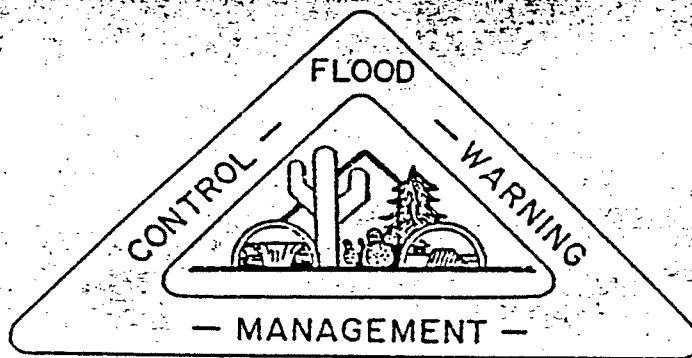


Flood Control Loan Program A.R.S. No. 45-1491 et. seq.

AUTHORITY, POLICIES & PROCEDURES



State of Arizona
Department of Water Resources

July 1987

FORWARD

The Flood Control Loan Program was established to enable both the county and special flood control districts to proceed with timely implementation of flood control projects authorized for funding under the Alternative Assistance Program. The large capital expenditures required to initiate construction of a flood control project often exceed the balance of tax revenues available to a district during the construction period. In some cases, the total outlay of the District's portion of the project cost may create a cash flow problem that would seriously impair the District's ability to discharge these problems, the loan program was designed to provide the districts with the necessary cash to proceed with project construction while providing a loan repayment schedule that will be compatible with the districts' normal flow of tax revenues and general operating expenditures.

"It is hereby declared that recurrent floods on streams, rivers and other waterways of the state, causing loss of life and property, disruption of commerce, interruption of transportation and communications and wasting of water, are detrimental to the peace, health, safety and welfare of the people of the state. Support of the central storage and full beneficial use of flood waters and the washing away of river and stream banks by floods in cooperation with counties, cities, state agencies and public districts and the United States, or any of its departments or agencies, is a proper function of the state".

"The legislature intends that from time to time allocations from the general fund for flood control projects will be made to pay for not to exceed one-half of the costs of all lands, easements and rights-of-way necessary for the flood control purposes adopted and authorized pursuant to federal law and recommended by the Arizona Water Commission and approved by the legislature concurrent with the availability of federal funds for their construction".

...Laws 1973 Chapter 40
State of Arizona

For more information concerning Flood Control Assistance Programs administered by the department see the following reports:

Flood Control Assistance Program
Alternative Flood Control Assistance
Development of Flood Control Plan

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FLOOD CONTROL LOAN FUND

I. Authority

A.R.S. § 45-1491. Flood control loans

- A. The water resources (director) may grant loans to a county flood control district organized pursuant to title 48, chapter 21, from the flood control loan fund established by section 45-1492 to defray the cost of flood control projects eligible for alternative flood control assistance under article 4 of this chapter. Loans may be granted, subject to the provisions of this article, in such manner and upon such terms and conditions as may be prescribed by the director.
- B. Upon application, the director shall make full and careful investigation of the qualifications of the applicant district and the proposed project. The director shall determine whether the proposed project would provide meaningful flood control and is in the best interests of the state.
- C. The loans granted by the director shall be for not more than twenty-five percent of the cost of a project or two and one-half million dollars, whichever is less, and for a term of not more than twenty years.
- D. The loans shall bear interest at the following rates:
 1. If the loan is for a term of not more than five years, the rate is three per cent per year.
 2. If the loan is for a term of more than five years, but not more than ten years, the rate is five per cent per year.
 3. If the loan is for a term of more than ten years, the rate is six per cent per year.

- E. Each loan shall be evidenced by a contract between the district and the director, acting on behalf of this state. The contract shall provide for the loan by this state of a stated sum defraying up to twenty-five per cent of the costs of the flood control project. The contract shall provide for equal annual payments of principal and interest for the term of the loan.
- F. The district board shall each year levy a tax sufficient to pay the annual amount of principal and interest due on the loan.
- G. The attorney general may commence actions deemed necessary to enforce the contract and achieve repayment of loans provided by the director pursuant to this article."

A.R.S. §48-3603. Powers, duties and immunities of district and board.

- C. A district organized under this article, acting through its board of directors may:...
- 3. Contract and join with this state, the United States or any other flood control district or floodplain board, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual in acquiring, constructing, maintaining and operating flood control works, and regulating floodplains....
- 10. Apply for, obtain, expend and repay flood control loans pursuant to title 45, chapter 14, Article 3."

