

Safe and Affordable Funding for Equity and Resilience (SAFER) Drinking Water Program and California Native American Tribes

Frequently Asked Questions

This document is intended to provide a better understanding of State-Tribal regulatory authorities, processes, and opportunities regarding the SAFER Program.

What is the SAFER Program?

The Safe and Affordable Funding for Equity and Resilience (SAFER) Program¹ is a set of tools, funding sources, and regulatory authorities designed to ensure Californians who currently lack safe and affordable drinking water receive it as quickly as possible. The primary purpose of the SAFER Program is to bring true environmental justice to California and address the continuing disproportionate environmental burdens in the state by assisting with providing safe drinking water in every California community, for every Californian.

SAFER funds will help water systems provide a safe, accessible, and affordable supply of drinking water to communities in both the near and long terms by accelerating implementation of short-term and long-term drinking water solutions, moving water systems to more efficient modes of operation, providing short-term operation and maintenance support as a bridge until long-term sustainable solutions are in place, and providing long-term operation and maintenance support when necessary.

The SAFER Program supports permanent and sustainable drinking water solutions that ensure all Californians have access to safe, affordable, and reliable drinking water.

Types of Solutions Available

The SAFER Program focuses on both short-term and long-term solutions. Short-term solutions include:

- temporarily connecting to safe drinking water sources,
- installing point-of-use or point-of-entry treatment systems,
- drilling wells into uncontaminated aquifers, and
- providing water directly to communities (e.g., bottled water or hauled water).

The long-term goal is to ensure that all drinking water systems are sustainable and

¹ waterboards.ca.gov/drinking_water/programs/safer_drinking_water/

affordable. Long-term solutions that will lead to self-sufficient systems include:

- the funding of upgrades,
- consolidation and regionalization (e.g., linking smaller systems into larger ones), and
- training and developing technical and managerial staff.

Operation and Maintenance²

Many small water systems in disadvantaged communities are unable to deliver clean water at affordable rates due to the cost of operations and maintenance. Although state funding is generally available for safe drinking water infrastructure, state funds have not been routinely available for operation and maintenance costs.

In the past, the lack of funds for operation and maintenance prevented the state from funding the installation of much-needed treatment facilities. The SAFER Program helps resolve a critical piece of this puzzle by allowing the State Water Board to comprehensively address the full array of issues that prevent water systems from providing safe and affordable drinking water.

How are California Tribes prioritized under SAFER?

Tribal governments are eligible to receive funding and other assistance delivered through the implementation of the SAFER Program. Partnership with Tribes is important for all Water Boards programs and policies, therefore engagement with California Tribes will be prioritized in outreach, program design, and funding elements.

The Office of Public Participation will begin outreach to Tribes no later than fall 2020.

Public Water Systems³ (State and Non-State Regulated)

Tribal water systems that are regulated by the State Water Resources Control Board (State Water Board) or a Local Primacy Agency (LPA) are being prioritized the same way as state public water systems. Priority will be given to water partnerships or regionalization projects that show long-term resiliency and sustainability for communities or schools unable to meet Safe Drinking Water Act standards⁴. The policy

² Typical operations and maintenance costs: staff costs; financial services; professional services; insurance and energy costs; and fees incurred for water quality monitoring, permits, equipment and infrastructure repair and replacement, wholesale water purchases, chemical or other water quality treatment materials and any residual disposal.

³ Public Water System: a system that provides water (for drinking, bathing or showering, handwashing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes) that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

⁴ <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>

and intended use plans⁵ adopted to implement the Drinking Water State Revolving Fund will be used as a basis for these projects. Construction projects will be required to develop plans to achieve long-term resiliency and sustainability within five years.

Under the Safe Drinking Water Act, the United States Environmental Protection Agency (USEPA) has primary enforcement responsibility in Indian country in the absence of Tribal primacy. The State Water Board is working with the USEPA and consulting with Tribal governments to obtain Safe Drinking Water Act standards data of these systems and will include the information in the SAFER prioritization assessment.

Communities on Private Domestic Wells or State Small Water Systems (Non-State Regulated)

In areas with high population density but without centralized water infrastructure, priority will also be given to water partnerships or regionalization projects that move disadvantaged communities without public water systems into larger systems, especially in areas with high risk of contamination or water shortage. The State Water Board's regulatory authority does not include private domestic wells or state small water systems.

Remote or Isolated Homes or State Smalls

Well rehabilitation or point-of-use (POU) and point-of-entry (POE) treatment options⁶ will likely will be the best long-term solutions for households in remote or isolated areas where consolidation is not feasible and where there is known or high risk of contamination or water shortage.

How do California Tribal water systems fit into the Water Board's assessment of statewide needs?

Prior to the SAFER program, Senate Bill 862 (2018) mandated the State Water Board conduct a Drinking Water Needs Assessment (Needs Assessment). The scope of the Needs Assessment is limited to evaluating the cost of providing safe, affordable and accessible drinking water supplies to public water systems (including state Tribal water systems), state small water systems, and individual wells. This Needs Assessment will be completed by June 2021. The State Water Board intend to consult with Tribal governments about data sharing and how best to assess Tribal water system and drinking water needs.

How will Tribal data be maintained confidential?

The State Water Board acknowledges and respects the need, importance, and in some

⁵ https://www.waterboards.ca.gov/drinking_water/services/funding/DWSRF_Policy.html

⁶ https://www.waterboards.ca.gov/drinking_water/certlic/device/watertreatmentdevices.html

circumstances, requirements (e.g., AB 52) for confidentiality regarding places, land, Tribal cultural resources, and matters discussed in consultation. Consistent with government-to-government practices between the State of California and Tribes, the State Water Board will work individually with Tribes to identify and protect confidential information and data, as needed, and as identified by the Tribes directly.

