIRM within 120 days of project completion, unless CIRM, in its sole discretion, grants an extension.

I. Additional Glossary of Terms

In addition to the terms defined in the GAP approved December 7, 2006, the following additional terms are defined for purposes of interpreting the meaning and intent of this Chapter.

- 1. Facility.** Building, building lease, or capital equipment eligible for funding under Proposition 71.

Appendix A

**Facilities GAP
Statement of Assurances Relating to State Prevailing Wage Compliance**

Project Name: _____

Grant No.: _____

Construction Start Date: _____

Pursuant to the requirements of Health and Safety Code, section 125290.65, subdivision (b) (1) (D) (2), Grantee and contractor hereby assure and certify as follows:

The Grantee, as the body awarding the contract, shall perform the duties associated with the “awarding body” that are enumerated in the Labor Code, Sections 1720, et seq. Duties include obtaining the prevailing wage rate in the locality for each covered worker from the Director of the Department of Industrial Relations. The Grantee shall insure that the general construction contractor will maintain labor records as required by the Labor Code and shall require such records be made available to any enforcement agency upon request.

The general contractor and all sub tier subcontractors shall pay laborers, mechanics, and all other construction workers employed on new construction or construction modifications of a facility funded by CIRM at least the state prevailing wages, in accordance with the requirements of Chapter 1 (commencing with Section 1720) of the Labor Code, for all construction work. The construction contract provides sufficient funds to comply with this requirement. The Grantee shall also insure that the contract for the new construction or construction modifications of the Project contains language-requiring payment of at least the state prevailing wages pursuant to Section 1720 of the Labor Code.

The undersigned acknowledges that the availability of grant funds from the California Institute for Regenerative Medicine is expressly made upon reliance to the representations made in these assurances and certification.

GRANTEE:

GENERAL CONTRACTOR:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Signed: _____

License #: _____

Date signed: _____

Appendix B – Chapter VIII

RFA 07-03 applicant institution _____

Date prepared: _____ Prepared by: _____

Title: _____

Contact info: tel _____

Email: _____

CIRM MAJOR FACILITIES GRANT				
QUARTERLY PROGRESS REPORT				
Please complete the information below based on the current status of the project. Attach an explanation of the variances between the adjusted schedule (the schedule included in the RFA with a start date of the notice of grant award) to the current schedule.				
ACTIVITY/MILSTONE	Schedule Dates from original RFA	Adjusted to Notice of Grant Award Date	Current Schedule as of _____.	Variance (attach explanation)
Prepare Preliminary Plans (from/to)				
Approval of PPs (date)				
Prepare Working Drawings (from/to)				
Approval of WDs (date)				
Advertise for Construction Contract (date)				
Construction Activities (from/to)				
Beneficial Occupancy (date)				
Notice of Completion (date)				
Equipment Purchases (from/to)				

“Preliminary Plans” (PPs) represent approximately 35 percent of the design effort, or would be considered completion of the "Design Development" (DDs) phase of architectural work.

“Working Drawings” (WDs) represent drawings and specifications from which a contractor may determine the full extent of work contemplated in the project for purposes of submitting a bid; may be referred to as completion of “Construction Documents” (CDs) phase of architectural work

*******End*******