
CHAPTER 6 PROSPECTIVE AND ADVANCE PAYMENTS

Introduction

This chapter provides the instructions and documents required for a WIC local agency to request a prospective or an advance payment. It also describes what prospective and advance payments may be used for and how payments shall be fully liquidated.

Attachment 6-1 includes a comparison chart of prospective and advance payments.

I. Prospective Payments

Eligibility

A prospective payment pursuant to California Health and Safety Code section 38080 is available to all WIC local agencies in budget period one (1) of the WIC local agency agreement after the funding award and prior to the execution of the agreement (i.e., year one (1) of the three (3) year agreement). The prospective payment shall be paid to the WIC local agency upon submission of an invoice prior to the execution of the agreement.

Use of Funds

A prospective payment shall be used solely for allowable costs incurred for the performance of activities specified in the WIC Program scope of work (Exhibit A of the agreement).

Guidelines and Limitations

A WIC local agency may request up to three (3) prospective invoice payments prior to the execution of the agreement. A monthly billing cycle is required unless an exception is approved by the State WIC Program prior to the request. For invoice guidelines, see Chapter 12, Section II. Invoice Requirements. For each month that has passed following the effective date of the WIC local agency agreement, a WIC local agency may request no more one-twelfth (1/12) of the authorized funding amount, specified in the WIC local agency's award letter. Any exception to these guidelines must be approved in writing by the State WIC Program.

The total of the prospective payments may not exceed twenty-five percent (25%) of the authorized funding amount for year one (1) of the pending WIC local agency agreement. Exceptions to this limitation will not be permitted.

How to Request a Prospective Payment

The WIC local agency shall write a letter (see Attachment 6-2 for a sample letter) on WIC local agency letterhead addressed to the State WIC Program requesting a prospective payment. The letter must include:

- A. The WIC local agency’s pending agreement number,
- B. The specific dollar amount requested,
- C. A statement that the WIC local agency understands that, in the event the agreement is not fully executed, the WIC local agency will be required to repay the total prospective payment received,
- D. That the sole purpose of the account is to receive and disburse monies paid to the WIC local agency by the State WIC Program prior to the execution date of the WIC local agency agreement,
- E. That WIC local agency withdrawals may only be made by check,
- F. An original signature (in blue ink) of either the Agency Director or the PWPC (Designees cannot sign), and
- G. All documents required for the separate interest-bearing bank account as described in the next section.

Following receipt of the letter and approval of the funding application, the State WIC Program will send the WIC local agency a prospective payment invoice template to be completed and returned for payment.

If a prospective payment is to be requested, the request letter may be submitted:

- H. With the WIC local agency’s completed funding application, or
- I. Before the execution of the agreement.

The prospective payment will not be processed until after the funding application is approved, the effective date of the new agreement passes, and the agreement has not been executed.

Where to Submit

Submit your request(s) and required documents to:

California Department of Public Health
WIC Program
Local Agency Support Branch
3901 Lennane Drive
Sacramento, CA 95834

Separate Interest-bearing Bank

Prospective payment funds must be deposited into a separate interest-bearing bank account where the prospective payment

Account Requirement

funds and all other payments under the WIC local agency agreement shall be maintained.

The WIC local agency must submit two (2) sets of bank signature cards with the letter of request. The bank signature cards must have the signature of one or more WIC local agency persons who are authorized to withdraw funds. The WIC local agency must forward one (1) set of completed bank signature cards for this account to the State WIC Program within 30 calendar days of receiving a prospective payment from the State WIC Program. One (1) copy of any new signature cards must be forwarded to the State WIC Program whenever changes are made to the persons named on the bank signature card within the term of the WIC local agency agreement.

The bank signature cards must:

- A. Be signed by one or more persons in the WIC local agency's organization who are authorized to withdraw funds,
- B. Indicate that WIC local agency withdrawals shall be by check only; however, WIC local agency withdrawals do not require countersignature by the State WIC Program and,
- C. Indicate that State WIC Program withdrawals shall be accompanied by a written State WIC Program directive, issued by check only and made payable to the California Department of Public Health, Women, Infants and Children Program.

In the event that the State WIC Program makes a withdrawal from the account, the written directive from the State WIC Program shall indicate that the WIC local agency is in default of its contractual obligations or indicate that cancellation or termination of the WIC local agency agreement is imminent or has been initiated and that State WIC Program withdrawals do not require countersignature by the WIC local agency.