II. Policy

The Flood Control Loan Program was established to enable county flood control districts to proceed with timely implementation of flood control projects authorized for funding under the Alternative Flood Control Assistance Program. The large capital expenditures required to initiate construction of a flood control project often exceed the balance of tax revenues available to a district during the construction period. In some cases, the total outlay of the district's portion of the project cost may create a cash flow problem that would seriously impair the district's ability to discharge its responsibilities in other areas. In recognition of these problems, the loan program was designed to provide the districts with the necessary cash to proceed with project construction while providing a loan repayment schedule that will be compatible with the districts' normal flow of tax revenues and general operating expenditures.

III. Procedures

A. Requests for Loans

Requests for flood control loans shall be made in writing to the Arizona Department of Water Resources Director. The request should state the amount and repayment time of the loan and a brief description of the project to which the loan will be applied. The Department will review the request and make a determination whether granting of the loan would help to provide significant flood control and be in the best interests of the State. Requests for loans will be accepted for projects approved for funding under the provisions of the Alternative Flood Control Assistance Program. Additionally, loans will not be requested for more than 25 percent of the estimated installation cost of the project or more than two and one-half million dollars, whichever amount is less. The estimated installation cost will be taken from the feasibility report upon which project approval was granted.

B. Loan Contract

Upon approval of the loan request by the Director, a contract will be executed between the District and the Department, acting on behalf of the State, which shall provide for the disbursement of the loan, in a stated sum, to the District. Additionally, the contract will stipulate a loan repayment schedule, providing for equal annual payments of principal and interest for the term of the loan, based on the following rates.

1. If the loan is for a term of not more than five years, the rate is three percent per year.
2. If the loan is for a term of more than five years, but not more than ten years, the rate is five percent per year.
3. If the loan is for a term of more than ten years, the rate is six percent per year.

An audit shall be conducted of project expenditures after project completion. If upon completion, the actual project cost is found to be in significant deficit or exceeding the original project cost estimate, an adjustment may be made to the loan amount if deemed appropriate by the Department.

No loan will be granted for a term of more than 20 years. To insure timely repayment of the loan, the loan contract will include a provision obligating the district to levy an annual tax on the taxable real property within the district sufficient to pay the annual amount of principal and interest due on the loan. This tax will be levied each year the loan contract is in effect.

Failure of the District to comply with the provisions of the loan contract shall give the Department cause to request the State Attorney General to initiate legal action to enforce the terms of the contract.

C. Disbursement of Funds

The District will retain an independent Certified Public Accountant to perform a compliance and financial audit of project expenditures upon certification of project completion. The auditor shall determine if the project expenditures were made for eligible project purposes as set forth in statutes and these procedures. Any costs found to be ineligible shall be absorbed by the District. In order to provide the Department with a convenient means of adjustment to compensate for any possible overpayments that might be detected through a compliance audit, the District's final payment for a specific project shall be no more or less than 90 percent of the estimated total loan reimbursement for the project. Upon review and acceptance of the audit compliance report, the Department will make a final disbursement for the remaining eligible project loan.

No disbursements will be made for any project until the appropriate agencies have adopted the necessary floodplain regulations in accordance with A.R.S. § 48-3609. Representatives of the Department will be available to meet with and brief representatives of the local agencies on State loan participation at the time projects are initiated.

The State Flood Control Loan program was created specifically to encourage public agency sponsors to establish adequate funding programs for urgently needed flood control projects. While the Department will do everything reasonably possible to see that public agency sponsor loans are disbursed at an early date, it must be remembered at all times that the responsibility for incurring and paying the project costs rests with the public agency. Disbursement will be made to public agency sponsors as soon as they qualify and State funds are available.

D. Requirements for Loan Claim.

All public agency sponsor requests for State loans for flood control projects shall be made on a properly filed claim. The requirements for claims to be filed with the Department are available

in the Alternative Flood Control Assistance Program procedures.

Prior to any public agency sponsor receiving a loan disbursement from the State, a review of submitted expenditures will be performed by the Department. The public agency sponsor shall keep and maintain a complete, accurate, and itemized record of costs for which State reimbursement is requested. The public agency sponsor shall permit any authorized officer or employee of the State of Arizona to examine such records, and to interview in connection with such records, the officers, agents, or employees of the sponsor. In making its review, the Department may except any items which cannot be verified. The public agency sponsor will have 90 days from the date of notification of the exceptions to submit additional supporting information. If such information is not received within 90 days, the Department will presume that the public agency sponsor accepted the deduction. If the public agency sponsor can support its claim, a supplemental payment will be made.

Project loan disbursements to the public agency sponsor may be limited to 90 percent of the amount found eligible for State assistance in order to provide a mechanism for future adjustments.