



## **BOARD POLICY**

**Approved by the CAWCD Board September 5, 1996**

**Revised June 4, 1998**

**Amended November 7, 2002**

**Replaced by December 21, 2017 version**

### **CAWCD POLICY REGARDING THE RELINQUISHMENT AND TRANSFER OF CAP M&I SUBCONTRACT ALLOCATIONS**

The Board of Directors of the CAWCD recognizes that from time to time a subcontractor may desire to relinquish some or all of its M&I subcontract allocation. The Arizona Department of Water Resources (ADWR) is the state entity with the responsibility to recommend allocations, reallocations and, subsequently, the reassignment of CAP water supplies. The Board recognizes that ADWR has developed a policy and guidelines for such reassignments and pledges to coordinate and cooperate with ADWR in its process.

The Board has adopted this policy to establish the necessary elements required for CAWCD approval of any transfers of CAP subcontract allocations. The CAWCD has a primary interest in ensuring that the financial obligations associated with a CAP subcontract are fulfilled. In addition, the CAWCD wishes to ensure that sound public policy is considered before completing the transfer process. With these considerations in mind, the following elements will guide the CAWCD staff in processing the proposed transfers. Final approval will be by Board action.

1. Any transfer of a CAP M&I subcontract allocation must be accomplished with no profit to the relinquishing entity. All financial transactions must be fully disclosed. The only payment to the relinquishing entity will be made by CAWCD and will consist of reimbursement of CAP capital charges that were paid by that entity plus 5% of that amount as compensation for costs associated with the CAP subcontract. Reimbursement for the Arizona State Land Department will be as provided in A.R.S. ' 37-106.01(c). A "cost of money" payment will also be made. Such payment will consist of interest beginning on the date the original payment was received by CAWCD using a simple annual interest rate equal to the weighted average rate earned by CAWCD for that calendar year less 1%. No payment will be made for capital payments associated with any water delivered from October 1, 1993 through the date of relinquishment.

The entity that receives the subcontract allocation will be required to pay CAWCD 1) the amount CAWCD paid to the relinquishing entity with interest from the date payment was made by CAWCD; 2) any outstanding payments due under the subcontract with interest from the due date; and 3) any charges paid by CAWCD to the United States associated with the transfer. Interest paid by the receiving entity will be simple annual interest at a rate equal to the weighted average rate earned by CAWCD for each calendar year or portion of a calendar year. If the entity receiving the subcontract allocation purchased excess CAP water at the full-cost M&I rate after requesting the subcontract transfer but before the transfer was completed, then the payment due CAWCD from the receiving entity shall be reduced by any "prepaid charges," plus interest from the date of payment. "Prepaid charges" shall be computed by multiplying (i) the amount of full-cost excess water purchased each year (up to the amount of the subcontract allocation(s) being transferred) after the transfer was requested, by (ii) the M&I capital charge that was in effect at the time the excess water was purchased. In those instances where the assignment and transfer is made to a successor-in-interest that will serve the original subcontract service area,

payment for certain administrative, legal, or engineering fees may be permitted. CAWCD will review and approve these situations on a case by case basis and will facilitate those financial transactions directly between the involved entities.

2. The ADWR will determine who ultimately is reassigned any relinquished allocations. CAWCD will cooperate and coordinate with ADWR in the reassignment of CAP M&I subcontract allocations.

3. CAP M&I subcontractors located outside the CAP service area may also transfer their CAP allocations pursuant to this policy. Such entities must notify CAWCD and the United States of their intent to transfer by the date specified in subarticle 4.2(c) of their subcontracts for giving notice of termination. Such notice shall state that: (i) the subcontractor intends to transfer its CAP allocation pursuant to this policy and the related policy adopted by the Arizona Department of Water Resources; and (ii) in the event that such a transfer cannot be completed, the subcontractor desires to terminate its subcontract. Upon completion of transfer, the transferring subcontractor shall receive: (i) a reimbursement of capital charges paid, together with interest and costs, as provided in paragraph 1 of this policy; and (ii) a refund of equivalency charges paid, with interest, as provided in subarticle 5.2(c) of its subcontract. The entity that receives the subcontract allocation will be required to pay CAWCD the amounts specified in paragraph 1 of this policy, but shall not be required to pay CAWCD for any equivalency charges refunded to the transferring entity. If for any reason the transferring entity is unable to complete the transfer of its CAP allocation, then it would be permitted to terminate its CAP subcontract in accordance with the provisions therein. Notice given by the transferring entity pursuant to this paragraph shall satisfy the termination notice requirement of subarticle 4.2(c) of the subcontract.