No part of the WIC local agency funds in the separate bank account shall be co-mingled with other funds belonging to the parent agency that was not obtained through the WIC local agency agreement. Each withdrawal by the WIC local agency from the account shall be made only by the WIC local agency check(s) for costs in providing State WIC Program services.

The WIC local agency shall transmit to the State WIC Program a copy of an agreement letter from the bank or financial institution in which the bank account is established within thirty (30)

calendar days of receiving a prospective payment from the State WIC Program, clearly setting forth the special character of the account and the responsibilities of the bank thereunder, that includes:

- A. The WIC local agency's pending agreement number,
- B. The name and address of the bank or financial institution and bank account number,
- C. A statement that the bank or financial institution is a member of the FDIC,
- D. A statement that the account is interest-bearing and the interest rate for the account,
- E. That the bank or financial institution agrees to take the following action upon receipt of a written directive from the State WIC Program indicating the WIC local agency agreement has been or will be cancelled or terminated or that the WIC local agency is in default of repayment on the prospective payment:
 - 1. Withhold further withdrawals from the account by the WIC local agency and/or its designees and
 - 2. Allow the State WIC Program designees, named within the directive, to withdraw any and all funds in the above-referenced account by check made payable to the California Department of Public Health, Women, Infants and Children Program, and
- F. Bank disclaimers if deemed appropriate such as: "The bank will not be responsible for withdrawals meeting the above criteria and/or subsequent use of those funds," etc.

Within thirty (30) calendar days of receiving a prospective payment from the State WIC Program, the WIC local agency must notify the State WIC Program in writing that the prospective payment funds have been placed in an account meeting the requirements stipulated in this Chapter of the Contract Management Binder (CMB).

Liquidation of Prospective Payments

Prospective payments are different from advance payments in that they are for immediate disbursement purposes and are reimbursements for actual expenditures incurred prior to the execution of that agreement. Therefore, it is expected that the amount requested in a prospective payment is supported by documentation of expenditure incurred for that month. It is CDPH's policy to require the prospective payment to be offset in full by contractor invoices before the program authorizes an advance payment to the same entity.

**Returning Interest
Earned on
Prospective
Payments**

Any interest earned from prospective payments made in anticipation of the WIC local agency agreement shall be identified and remitted to the State WIC Program as follows:

- A. Fifteen (15) working days following the receipt of the final payment for the first budget period of the executed agreement by the WIC local agency, or
- B. Prior to the expiration or termination of the WIC local agency agreement if the agreement expires or is terminated prior to September 30th of the first budget period.

Each check or warrant returning the interest earned shall comply with the following:

- A. Be made payable to the California Department of Public Health, Women, Infants and Children Program,
- B. Have the WIC local agency agreement number clearly posted on the face of the check, and
- C. Have the following statement clearly written on the face of the check: "Interest earned on State WIC Program prospective payment account – Federal Fiscal Year YYYY."
- D. Submitted to the following address:

California Department of Public Health
WIC Program
Local Agency Support Branch
3901 Lennane Drive
Sacramento, CA 95834

The State WIC Program, at its discretion, may designate an alternate Department name and/or invoice submission address. A change in the Department name and/or invoice address shall be accomplished via a written notice to the WIC local agency by the State WIC Program and shall not require an amendment to the WIC local agency agreement.

II. Advance Payments

Eligibility

An advance payment pursuant to California Health and Safety Code section 100350 is available only:

- Following the execution of a WIC local agency agreement,
- Following the liquidation of any outstanding prospective payments (if applicable),
- To a private, nonprofit agency with demonstrated cash-flow problems, and
- To a WIC local agency with an annual budget of no more than \$400,000 (to be increased annually by 5% as determined by the Department of Finance pursuant to California Government Code 11019) unless given advance approval by the Department of Finance.

Use of Funds

Advanced funds shall be used solely for the purpose of making payments for authorized and allowable costs incurred under the terms and conditions of the WIC local agency agreement.

Guidelines and Limitations

The State WIC Program may authorize up to three (3) advance payments of one-twelfth (1/12) of the authorized funding amount (i.e., the authorized base grant and any amounts for special projects authorized following the execution date of the agreement through the WIC local agency Authority to Spend letters) as deemed necessary pursuant to Title 7, Code of Federal Regulations, Part 246 (d)(3). The total of the advance payments may not exceed twenty-five percent (25%) of the authorized funding amount for the budget period for which the advance is granted.

The WIC local agency shall liquidate one-hundred percent (100%) of any prospective payments issued prior to requesting and receiving an advance payment pursuant to this Chapter of the CMB.

