

CALIFORNIA PRIVACY PROTECTION AGENCY

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To: California Privacy Protection Agency Board
(Meeting of November 8, 2024)

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Subject: Agenda Item #6 – Discussion and Possible Action to Amend Regulation Section 7600, to Adjust CPPA’s Data Broker Registration Fee, Pursuant to Civil Code § 1798.99.80, et seq.

This memorandum provides staff’s recommendation for the Board to amend 11 CCR 7600 to adjust the data broker registration fee to fund the development and launch of the accessible deletion mechanism, also known as the Delete Request and Opt-out Platform (DROP), and related support costs, by 2026 in compliance with California law.

Background

Senate Bill 362 (Chapter 709, Statutes of 2023) transferred responsibility to host and administer the Data Broker Registry from the Office of the Attorney General (OAG) to the California Privacy Protection Agency (Agency) beginning on January 1, 2024. The bill also introduced a new requirement for the Agency to implement, by January 1, 2026, an accessible deletion mechanism (i.e. DROP) through which Californians can make a one-time request for all registered data brokers to delete non-exempt personal information maintained about them.

The Data Brokers’ Registry Fund, administered by Agency, is used for deposit of all moneys collected or received by the Agency under SB 362, and offsets the costs of administering the law. The Agency has the authority to set and adjust the data broker registration fee to cover the costs of administering the registry, as well as the costs of “establishing, maintaining, and providing access to the accessible deletion mechanism.”¹ This means that the Agency is expected to fund costs associated with implementing the registry and DROP system—including costs for systems planning, development, and maintenance, as well as dedicated support and program staff—through registration fees.

When the registry was initially established in 2020, the OAG set the registration fee at \$400 to cover their costs to administer the Data Broker Registry. To the Agency’s knowledge, the fee was reasonable at the time due to the limited resources needed to implement a new website registration function that could at least be partially supported by OAG’s existing personnel and IT infrastructure. After SB 362 transferred authority over the registry to the Agency, the Agency maintained the \$400 fee in 2024 to cover the initially anticipated costs of administering the registry during the current fiscal year. Due to the rapid turnaround between SB 362 becoming

¹ Civil Code § 1798.99.82(b)(1).

law and the 2024 registration period (less than three months), Agency staff were unable to reasonably estimate initial planning and development costs for the DROP system in time to factor such expenses into the 2024 registration fee. Nevertheless, it was apparent at the time of SB 362's passage that development of the DROP system would require considerably more resources and would therefore require additional revenues in the near term through registration fee adjustments.

DROP Development

Since receiving direction from the Legislature to develop and implement the DROP system, Agency staff have worked diligently towards planning for procurement of the system. After launching the 2024 registry in January, staff commenced the state-mandated Project Approval Lifecycle (PAL) process, which is required for all state IT development projects and described in greater detail under Agenda Item 5. In addition, during this past spring, Agency staff conducted a written survey for registered data brokers, interviewed data brokers and other relevant stakeholders (e.g. consumer advocates and authorized agents) through virtual meetings, and hosted written and oral public comment opportunities—all to determine how to best build DROP in a manner that was technically feasible, consumer friendly, and privacy protective.

Through PAL and these additional outreach efforts, Agency staff identified many of the necessary components to make the DROP system successful, including an application programming interface (API) for data brokers to access consumer deletion requests, a secure storage database, identity verification and proofing features to confirm consumer residency, a customer relationship management tool (CRM), infrastructure that ensures consumer requests are submitted in a privacy-protecting way, and customer support personnel. Additionally, as part of the PAL process, the Agency released a Request for Information (RFI) to formally receive information and preliminary estimates from the vendor community for procuring such a system. Responses to the RFI described a variety of potential solutions, primarily from commercial authorized agents, with estimated costs ranging between \$800,000 and \$12,000,000. However, not all responses met the functional and technical requirements for DROP as listed in the RFI and required in the statute.

Since the spring, Agency staff have worked closely with the California Department of Technology (CDT), Department of Finance (DOF), and Department of General Services (DGS), to determine the most precise estimates for the DROP's development and implementation in 2025 and 2026, in order to best tailor the registration fees in 2025 to the expected costs of the system during the upcoming fiscal year.

Ongoing Support Costs, DROP Estimates, and Registration Fee Adjustment

Based on the information received to date, plus the costs already incurred so far in the project's planning and development phase, the Agency reasonably estimates the total cost to implement SB 362 through fiscal year 2025-26 to total \$4.4 million. This estimate includes costs borne from CPPA staffing, project management and oversight for DROP, the system's initial development and infrastructure construction, as well as the ongoing costs for the Data Broker Registry. More specifically:

- CPPA staffing estimates total approximately \$1.3 million for three positions in the first fiscal year (2024-25) and anticipated workload for up to five positions beginning in early 2026. Consistent with the Agency's 2024-25 budget change proposal, the CPPA initially received three positions for the planning and implementation for SB 362. These positions include an Attorney III, an Information Technology Specialist II (ITS II), and an

Associate Governmental Program Analyst (AGPA), to support the registry's development and launch, SB 362-related rulemaking, and Information Technology (IT) related activities. The annual per-position costs range from approximately \$150,000 for an Associate Governmental Program Analyst to \$250,000 for an Attorney III, which include salaries and benefits, as well as operating expenses and equipment (at approximately \$25,000 per position). CPPA staffing resources have been, and will continue to be, phased in over the life of the project as support for the registry and DROP implementation ramp up. Based on the Agency's research to date, such staff resources are the minimum necessary to support a system of this size and scope. Nevertheless, resources will continuously be scaled based on workload.

- Project management and oversight costs total approximately \$384,000 for CDT consulting on the PAL process requirements and documentation, as well as costs for CDT's oversight and approval of the DROP project.
- System development and infrastructure estimates total approximately \$2.7 million. These costs include engineering resources to develop/configure the customer relationship management platform, database and API setup, licensing and/or infrastructure fees for various components of the DROP system (e.g. cloud storage, etc.), and identity verification for consumers utilizing the platform. The estimate also includes costs for user experience testing. Such estimates were determined based on review of similar state procurements, CDT review and proposed costing, and market research conducted through stages one and two of the PAL process.

Although total estimates reach \$4.4 million for this period, the Agency intends to utilize the existing revenues in the Data Brokers' Registry Fund—approximately \$900,000—to offset costs. As such, the Agency will need to recover approximately \$3.5 million in the 2025 registration period to ensure full and timely implementation of SB 362, as well as continued fund solvency. To date, a total of 527 data brokers have registered with the Agency in 2024. Assuming a similar number of registrants in 2025, the Agency therefore needs to adjust the registration fee to \$6,600 per data broker for the next registration cycle. If fees are not adjusted to this amount, the Agency is unlikely to fulfill its statutory mandate to establish and launch the DROP by 2026, and risks having insufficient funds to support contracts and pay personnel costs.

Future Fees

In accordance with Civil Code § 1798.99.82(b)(1), Agency staff intends to continue monitoring the fund balance and expenditure rate in the Data Brokers' Registry Fund to adjust fees in the coming years to appropriately match the reasonable costs of maintaining the Data Broker Registry and the DROP system.

Recommendation

Staff recommends that the Board adopt the proposed adjustment to the registration fee by amending 11 CCR § 7600 to revise the fee amount to \$6,600 in time for the 2025 registration period, which will run from January 1-31, 2025. This will ensure the Agency has sufficient funding to procure and launch the DROP system by 2026, in compliance with Civil Code § 1798.99.86.