

JANICE K. BREWER
Governor



SANDRA L. SUTTON
Executive Director

Water Infrastructure Finance Authority of Arizona

October 16, 2012

Bret Parke, Chair
Governor's Regulatory Review Council
100 N. 15th Avenue, Suite 402
Phoenix, Arizona 85007

Dear Mr. Parke,

Attached is the Five-Year Review Report by the Water Infrastructure Finance Authority (WIFA) of Arizona for A.A.C. Title 18, Chapter 15. All rules have been reviewed as part of this five-year review. WIFA does not intend to let any rule expire. No rule review was rescheduled by the Council.

WIFA has filed its Substantive Policy Statements with the Secretary of State. When the statements are published in the Arizona Administrative Register on November 2, 2012, WIFA will be in compliance with A.R.S. 41-1091.

The contact for this report is:

Sandy Sutton, Executive Director
Water Infrastructure Finance Authority of Arizona
1110 West Washington Street, Suite 290
Phoenix, Arizona 85007
Telephone: (602) 364-1314
Fax: (602) 364-1327
E-mail: ssutton@azwifa.gov

Sincerely,

A handwritten signature in blue ink that reads "Sandra Sutton". The signature is written in a cursive, flowing style.

Sandra L. Sutton
Executive Director

1110 West Washington, Suite 290 • Phoenix, Arizona 85007

(602) 364-1310 • www.azwifa.gov

"Arizona's water and wastewater funding source"



**Water Infrastructure Finance Authority of Arizona
Five-Year Review Report**

A.A.C. Title 18, Chapter 15

Submitted to the

**Governor's Regulatory Review
Council (GRRC)**

October 2012

WIFA Overview

The Water Infrastructure Finance Authority (WIFA) of Arizona provides financial and technical assistance to plan, design, construct, rehabilitate and improve drinking water, wastewater, water reclamation and other water quality related facilities and projects. A 12 member Board of Directors oversees the agency, hires staff, awards financial and technical assistance and authorizes the issuance of revenue bonds.

WIFA's principal means for providing low interest financial assistance include the Clean Water Revolving Fund (for publicly-held wastewater treatment projects) and the Drinking Water Revolving Fund (for both publicly and privately-held drinking water system projects). Both funds were established by the U.S. Environmental Protection Agency and are funded by federal capitalization grants, state matching funds and WIFA bond proceeds.

In addition to financial assistance, WIFA offers a Technical Assistance Program with three forms of technical assistance.

- **Planning and Design Assistance Grants** - WIFA awards planning and design grants to help prepare drinking water and wastewater facilities for future infrastructure project construction.
- **Staff Assistance** - WIFA funds a program to assist systems in analyzing and evaluating system performance and to provide site-specific training on system operations.
- **Professional Assistance** - WIFA funds a program to conduct research, studies and surveys, develop guidance and perform related activities that benefit more than one water or wastewater treatment facility.

WIFA also manages two programs that are currently unfunded:

- **Hardship Grant Fund** - Depending on the economic circumstances of a community, WIFA's Board of Directors may designate a wastewater project as eligible for a Hardship Grant. Initial funding for the Hardship Grant Fund was provided as a one-time grant by EPA, and these grant funds have been allocated or committed to projects. WIFA does not anticipate receiving additional funds for the Hardship Grant Fund; however, as a precautionary measure, this program remains in rule to preserve WIFA's authority if additional future funds are received for the program.
- **Water Supply Development Revolving Fund (WSDRF)** - This program was established by the Arizona Legislature in fiscal year 2007. Rules for the WSDRF program were included in the 2010 rulemaking, however there has been no program activity because the program has never been funded.

Analysis of Rule

WIFA's 2007 five-year review report identified numerous necessary clarifications, as well as Articles requiring amendment to conform to recent statutory changes. In February 2010, WIFA initiated a rulemaking process to satisfy commitments stated in the 2007 five-year review report and to reflect the current governing statutes. The Notice of Final Rulemaking was filed for publication in the Arizona Administrative Register on September 3, 2010, and the rules became effective on October 10, 2010. A copy of the rules being reviewed is included in Attachment A. The 2010 rulemaking significantly revised the entire Chapter. As a result, this five-year review report identified no necessary updates to rules.