The WIC local agency approved for an advance payment shall submit monthly invoices (as opposed to quarterly invoices) to minimize the amount of advance required and ensure that cash flow is available for immediate disbursement purposes.

How to Request an Advance Payment

The WIC local agency shall write a letter (see Attachment 6-3 for a sample letter) on the WIC local agency letterhead to the State WIC Program requesting an advance payment. The letter must include:

- A. The WIC local agency’s agreement number,
- B. The specific dollar amount requested,
- C. A statement identifying the WIC local agency’s cash-flow problems which justifies the need for an advance payment,
- D. That the sole purpose of the account is to receive and disburse monies advanced to the WIC local agency by the State WIC Program,
- E. That WIC local agency withdrawals may only be made by check,
- F. A repayment schedule,
- G. An original signature (in blue ink) of either the Agency Director or the PWPC (Designees cannot sign), and
- H. All documents required for the separate interest-bearing bank account as described in the next section.

The request letter may be submitted prior to the budget period effective date, but not before the execution date of the WIC local agency agreement.

The advance payment request letter, if approved, serves as the invoice and is submitted to the California Department of Public Health (CDPH) Accounting Section for processing, and then to the State Controller’s Office (SCO) for payment issuance. Payment turn-around upon approval by the State WIC Program may take approximately forty-five (45) days.

Where to Submit

Submit your request(s) and required documents to:

California Department of Public Health
WIC Program
Local Agency Support Branch
3901 Lennane Drive
Sacramento, CA 95834

Separate Interest-bearing Bank Account Requirement

Advance payment funds received must be deposited in an account that is:

- A. Managed by a bank or financial institution that is a member of the FDIC,
- B. Interest-bearing, and
- C. Separate from other funds of the parent agency.

The WIC local agency must forward one (1) set of bank signature cards for this account to the State WIC Program within thirty (30) calendar days of receiving an advance payment from the State

WIC Program. One (1) copy of any new signature cards must be forwarded to the State WIC Program whenever changes are made to the persons named on the bank signature card within the term of the WIC local agency agreement. The bank signature cards must:

- A. Be signed by one or more persons in the WIC local agency's organization who are authorized to withdraw funds,
- B. Indicate that WIC local agency withdrawals shall be by check only; however, WIC local agency withdrawals do not require countersignature by the State WIC Program and,
- C. Indicate that State WIC Program withdrawals shall be accompanied by a written State WIC Program directive, issued by check only and made payable to the California Department of Public Health, Women, Infants and Children Program.

In the event that the State WIC Program makes a withdrawal from the account, the written directive from the State WIC Program shall indicate that the WIC local agency is in default of its contractual obligations or indicate that cancellation or termination of the WIC local agency agreement is imminent or has been initiated and that State WIC Program withdrawals do not require countersignature by the WIC local agency.

No part of the WIC local agency funds in the separate bank account shall be mingled with other funds belonging to the parent agency that was not obtained through the WIC local agency agreement. Each withdrawal by the WIC local agency from the account shall be made only by the WIC local agency check(s) for costs in providing State WIC Program services.

The WIC local agency shall transmit to the State WIC Program a copy of an agreement letter from the bank or financial institution in which the bank account is established within thirty (30) calendar days of receiving an advance payment from the State WIC Program, clearly setting forth the special character of the account and the responsibilities of the bank thereunder, that includes:

- A. The WIC local agency's agreement number,

- B. The name and address of the bank or financial institution and bank account number,
- C. A statement that the bank or financial institution is a member of the FDIC,
- D. A statement that the account is interest-bearing and at what interest rate,
- E. That the bank or financial institution agrees to take the following action upon receipt of a written directive from the State WIC Program indicating the WIC local agency agreement has been or will be cancelled or terminated or that the WIC local agency is in default of repayment on the advanced funds:
 - 1. Withhold further withdrawals from the account by the WIC local agency and/or its designees and
 - 2. Allow the State WIC Program designees, named within the directive, to withdraw any and all funds in the above-referenced account by check made payable to the California Department of Public Health, Women, Infants and Children Program,
- F. Bank disclaimers, if deemed appropriate, such as: “The bank will not be responsible for withdrawals meeting the above criteria and/or subsequent use of those funds,” etc.

Within thirty (30) calendar days of receiving an advance payment from the State WIC Program, the WIC local agency must notify the State WIC Program in writing that the advance funds have been placed in an account meeting the requirements stipulated in this Chapter of the CMB.

