

Appendix D.
Advance Payment Guidelines

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I. INTRODUCTION

The following guidelines provide a framework for advance payments (AP), designed to assist funding recipients, including Technical Assistance (TA) providers, facing cash flow challenges for projects that qualify under programs administered by the State Water Resources Control Board (State Water Board). They detail the process of establishing a reserve account and accessing AP upon execution of the funding agreement enabling recipients to pay invoices for eligible incurred costs prior to submitting reimbursement requests and receiving reimbursement for these costs from the State Water Board.

These guidelines specify the eligibility and prioritization criteria for AP, describe the process used by Division of Financial Assistance (DFA) staff to evaluate and approve AP requests, detail the compliance requirements that must be met, and outline the requirements and procedures for establishing a reserve account and processing requests for disbursement of AP.

II. AUTHORITY

The State Water Board administers a variety of state funding sources that provide the authority to make AP to eligible entities as described below. If other funding sources are authorized for AP, DFA may administer those funds consistent with these guidelines to the extent allowed by law governing the funding source and other relevant law.

- The Safe and Affordable Drinking Water (SADW) Fund, established in Senate Bill (SB) 200 and expanded upon in SB 776, authorizes the State Water Board to provide AP for construction that shall not exceed 25 percent of the total SADW portion of the construction grant award amount. Additionally, non-construction projects funded by the SADW Fund may be eligible for AP, subject to approval by the Deputy Director of DFA for good cause, on a case-by-case basis.
- Proposition 1 and Proposition 68 authorize the State Water Board to provide AP for public water system infrastructure improvements and related actions to meet safe drinking water standards, ensure affordable drinking water, or both benefiting disadvantaged communities that shall not exceed 25 percent of the total Proposition 1 and Proposition 68 portion of the grant award. Proposition 68 further specifies that AP be provided to facilitate the timely initiation of projects.
- Water Code section 13198.4, applicable and subject to an appropriation in the annual Budget Act or another statute to the State Water Board to provide grants and direct expenditures for interim or immediate relief for drought scenarios, authorizes the State Water Board to provide AP for eligible projects that shall not exceed 25 percent of the total funding provided under this section to recipients that have demonstrated cash flow problems. Eligible recipients for AP under this section include public agencies, nonprofit organizations, public utilities, mobile home parks, mutual water companies, Native American tribes listed by the Native American Heritage Commission, and administrators. Such projects include hauled water, temporary community water tanks, bottled water, water vending machines, emergency water interties, new or rehabilitated wells, connections to

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adjacent water systems, and other projects that support immediate drought response. This authority does not extend to projects that provide long-term drought solutions.

Nonprofit and Tribal Recipients

Under Government Code 11019.3, the State Water Board is authorized to provide AP to nonprofit organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and to federally recognized Indian tribes whose territorial boundaries lie wholly or partially within the State of California, and any agencies, entities, or arms of the tribe, as applicable, either together or separately, in an amount that does not exceed 25 percent of the total state-funded grant amount subject to section 11019.3 awarded to that entity. AP to these recipients is limited to the minimum immediate cash requirements necessary, as determined by DFA.

The 25 percent limit may be exceeded if: 1) the recipient is receiving SADW funds or funds from a funding source that allows AP in an amount exceeding 25 percent, 2) the recipient provides sufficient justification for a larger advance, and 3) the Deputy Director of DFA determines that a larger advance is required. However, the 25 percent limit may not be exceeded for construction costs.

To qualify for AP, the nonprofit or tribal recipient must be in compliance with these guidelines and must satisfy the following minimum requirements:

- (i) Provide an itemized budget for the eligible costs the AP will fund, indirect or other costs needed to operate, a spending timeline, and a workplan developed in a form and manner specified by DFA.
- (ii) Submit documentation, as required by DFA, to support the need for AP.
- (iii) Demonstrate its current status in good standing as an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or as a federally recognized Indian tribe whose territorial boundaries lie wholly or partially within the State of California, or as an agency, entity, or arms of such tribe, as applicable.
- (iv) Deposit any funds received as AP into a federally insured account as required by these guidelines.
- (v) Establish procedures to minimize the amount of time that elapses between the transfer of funds and the expenditure of those funds by the recipient.
- (vi) Provide progress reports on the expenditure of AP no less than on a quarterly basis and as otherwise required by DFA. All unused funding provided as AP, but not expended within the grant or contract timeline, must be returned to the state in accordance with these guidelines.
- (vii) Provide a progress report to DFA following the expenditure of an AP that includes a summary of work completed, proof of expenditure, and other associated information as determined by DFA.

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III. ELIGIBILITY AND PRIORITIZATION

Eligibility for AP is determined based on specific criteria related to both the funding source and the recipient type. To qualify for AP, the following conditions must be satisfied:

- The funding source(s) being utilized authorizes the State Water Board to provide AP.
- The project benefits a small¹ disadvantaged community^{2,3}
- The recipient is an entity eligible to receive AP under the funding source(s) being utilized.
- The recipient certifies that AP is needed due to financial hardship and/or cash flow problems that would otherwise be experienced during the project. Entities seeking AP may be required to demonstrate that they have not been successful in exercising other options, such as bridge loan financing or utilizing other available reserve funds, or that these alternatives are insufficient or inadequate to address their cash flow needs.

DFA staff will prioritize AP requests based on the following general criteria:

- Under-Resourced Entities – Recipient entities and projects serving disadvantaged communities, or providers with modest reserves and potential cashflow problems.
- Human Right to Water – the project supports and advances the State’s policy on the human right to water, including any resolutions or policies adopted by the State Water Board. For example, consolidation projects where the recipient is the receiving system and it itself also serves a disadvantaged community may be prioritized over other requests.
- Regulatory Priority – the project has been identified as a high priority by the applicable state or federal regulatory agency (i.e., Division of Drinking Water, the United States Environmental Protection Agency).
- Emergency Response – the project is needed to address or prevent acute issues with domestic water supplies, including drinking water shortages caused by drought or complications arising from other emergency events such as flooding.