In accordance with A.A.C. R1-6-111(B), WIFA reports that the following information is identical for all WIFA rules:

Effectiveness of the Rules in Achieving Their Objectives [A.R.S. 41 § 1056(A)(1) and A.A.C. R1-6-111(A)(3)]

The rules effectively achieve their objectives.

Consistency of the Rules with State and Federal Statutes and Rules [A.R.S. 41 § 1056(A)(4), A.R.S. 41 § 1056(A)(10) and A.A.C. R1-6-111(A)(4)]

These rules are consistent with the following federal statutes and rules: Title II and Title VI of the Clean Water Act (33 U.S.C. § 1292 and 33 U.S.C. §§ 1381-1387) (40 CFR Part 35 Subpart K); Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) (40 CFR Part 35 Subpart L); and the National Environmental Policy Act (42 U.S.C. § 4321 *et seq.*) (40 CFR Part 6).

The rules in 18 A.A.C. 15 are consistent with A.R.S. Title 49, Chapter 8 and Title 41, Chapter 24, Article 1. These statutes are included in Attachment B.

These rules are no more stringent than corresponding federal law.

Enforcement of the Rules [A.R.S. 41 § 1056(A)(4) and A.A.C. R1-6-111(A)(5)]

All of the rules are being enforced, and there are no issues with enforcement.

Agency View Regarding Current Wisdom of the Rules [A.A.C. R1-6-111(A)(6)]

WIFA believes that the rules in 18 A.A.C. 15 are well-considered, necessary and effective as currently written.

Clarity, Conciseness and Understandability [A.R.S. 41 § 1056(A)(5) and A.A.C. R1-6-111(A)(7)]

WIFA has analyzed the clarity, conciseness and understandability of its rules and concluded that the rules are clear, concise and understandable.

Written Criticisms [A.R.S. 41 § 1056(A)(2) and A.A.C. R1-6-111(A)(8)]

WIFA has not received any written criticisms or analyses of the rule within the five years immediately preceding this five-year review report.

Economic, Small Business and Consumer Impact [A.R.S. 41 § 1056(A)(6) and A.A.C. R1-6-111(A)(9)]

The economic, small business and consumer impact of the rules has not changed from that projected in the Economic, Small Business and Consumer Impact Statement submitted for the 2010 rulemaking. A copy of the 2010 Economic, Small Business and Consumer Impact Statement is included in Attachment C.

Comparison of Impact on Arizona to Other States [A.R.S. 41 § 1056(A)(7) and A.A.C. R1-6-111(A)(10)]

WIFA has not received an analysis that compares the rules' impact on this state's business competitiveness as compared to the competitiveness of businesses in other states.

Determination that the Rule Imposes the Least Burden and Costs [A.R.S. 41 § 1056(A)(9) and A.A.C. R1-6-111(A)(12)]

WIFA has determined that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs. In addition, WIFA has determined that the probable benefits of the rule outweigh the probable costs of the rule.

Proposed Course of Action [A.A.C. R1-6-111(A)(13)]

As a result of the recent rulemaking, WIFA has determined that its rules are satisfactory and does not plan to amend the rules in 18 A.A.C. 15 in the foreseeable future.

The Water Resources Development Commission has been working on developing recommendations for funding the Water Supply Development Revolving Fund as directed by the Legislature. The results of the Commission's work may have some impact on Article 4 at some point in the future.

Previous Five-year Review Process [A.R.S. 41 § 1056(A)(8)]

WIFA completed the previous five-year review process in 2007.

Compliance with A.R.S. 41 § 1037 for Rules that Require the Issuance of a Regulatory Permit, License or Agency Authorization [A.R.S. 41 § 1056(A)(11)]

These rules do not require the issuance of a regulatory permit, license or other agency authorization.