Fidelity Bond Requirement

The WIC local agency must obtain a Commercial Blanket Fidelity Bond equal to the amount of the advanced funds with the following stipulations:

- A. The State WIC Program shall be the loss payee,
- B. The bond shall be maintained until all advanced payments have been fully liquidated, offset or repaid to the State WIC Program, and
- C. Documentation of acquisition of the bond shall be submitted to the State WIC Program, upon request.

Disbursement of Advance Payments by the State of California

Advance payments approved by the State WIC Program shall be made by State warrant, payable to the WIC local agency as named on the WIC local agency agreement and shall be clearly marked, “for deposit only.”

Returning Interest Earned on Advance Payments

Any interest earned from funds advanced under the WIC local agency agreement shall be identified and submitted to the State WIC Program as follows:

- A. Fifteen (15) working days following the receipt of the final payment for the applicable budget period by the WIC local agency, or
- B. Prior to the expiration or termination of the WIC local agency agreement if the agreement expires or is terminated prior to September 30th of the applicable budget period.

Each check or warrant returning the interest earned shall comply with the following:

- A. Be made payable to the California Department of Public Health, Women, Infants and Children Program,
- B. Have the WIC local agency agreement number clearly posted on the face of the check, and
- C. Have the following statement clearly written on the face of the check: "Interest earned on State WIC Program prospective payment account – Federal Fiscal Year YYYY."
- D. Submitted to the following address:

California Department of Public Health
WIC Program
Local Agency Support Branch
3901 Lennane Drive
Sacramento, CA 95834

The State WIC Program, at its discretion, may designate an alternate Department name and/or invoice submission address. A change in the Department name and/or invoice address shall be accomplished via a written notice to the WIC local agency by the State WIC Program and shall not require an amendment to the WIC local agency agreement.

Repayment and/or Liquidation of Advance Funds

Unless otherwise stipulated in the approved repayment schedule, advance funds shall be repaid:

- A. By offsetting the last two (2) monthly invoices submitted immediately preceding the last month of the budget period for which advance payment was made, or
- B. Prior to the termination date of the WIC local agency agreement or at the time of termination.

If any advanced funds have not been liquidated upon termination of the WIC local agency agreement, the balance thereof shall be:

- A. Promptly paid by the WIC local agency to the State WIC Program upon demand,
- B. Deducted from any sum otherwise due to the WIC local agency from the State WIC Program, or
- C. Deducted from any sum that may become due to the WIC local agency from the State WIC Program.

The State WIC Program, without prior notice to the WIC local agency may demand full repayment and/or recover advanced amounts by offsetting invoice payments or from any other sums which may become due to the WIC local agency from the State WIC Program.

The WIC local agency may, at any time, repay all or any part of the advance payment.

Default Provisions

The State WIC Program, without limiting any rights which it may otherwise have, may in its sole discretion, and upon written notice to the WIC local agency, withhold further payments under the WIC local agency agreement, and/or demand immediate repayment of the unliquidated balance of any advance payment hereunder, and/or withdraw all or any part of the advance payment balance in the identified bank account, and/or terminate the WIC local agency agreement upon occurrence of any of the following events:

- A. Termination of the WIC local agency agreement,
- B. A finding by the State WIC Program that the WIC local agency has:
 - 1. Failed to observe any of the covenants, conditions, or warranties of this Chapter of the CMB,
 - 2. Failed to comply with any material provision of the WIC local agency agreement,
 - 3. Failed to make satisfactory progress and/or performance in the completion of the terms and conditions of the WIC local agency agreement,
 - 4. Is in such unsatisfactory financial condition as to endanger WIC local agency agreement performance,
 - 5. Allocated resources for the performance of the WIC local agency agreement that the State WIC Program believes are substantially exceeding the reasonable requirements for performance of the WIC local agency agreement, or

- 6. Is delinquent in payment of taxes, subcontractors, or any other cost of performance of the WIC local agency agreement in the ordinary course of business.
- C. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the WIC local agency's property, or institution of bankruptcy, reorganization arrangement of liquidation proceedings by or against the WIC local agency,
- D. Service of any writ of attachment, levy or execution or commencement of garnishment proceedings, or
- E. The commission of an act of bankruptcy.