How is the State Water Board working with federal agencies to collaborate and streamline Tribal data gathering?

Under the Safe Drinking Water Act, the USEPA has primary enforcement responsibility in Indian country in the absence of Tribal primacy. The State Water Board is working with the USEPA to obtain Safe Drinking Water Act standards data on these systems. USEPA regulates over 300 Tribal water systems in Region 9 (California, Nevada, and Arizona). The main point of interaction between the State Water Board and USEPA typically occurs when a water system supplies Tribal lands, which itself is not very common. USEPA maintains the Safe Drinking Water Information System (SDWIS)⁷, which contains information about public water systems and their violations of USEPA drinking water regulations.

What funding requirements are necessary for SAFER funding?

The State Water Board receives the funds that it uses for SAFER projects from outside sources, including the Greenhouse Gas Reduction Fund, the federally capitalized Drinking Water State Revolving Fund, state general obligation bonds, the State General Fund, and other sources. Each funding source requires that the State Water Board comply with various restrictions, ranging from project eligibility to periodic reporting requirements to any number of cross-cutting requirements (e.g., nondiscrimination, water reporting, prevailing wage, the California Environmental Quality Act, etc.)

For the State Water Board to meet its own compliance obligations, it passes these compliance conditions through to its funding recipients in all of its funding agreements, including its SAFER agreements. Water Board staff and leadership are committed to ensuring mutually beneficial and agreed upon terms to effectuate funding agreements with Tribes. Each Tribe will need to verify enforceability of the funding agreement conditions prior to entering into a funding agreement with the State Water Board. This verification typically occurs through a limited waiver of sovereign immunity provided by the Tribe for the purposes of enforceability of the funding agreement.

The State Water Board recognizes that each Tribe will have a different protocol for undertaking this effort. The State Water Board is open to a variety of mechanisms and protocols, while remaining aware of the federal limits on Tribes' ability to consent to

⁷ <https://www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-information-system-sdwis-federal-reporting>

state jurisdiction. As part of a funding agreement, a federally recognized Tribe must provide certain access and inspection rights related to the project site, as well as the project records and accounts. This is the same for all funding recipients and is a critical oversight requirement.

What funding is available for California Tribes?

SAFER is one of several financial programs and tools the State Water Board offers to assist Tribes protect and improve California's waters. The money may be spent on operations and maintenance costs, cost of consolidating with larger systems, provision of interim replacement water, and funding for administrators to run designated water systems.

Loans and grants are available for constructing municipal sewage and water recycling facilities, improving public water systems, remediating groundwater contamination from underground storage tank releases and other sources, storm water management, and non-point source pollution control projects. As discussed above, there are a variety of funding sources for the State Water Board's funding programs. Each program has its own guidelines, application process and funding cycle.

The Financial Assistance Application Submittal Tool (FAAST) allows potential recipients to apply for grants and loans offered by the State Water Board and other state agencies. The Division of Financial Assistance reviews applications and directs applicants to the appropriate funding program. You can access FAAST at faast.waterboards.ca.gov/.

Additional Funding Resources

CalEPA maintains a webpage with funding opportunities available to California Native American Tribal governments: calepa.ca.gov/Tribal/FundingOpp/.

How are workforce development opportunities being planned along with California Tribes?

The State Water Board currently funds third-party capacity building through the Drinking Water State Revolving Fund (DWSRF). This includes developing and conducting training workshops covering all aspects of operating and maintaining a public water system and on the legal responsibilities of the water system board members. The State Water Board will continue to expand these programs by working with members of impacted communities, including California Tribes, to provide support for local training and apprenticeship programs.

The SAFER workforce development program will be focused on job creation to support the long-term operation and maintenance of small disadvantaged communities' drinking water systems. The Water Board will leverage existing efforts within the Water Board, CalEPA, and other Greenhouse Gas Reduction Fund (GGRF) programs to incorporate water sector needs. Staff are working with the Workforce Development Board to develop this program.

Consistent with the California Water Boards' Tribal Consultation Policy, the Water Boards will promote efforts of California Native American Tribes to develop and expand environmental programs through training, outreach, and technical assistance.

GET INVOLVED

SAFER Advisory Group Membership

Consider applying to become a SAFER Advisory Group Member (waterboards.ca.gov/safer/advisory_group.html). The Advisory Group meets quarterly in locations throughout California the state. Members provide feedback and recommendations to State Water Board staff regarding development and implementation of the SAFER Program.

Members serve on a voluntary basis and are appointed to staggered, two-year terms to ensure the Board can receive input from diverse groups and organizations over the decade-long life of the fund. Travel costs are reimbursed so financial burdens do not discourage participation.

Attend Free Funding Fairs

The Water Boards are part of the California Financing Coordinating Committee (CFCC), which is made up of eight state and federal funding members. CFCC representatives facilitate and expedite the completion of various types of infrastructure projects and help customers combine resources from different agencies. Project information is shared between representatives so additional resources can be identified.

CFCC representatives conduct free funding fairs statewide each year to educate the public and potential customers about member agencies and available financial and technical resources. cfcc.ca.gov/funding-fairs/

CONTACT

Water Boards Tribal Liaison

We encourage you to share your experiences, needs, and interests with the Water Boards' Tribal Liaison.

Phone: (916) 341-5261

Email: Tribal-Liaison@waterboards.ca.gov

Website: waterboards.ca.gov/about_us/public_participation/Tribal_affairs/

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