Analysis of Individual Articles

Article 1. General Provisions (A.A.C. R18-15-101 to 107)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 1 are authorized by A.R.S. §§ 49-1203(B)(10), 49-1224(B), 49-1244(B) and 49-1274(B).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within this Article describe the application process and requirements that are common to the Clean Water Revolving Fund, Drinking Water Revolving Fund and Water Supply Development Revolving Fund Programs.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The 2010 rulemaking addressed the courses of action indicated in the 2007 five-year review report. Definitions and references to rules and statutes were updated. The rulemaking restructured Article 1 to describe the common elements of financial and technical assistance in a single location to remove redundancy and provide a clearer understanding of WIFA's operations. Several Sections of Article 1 were repealed because they were moved or consolidated into other Sections, were repetitive of statute or were more appropriate as agency policy.

WIFA's environmental review process was significantly amended as part of the 2010 rulemaking. The actions identified in the 2007 five-year rule review regarding the environmental review procedures were no longer relevant or appropriate. Federal regulations at 40 CFR Part 6 regarding procedures for implementing NEPA were amended on September 19, 2007 and were further amended on February 4, 2009. The rulemaking updated the rule to be consistent with these federal regulations.

Article 2. Clean Water Revolving Fund (A.A.C. R18-15-201 to 208)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 2 are authorized by A.R.S. §§ 49-1203(B)(10) and 49-1224(B).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within Article 2 detail requirements unique to the Clean Water Revolving Fund, including describing eligibility criteria, establishing ranking categories and awarding financial assistance.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The 2010 rulemaking addressed the courses of action indicated in the 2007 five-year review report. Definitions and references to rules and statutes were updated, as well as the eligibility requirements for financial assistance. The rulemaking replaced the detailed ranking criteria with six ranking categories and amended the procedures for ranking projects with tied scores. Bypass and related notice procedures were addressed by specifying in rule the actions the Board may take on an application and the actions to be taken if funds are limited or not available to provide financial assistance.

Article 3. Drinking Water Revolving Fund (A.A.C. R18-15-301 to 308)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 3 are authorized by A.R.S. §§ 49-1203(B)(10) and 49-1244(B).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within Article 3 detail requirements unique to the Drinking Water Revolving Fund, including describing eligibility criteria, establishing ranking categories and awarding financial assistance.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The 2010 rulemaking addressed the courses of action indicated in the 2007 five-year review report. Definitions and references to rules and statutes were updated, as well as the eligibility requirements for financial assistance. The rulemaking replaced the detailed ranking criteria with six ranking categories and amended the procedures for ranking projects with tied scores. Bypass and related notice procedures were addressed by specifying in rule the actions the Board may take on an application and the actions to be taken if funds are limited or not available to provide financial assistance.

Article 4. Water Supply Development Revolving Fund (A.A.C. R18-15-401 to 408)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 4 are authorized by A.R.S. §§ 49-1203(C)(1) and 49-1274(B).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within Article 4 detail requirements unique to the Water Supply Development Revolving Fund, including describing eligibility criteria, establishing ranking categories and awarding financial assistance.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The courses of action indicated in the 2007 five-year review report for Article 4 consisted of updating references because of changes to statute. During the 2010 rulemaking, WIFA moved two sections of Article 4 to Article 1 and repealed the other two sections of Article 4 because they did not provide any further clarification than statute.

The 2010 rulemaking replaced the previous Article 4 with rules pertaining to Water Supply Development Revolving Fund which was established by the Arizona Legislature in 2007.

Article 5. Technical Assistance (A.A.C. R18-15-501 to 505)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 5 are authorized by A.R.S §§ 49-1203(B)(10) and 49-1203(C)(1).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within Article 5 describe the technical assistance available and the required actions and process for applying for, evaluating applications for and receiving planning and design assistance grants from the CWRP, DWRP and WSDRP.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The 2010 rulemaking addressed the courses of action indicated in the 2007 five-year review report. The rules established that WIFA will solicit and award planning and design assistance grants per the state grant code (A.R.S. Title 41, Chapter 24, Article 1). Most of the eligibility requirements and the detailed ranking criteria in the rule were eliminated in the 2010 rulemaking since these requirements are addressed in the Request for Grant Applications as required by the state grant code. The 2010 rulemaking repealed the rules regarding project priority lists and fundable ranges as well as the specific information to be included in the Technical Assistance Intended Use Plan, as these requirements are not applicable under the state grant code.