III. Attachments

Prospective and Advance Payments Comparison Chart.....Attachment 6-1
 Sample Letter Requesting a Prospective PaymentAttachment 6-2
 Sample Letter Requesting an Advance Payment.....Attachment 6-3

Prospective and Advance Payments Comparison Chart

| Condition | Prospective Payment | Advance Payment |
|--|---|--|
| Which Type of Local Agency May Receive Payment | All WIC local agencies. | ONLY private non-profit agencies with a budget of \$400,000 per budget period increasing by 5% each year per California Government Code 11019. |
| When Available | First budget period but PRIOR to the WIC local agency agreement execution and on or after the effective date of agreement. | Each budget period, AFTER Agreement is fully executed, on or after effective date of agreement and only after any prospective payments have been liquidated. |
| Amount of Each Payment | Up to 1/12 th of the authorized funding amount per month, not to exceed twenty-five percent (25%) of the authorized funding amount of the first budget period of the agreement. | Up to 1/12 th of the authorized funding amount per month, not to exceed twenty-five percent (25%) of the authorized funding amount of the applicable budget period of the agreement. |
| Number of Payments | Up to three (3) payments. | Up to three (3) payments. |
| How Payment is Received | After receipt of required documents and approval of the funding application, the State WIC Program will send the WIC local agency a prospective payment invoice template to be completed and returned for payment. Once the invoice is reviewed and approved by the Fiscal Advisor, the invoice will be paid. | Upon approval by the State WIC Program, it will be submitted as an invoice and a payment will be issued. |
| Required Documentation | <ul style="list-style-type: none"> • Letter of request, • Bank letter of agreement, and • Bank cards (two sets) signed by WIC local agency person (s) authorized to withdraw funds. | <ul style="list-style-type: none"> • Letter of request, • Bank letter of agreement, • Bank cards (two sets) signed by WIC local agency person (s) authorized to withdraw funds. • Commercial fidelity bond, and • Repayment Schedule. |
| Billing Cycle | Monthly billing is required unless an exception is approved prior to the request. | Monthly billing is required unless an exception is approved prior to the request. |
| Liquidation | It is CDPH's policy to require the prospective payment to be offset in full by contractor invoices before the program authorizes an advance payment to the same entity. | The advance payment must be liquidated no later than the two (2) months immediately preceding the last month of each budget period. |

Sample Letter Requesting a Prospective Payment

**Must be on Local Agency Letterhead
(with Local Agency name and address)**

Date

Local Agency Support Branch
California Department of Public Health
WIC Program
3901 Lennane Drive
Sacramento, CA 95834

To Whom It May Concern:

The purpose of this letter is to request a prospective payment for Federal Fiscal Year 2012 on WIC local agency agreement number XX-XXXXX. We are requesting \$ZZ,ZZZ, which is equal to or less than 1/12th of the authorized funding amount of the first budget period, not to exceed twenty-five percent (25%) of the authorized funding amount for the first budget period.

These funds are to be deposit into an interest bearing account and that the sole purpose of the interest-bearing account is to receive and disburse monies paid to (WIC local agency name) by the State WIC Program prior to the execution date of the WIC local agency agreement, and that all withdrawals from the account will be made by check.

Enclosed you will find the following required documents:

- Bank letter of agreement.
- Bank cards (two sets).

This letter shall serve as a formal acceptance of the caseload and funding allocation to be awarded to our agency. I understand that the funding allocation is not subject to dispute. I also understand that, in the event this agreement is not fully executed, for whatever reason, this prospective payment will be repaid in full.

If you have any questions, please contact _____ at
(XXX) XXX-XXXX.

Sincerely,

Name
Title

Enclosures

Sample Letter Requesting an Advance Payment

**Must be on Local Agency Letterhead
(with Local Agency name and address)**

Date

Local Agency Support Branch
California Department of Public Health
WIC Program
3901 Lennane Drive
Sacramento, CA 95834

To Whom It May Concern:

The purpose of this letter is to request an advance payment for Federal Fiscal Year 20YY on WIC local agency agreement number XX-XXXXX. We are requesting \$ZZ,ZZZ, which is equal to or less than 1/12th of the authorized funding amount of the budget period, not to exceed twenty-five percent (25%) of the authorized funding amount for that budget period. This letter serves as our invoice for the requested funds.

I understand that the sole purpose of the interest-bearing account is to receive and disburse monies advanced to (WIC local agency name) by the State WIC Program, and that all withdrawals from the account will be made by check.

ENTER EXPLANATION OF CASH FLOW PROBLEM WHICH JUSTIFIES NEED FOR ADVANCED PAYMENT.

Enclosed you will find the following required documents:

- Bank letter of agreement.
- Bank cards (two sets).
- Commercial Fidelity Bond.
- Repayment Schedule.

If you have any questions, please contact _____ at
(XXX) XXX-XXXX.

Sincerely,

Name
Title
Enclosures