DFA may adjust, defer, or deny AP requests based on programmatic priorities, availability of funds, or for any other reason at its discretion.

¹ Population less than 10,000 or serves less than 3,300 connections.

² A community with an annual median household income that is less than 80 percent of the statewide annual median household income.

³ This requirement does not apply to TA providers seeking AP.

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IV. REQUEST FOR AND APPROVAL OF ADVANCE PAYMENT

Advance Payment Request Form

The AP Request form will be posted on DFA's website. Applicants will be required to submit the information specified in the AP Request form, including the following:

- A. Completed AP Request form, signed by the applicant's authorized representative.
- B. Certification that AP is needed due to financial hardship and cash flow problems that would otherwise be experienced during the project.
- C. Description of any available reserves that can be used, including funds set aside for capital improvement projects, and a summary of short-term financing options, including bridge financing or lines of credit, that may impact the need for AP.
- D. Quarterly projection of the project's expenditures, illustrating how AP will be utilized over the course of the project. Additionally, the projection must include a timeline for closing out the reserve account.
- E. If the applicant is a nonprofit organization other than a tribal organization, requesting AP under Government Code 11019.3 authority, it will be required to demonstrate its status in good standing as a 501(c)(3) non-profit organization.
- F. An applicant requesting AP under Government Code 11019.3 authority for tribes will be required to demonstrate its current status as a federally recognized Indian tribe whose territorial boundaries lie wholly or partially within the State of California, or as an agency, entity, or arms of such tribe, as applicable.

DFA staff may request further documentation or additional information to ensure the AP Request fully complies with these guidelines and statutory requirements.

Generally, the AP Request form will be submitted as part of the funding application. The funding agreement will outline the AP structure, conditions, and procedures. Recipients with a pre-existing executed funding agreement may submit an AP Request form to the assigned DFA Project Manager (PM), subject to the following conditions:

- A. The type of recipient, type of project, and funding source are confirmed to meet the eligibility requirements outlined in Sections II and III.
- B. Less than 50 percent of the funds allocated to the project from the funding source that will be used for AP have been disbursed. Exceptions to this provision may be authorized by the Deputy Director of DFA for good cause, on a case-by-case basis.

DFA will assess the feasibility of processing AP to recipients with an executed funding agreement to ensure they do not introduce undue administrative challenges or delay project timelines. An amendment would be required to add AP procedures into an executed agreement.

Advance Payment Request Review

Upon receiving the AP Request form, the DFA PM will evaluate the request to determine eligibility for AP as part of the overall funding application process. The PM

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will evaluate the AP request, ensuring it meets the established criteria and priorities in these guidelines. If approved, the funding agreement will detail the specifics of AP including the approved amounts, the process for submitting requests for disbursement of AP, reporting requirements, and any required forms.

DFA may deny an AP request if the applicant lacks the capacity to manage the advanced funds effectively, has a history of non-compliance with the terms of previous funding agreements without rectifying those issues, if processing the request would introduce undue administrative challenges or burdens, or for any other reason at the discretion of DFA.

V. REQUESTS FOR DISBURSEMENT OF ADVANCE PAYMENTS AND COMPLIANCE PROCEDURES

Recipients are required to establish separate federally insured, non-interest bearing reserve account(s) used solely to manage project AP funds following execution of a funding agreement for the project. The account(s) must be in the recipient entity's name (i.e., not in the name of any of its directors or officers) and provide the ability to track all financial transactions related to AP. Recipients may then submit requests for disbursement of AP, contingent upon their compliance with all conditions detailed in the funding agreement for the project.

When requesting disbursements of AP, recipients are required to adhere to specific criteria and procedural steps. These requirements include, but are not limited to, the following:

- (1) Submit a request for disbursement of AP using the form provided by DFA that includes the following information:
 - a. Total AP amount requested for disbursement.
 - b. Updated quarterly projection of the project's expenditures, if applicable.
- (2) All AP disbursements must be immediately deposited into the reserve account. Recipients are required to develop, submit and implement procedures to minimize the amount of time that elapses between receipt of AP funds and their expenditure.
- (3) If there is a significant increase in the overall project cost, a revised AP Request may be submitted for consideration. DFA will evaluate these requests on a case-by-case basis for approval. If necessary, an amendment to the funding agreement will be executed to accommodate the request for the increased AP amount.
- (4) DFA will establish a milestone for AP closeout in the funding agreement. DFA will stop disbursing AP funds once the agreed-upon milestone for AP closeout is reached. The recipient will be required to follow the approved procedures for closeout, as outlined in the funding agreement.
- (5) The reserve account must be fully withdrawn and expended toward eligible project costs no later than 30 days following the AP closeout date, unless otherwise approved by the Division, to the extent allowed by the requirements governing the funding source.

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- (6) Recipients will be required to reconcile total AP amounts disbursed and eligible project costs incurred. If this reveals any discrepancies, the recipient will be required to address these by remitting the equivalent amount(s), together with any remaining unused funds, to the State Water Board no later than 60 days following the final reimbursement request date.
- (7) If the recipient does not adhere to these guidelines or the funding agreement's provisions regarding AP and the reserve account, DFA reserves the discretion to halt or suspend the processing of any pending or future applications for new financial assistance, withhold further reimbursement under the funding agreement, or require repayment of previously disbursed AP funds.