

NOTE: All additions to text are indicated in underline, all deletions are indicated in ~~strikeout~~.

CALIFORNIA CODE OF REGULATIONS

TITLE 23. WATERS

DIVISION 7. CALIFORNIA WATER COMMISSION

CHAPTER 1. WATER STORAGE INVESTMENT PROGRAM

Article 6. Uncommitted funds

Section 6020. Use of Uncommitted Funds.

(a) As used in this section, the terms below shall have the meanings noted:

(1) "Additional public benefits" means public benefits associated with water storage projects outlined in Water Code section 79753(a) and that were either not previously included in an application or not previously accepted by the Commission during the evaluation of the project pursuant to section 6011.

(2) "Existing approved project" means a project that has received a maximum conditional eligibility determination and remains eligible to receive Program funding. "Existing approved project" does not include projects that have been voluntarily withdrawn from the Program by the applicant or been deemed ineligible for Program funding by the Commission pursuant to section 6013(f)(1).

(3) "Returned funds" means those funds that were previously committed to a project by the Commission pursuant to section 6011 or this section, but are no longer committed to an existing approved project.

(4) "Supplemental funding determination" means a determination by the Commission of an amount of potential funding that is intended to supplement a project's maximum conditional eligibility amount or final Program cost share.

(5) "Uncommitted funds" means funds made available under Public Resources Code section 91015 ("Proposition 4 funds"), and any returned funds.

(b) At or after the time the administering agency submits to the Commission a draft contract for the administration of public benefits, but prior to the execution of the contract for the administration of public benefits, pursuant to section 6014(a)(2)(B), the Commission may, for good cause, make a supplemental funding determination.

(1) In determining if there is good cause to make a supplemental funding determination, the Commission ~~will~~may consider any changes that have occurred to the project since the maximum eligibility determination was made, including but not limited to the availability of additional public benefits, and increases in costs due to inflation, ~~and adjustments to the monetization of existing public benefits.~~

(2) In deciding whether to make a supplemental funding determination, the Commission ~~will~~may consider a project's progress in meeting the requirements of section 6013(c) and the ability of the collective suite of projects to advance the Program goals and purposes described in Water Code, section 79750(b).

(3) The final award of funds under a supplemental funding determination is contingent on the applicant meeting the requirements of section 6013(c).

(4) If the Commission makes a supplemental funding determination, then an applicant may seek additional early funding for the purposes described in section 6010. If additional early funding is awarded, the total early funding provided may not exceed 5% of the total of the maximum conditional eligibility amount plus whatever supplemental funding amount made by the Commission.

(c) At the time of the public hearing described in section 6013(c), the Commission may, for good cause and to support timely completion of existing approved projects, increase a project's final Program cost share beyond the total of the maximum conditional eligibility amount plus whatever supplemental funding amount previously made by the Commission if uncommitted funds remain available.

(1) In determining if there is good cause to increase a project's final Program cost share, the Commission ~~will~~may consider any changes that have occurred to the project since the maximum eligibility determination was made, including but not limited to the availability of additional public benefits ~~and; increases in costs due to inflation, and adjustments to the monetization of existing public benefits.~~

(2) In deciding whether to increase a project's final Program cost share, the Commission ~~will~~may consider a recipient's progress toward timely completing the project and the ability of the collective suite of projects to advance the Program goals and purposes described in Water Code, section 79750(b).

(d) For funding recipients with a funding agreement already in place, the Commission may, upon the request of the funding recipient but no later than one year thereafter, for good cause, make a supplemental funding determination.

(1) In determining if there is good cause to make a supplemental funding determination, the Commission ~~will~~may consider any changes that have occurred to the project since the maximum eligibility determination was made, including but not limited to the availability of additional public benefits and increases in costs due to inflation.

(2) In deciding whether to make a supplemental funding determination, the Commission ~~will~~may consider a recipient's progress toward timely completing the project and the ability of the collective suite of projects to advance the Program goals and purposes described in Water Code, section 79750(b).

(3) Whatever supplemental funding amount the Commission makes will be in addition to the final Program cost share.

(4) The final award of funds under a supplemental funding determination is contingent on the recipient meeting any applicable requirements of section 6013(c).

(e) The Commission shall not make a supplemental funding determination or increase a project's final Program cost share if the applicable administering agency does not agree to include the additional public benefits in the contract for public benefits under section 6013(c)(2) or if uncommitted funds are unavailable.

(f) Notwithstanding section 6011, the total amount of a project's Program cost share, that includes a supplemental funding amount, may exceed the maximum conditional eligibility amount.

(g) Notwithstanding whether good cause has been shown, as described above in subsections (b), (c), and (d), the Commission will not make a supplemental funding determination or increase a project's final Program cost share beyond the total of the maximum conditional eligibility amount plus whatever supplemental funding amount previously made if:

(1) The Commission determines that reserving uncommitted funds for the other existing approved projects supports the goals of the Program and outweighs the need for supplemental funding; or

(2) The Commission determines that the supplemental funding will not support the timely completion of the existing approved project.

Note: Authority cited: Sections 90135(e) and 91015, Public Resources Code; sections 79705, 79750, 79753, and 79754, Water Code. Reference: Section 91015, Public Resources Code; sections 79753 and 79754, Water Code.