§ 2817. Community health centers capital program. 1. Definitions. As used in this section, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(a) "Community health center" means a not-for-profit corporation that is licensed under this article as a diagnostic and treatment center, which license is valid and in full force and effect, and that provides a comprehensive range of primary health care services in one or more freestanding sites, or a not-for-profit corporation that has applied for licensure under this article as a diagnostic and treatment center and that intends to provide a comprehensive range of primary health care services in one or more freestanding sites.

(b) "Program" means the community health centers program authorized by this section.

(c) "Program funds" means state funds available for the purposes of this section.

(d) "Matching funds" means any funds other than state funds (whether derived from non-governmental or federal or local governmental sources), which are available for the purposes of this section.

(e) "Community health center project" or "project" means the construction, reconstruction, renovation, rehabilitation, refurbishing, expansion, upgrading, or equipping of a community health center under this section.

2. Agreements. The commissioner is authorized to make funds available for community health center projects. The commissioner shall contract with one or more not-for-profit administrators, each of which shall be a not-for-profit corporation having demonstrated interest, expertise and experience in the development and financing of primary care and preventive services in low income communities. The not-for-profit administrator shall award program funds and available matching funds to, or for the benefit of, community health centers which apply for such funds in accordance with this section. The commissioner and the not-for-profit administrator shall enter into an agreement for the purpose of administering the program and matching funds. Such agreement shall provide, without limitation, for the following:

(a) the receipt, management and expenditure of program funds and matching funds;

(b) the solicitation of capital proposals to be submitted by or on behalf of community health centers;

(c) the solicitation of matching funds;

(d) the process by which the capital proposals are reviewed, evaluated and funded; and

(e) the reasonable expenses of the not-for-profit administrator incurred in the establishment and administration of this program, including retention of professionals and consultants.

3. Matching funds. (a) To leverage the benefit of program funds available pursuant to this section for community health center projects, each allocation of program funds awarded to, or for the benefit of, a community health center shall be matched by an equal or greater amount of matching funds and shall be conditioned on the availability of such matching funds for the community health center project.

(b) Matching funds shall be deemed available for the purposes of this section when the funds are deposited with the not-for-profit administrator, or are irrevocably committed for the community health center project pursuant to a valid, binding and enforceable contract, enforceable by the not-for-profit administrator for the benefit of the community health center project.

(c) Matching funds may be obtained by the not-for-profit administrator or may be otherwise provided for a particular community health center project. In each such circumstance, or combination thereof, the requirements of paragraph (b) of this subdivision shall apply.

4. Community health center projects. (a) An application to the not-for-profit administrator may be submitted by or on behalf of a community health center which meets the criteria for receiving funds set forth in this section.

(b) The application shall specify in detail acceptable to the not-for-profit administrator the proposed construction, reconstruction, renovation, rehabilitation, refurbishing, expansion, upgrading and equipping of a community health center.

(c) The application shall identify available sources of funds for the community health center project, including matching funds, if any. It shall also identify any expenses already incurred in connection with the

community health center project, and whether any reimbursement therefor is sought in connection with the application.

(d) To receive an award of funds for the proposed community health center project, the applicant, and if the applicant is not a community health center, the community health center and the applicant, shall enter into an agreement with the not-for-profit administrator governing the disbursement of funds, construction of the proposed project, and any requirements of the program under the agreement between the commissioner and the not-for-profit administrator or otherwise required by law. The agreement may include provisions for the repayment of all or a portion of funds.

5. Funding criteria. A community health center project may be funded under this section provided the community health center meets the criteria established in either of the following paragraphs:

(a) The community health center is a federally-qualified health center as defined in 42 U.S.C. section 1395x (aa); or

(b) The community health center (i) has applied to the United States Department of Health and Human Services for designation as a federally-qualified health center, (ii) is eligible for such designation, and (iii) is located in, serves or intends to serve a designated medically-underserved community as defined in 42 U.S.C. section 295p, a health professional shortage area as defined in 42 U.S.C. section 254e or a medically-underserved population as defined in 42 U.S.C. section 254b. A community health center that received funding pursuant to this paragraph, and does not secure designation as a federally-qualified health center within two years of its receipt of funds shall repay such funds as directed by the not-for-profit administrator.

6. Administration of funds. (a) Program funds shall be received and held by the not-for-profit administrator under this section and the agreement with the commissioner. Program funds shall be held in trust and used for the benefit of the community health center projects. All investment income shall be credited to, and any repayments of program funds shall be deposited in, the trust accounts established by the not-for-profit administrator for such purpose, and spent only for the

purposes set forth in this section.

(b) Notwithstanding the foregoing, the not-for-profit administrator may withdraw from the funds held by it under this section, subject to the agreement with the commissioner, amounts sufficient to pay or reimburse its expenses as provided in paragraph (e) of subdivision two of this section.

(c) The not-for-profit administrator shall maintain books and records pertaining to all moneys received and disbursed pursuant to this section. The agreement between the commissioner and the not-for-profit administrator shall provide for the distribution of funds upon the termination thereof. All remaining program funds, including earnings and repayments, if any, not subject to binding agreement for the expenditure thereof, shall be paid at the direction of the commissioner to the state comptroller to the credit of the general fund. Upon termination of the agreement, matching funds held by the not-for-profit administrator not subject to binding agreement for the expenditure thereof, shall be applied consistent with the terms of the receipt of such matching funds, or returned to the donor.