Article 6. Hardship Grant Fund Program (A.A.C. R18-15-601 to 603)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

All of the rules within Article 6 are authorized by A.R.S. §§ 49-1203(B)(10), 49-1267(C) and 49-1268(B).

Objective [A.A.C. R1-6-111(A)(2)]

The rules within Article 6 detail requirements, establish ranking criteria, and award financial assistance funded from Arizona's Hardship Grant Fund.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

The 2007 five-year review report indicated a rewriting of Article 6 was necessary to reflect Hardship Grants funded from a variety of funds managed by WIFA and not just Arizona's CWRP. However, since the time of that report, all funding for the Hardship Grant Fund has been allocated or committed to projects. WIFA does not anticipate receiving additional funds for the Hardship Grant Fund; however, as a precautionary measure, this Article remains in the rulemaking to preserve WIFA's authority if additional future funds are received.

Article 7. Interest Rate Setting and Forgivable Principal (A.A.C. R18-15-701)

Authorizing Statutes [A.R.S. 41 § 1056(A)(3) and A.A.C. R1-6-111(A)(1)]

The rule within Article 7 is authorized by A.R.S. §§ 49-1203(B)(10), 49-1225(C), 49-1245(C) and 49-1275(C).

Objective [A.A.C. R1-6-111(A)(2)]

The rule within Article 7 details procedures for interest rate setting.

If applicable, whether the agency completed the course of action indicated in the agency's previous five-year review report [A.A.C. R1-6-111(A)(11)]

Not applicable; the 2007 five-year review report did not identify any course of action needed for Article 7. Amendments made to this Article during the 2010 rulemaking consist of rule citations and minor editorial changes.

Attachment A

A.A.C. Title 18, Chapter 15

TITLE 18. ENVIRONMENTAL QUALITY**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA****ARTICLE 1. GENERAL PROVISIONS**

Section

- R18-15-101. Definitions
- R18-15-102. Types of Assistance Available
- R18-15-103. Application Process
- R18-15-104. General Financial Assistance Application Requirements
- R18-15-105. General Financial Assistance Conditions
- R18-15-106. Environmental Review
- R18-15-107. Disputes
- R18-15-108. Repealed
- R18-15-109. Repealed
- R18-15-110. Repealed
- R18-15-111. Repealed
- R18-15-112. Renumbered
- R18-15-113. Renumbered

ARTICLE 2. CLEAN WATER REVOLVING FUND

Section

- R18-15-201. Clean Water Revolving Fund Financial Assistance Eligibility Criteria
- R18-15-202. Clean Water Revolving Fund Intended Use Plan
- R18-15-203. Clean Water Revolving Fund Project Priority List
- R18-15-204. Clean Water Revolving Fund Project Priority List Ranking
- R18-15-205. Clean Water Revolving Fund Fundable Range for Financial Assistance
- R18-15-206. Clean Water Revolving Fund Application for Financial Assistance
- R18-15-207. Clean Water Revolving Fund Application Review for Financial Assistance
- R18-15-208. Clean Water Revolving Fund Requirements

ARTICLE 3. DRINKING WATER REVOLVING FUND

Section

- R18-15-301. Drinking Water Revolving Fund Financial Assistance Eligibility Criteria
- R18-15-302. Drinking Water Revolving Fund Intended Use Plan
- R18-15-303. Drinking Water Revolving Fund Project Priority List
- R18-15-304. Drinking Water Revolving Fund Project Priority List Ranking
- R18-15-305. Drinking Water Revolving Fund Fundable Range for Financial Assistance
- R18-15-306. Drinking Water Revolving Fund Application for Financial Assistance
- R18-15-307. Drinking Water Revolving Fund Application Review for Financial Assistance
- R18-15-308. Drinking Water Revolving Fund Requirements

ARTICLE 4. WATER SUPPLY DEVELOPMENT REVOLVING FUND

Section

- R18-15-401. Water Supply Development Revolving Fund Financial Assistance Eligibility Criteria
- R18-15-402. Water Supply Development Revolving Fund Intended Use Plan
- R18-15-403. Water Supply Development Revolving Fund Project Priority List
- R18-15-404. Water Supply Development Revolving Fund Project Priority List Ranking

- R18-15-405. Water Supply Development Revolving Fund Fundable Range for Financial Assistance
- R18-15-406. Water Supply Development Revolving Fund Application for Financial Assistance
- R18-15-407. Water Supply Development Revolving Fund Application Review for Financial Assistance
- R18-15-408. Water Supply Development Revolving Fund Requirements

ARTICLE 5. TECHNICAL ASSISTANCE

Article 5, consisting of Sections R18-15-501 through R18-15-507, adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2).

Section

- R18-15-501. Technical Assistance
- R18-15-502. Technical Assistance Intended Use Plan
- R18-15-503. Clean Water Planning and Design Assistance Grants
- R18-15-504. Drinking Water Planning and Design Assistance Grants
- R18-15-505. Water Supply Development Planning and Design Assistance Grants
- R18-15-506. Repealed
- R18-15-507. Repealed
- R18-15-508. Repealed
- R18-15-509. Repealed
- R18-15-510. Repealed
- R18-15-511. Repealed

ARTICLE 6. HARDSHIP GRANT FUND PROGRAM

Article 6, consisting of Sections R18-15-601 through R18-15-603, adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2).

Section

- R18-15-601. Hardship Grant Fund Administration
- R18-15-602. Hardship Grant Fund Financial Assistance
- R18-15-603. Hardship Grant Fund Technical Assistance

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

Article 7, consisting of Section R18-15-701, adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2).

Section

- R18-15-701. Interest Rate Setting and Forgivable Principal

ARTICLE 1. GENERAL PROVISIONS**R18-15-101. Definitions**

In addition to the definitions prescribed in A.R.S. § 49-1201, the terms of this Chapter, unless otherwise specified, have the following meanings:

“Applicant” means a governmental unit, a non-point source project sponsor, a drinking water facility, or a water provider that is seeking financial assistance from the Authority under the provisions of this Chapter.

“Application” means a request for financial assistance submitted to the Board or Committee by an applicant.

“Authority” means the Water Infrastructure Finance Authority of Arizona pursuant to A.R.S. § 49-1201(1).

“Board” means the Board of Directors of the Authority pursuant to A.R.S. § 49-1201(2).

“Certified Water Quality Management Plan” means a plan prepared by a single representative organization designated by the Governor according to Section 208 of the Clean Water Act, 33 U.S.C. 1288.

“Clean Water Revolving Fund” means the fund established by A.R.S. § 49-1221.

“Committee” means the Water Supply Development Fund Committee as defined in A.R.S. § 49-1201(5).

“DBE” means EPA’s Disadvantaged Business Enterprise Program.

“Dedicated revenue source for repayment” means a source of revenue pledged by a borrower to repay the financial assistance.

“Department” means the Arizona Department of Environmental Quality.

“Disbursement” means the transfer of cash from a fund to a recipient.

“Discharge” has same meaning as prescribed in A.R.S. § 49-201(12).

“Drinking water facility” has same meaning as prescribed in A.R.S. § 49-1201(6).

“Drinking Water Revolving Fund” means the fund established by A.R.S. § 49-1241.

“EA” means an environmental assessment.

“EID” means an environmental information document.

“EIS” means an environmental impact statement.

“EPA” means the United States Environmental Protection Agency.

“Executive director” means the executive director of the Water Infrastructure Finance Authority of Arizona.

“Federal capitalization grant” means the assistance agreement by which the EPA obligates and awards funds allotted to the Authority for purposes of capitalizing the Clean Water Revolving Fund and the Drinking Water Revolving Fund.

“Financial assistance” means the use of monies for any of the purposes identified in R18-15-102(B).

“Financial assistance agreement” means any agreement that defines the terms for financial assistance provided according to this Chapter.

“FONSI” means a finding of no significant impact.

“Fundable range” means a subset of the project priority list that demarcates the ranked projects which have been determined to be ready to proceed and will be provided with a project finance application.

“Governmental unit” means a political subdivision or Indian tribe that may receive technical or financial assistance from the Authority pursuant to A.R.S. § 49-1203.

“Grant applicant” means a governmental unit, a nonpoint source project sponsor, a drinking water facility, or a water provider that is seeking a planning and design assistance grant from the Authority under the provisions of this Chapter.

“Grant application” means a request for a planning and design assistance grant submitted to the Board or Committee by a grant applicant in a format prescribed by the Authority.

“Impaired water” means a navigable water for which credible scientific data exists that satisfies the require-

ments of A.R.S. § 49-232 and that demonstrates that the water should be identified pursuant to 33 U.S.C. 1313(d) and the regulations implementing that statute.

“Intended Use Plan” means the document prepared by the Authority identifying the intended uses of Clean Water Revolving Fund and Drinking Water Revolving Fund federal capitalization grants according to R18-15-202 and R18-15-302, the intended uses of the Water Supply Development Revolving Fund according to R18-15-402, and the intended uses of funds for technical assistance according to R18-15-502.

“Master priority list” means the master priority list for Capacity Development developed by the Arizona Department of Environmental Quality under A.A.C. R18-4-803, which ranks public water systems according to their need for technical assistance.

“Onsite system” means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site.

“Planning and design assistance grant” means a technical assistance grant that provides for the use of monies for a specific water, wastewater treatment facility, or water supply delivery system for planning or design to facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water project, wastewater project, or water supply development project.

“Planning and design assistance grant agreement” means any agreement that defines the terms for a technical assistance grant provided according to Article 5 of this Chapter.

“Planning and design loan repayment agreement” means the same as technical assistance loan repayment agreement and has the meaning at A.R.S. § 49-1201(12).

“Priority value” means the total points a project received during the evaluation of its project priority list application.

“Professional assistance” means the use of monies by or on behalf of the Authority to conduct research, conduct studies, conduct surveys, develop guidance, and perform related activities that benefit more than one water or wastewater treatment facility.

“Project” means any distinguishable segment or segments of a wastewater treatment facility, drinking water facility, water supply delivery system, or nonpoint source pollution control that can be bid separately and for which financial or technical assistance is being requested or provided.

“Project priority list” means the document developed by the Board or Committee according to R18-15-203, R18-15-303, or R18-15-403 that ranks projects according to R18-15-204, R18-15-304, or R18-15-404.

“Recipient” means an applicant who has entered into a financial assistance agreement or planning and design assistance grant agreement with the Authority.

“ROD” means a record of decision.

“Staff assistance” means the use of monies for a specific water or wastewater treatment facility to assist that system to improve its operations or assist a specific water provider with a water supply delivery system. For water providers, staff assistance is limited to planning and

Water Infrastructure Finance Authority of Arizona

design of water supply development projects according to A.R.S. § 49-1203(B)(17).

“Technical assistance” means assistance provided by the Authority in the form of staff assistance, professional assistance and planning and design assistance grants.

“Wastewater treatment facility” has the same meaning as prescribed in A.R.S. § 49-1201(13).

“Water provider” has the same meaning as prescribed in A.R.S. § 49-1201(14).

“Water supply development” has the same meaning as prescribed in A.R.S. § 49-1201(15).

“Water Supply Development Revolving Fund” means the fund established by A.R.S. § 49-1271.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-102. Types of Assistance Available

- A.** The Authority may provide financial and technical assistance under the following programs if the Board or Committee, as applicable, determines funding is available:
1. Clean Water Revolving Fund Program and Clean Water Technical Assistance Program,
 2. Drinking Water Revolving Fund Program and Drinking Water Technical Assistance Program,
 3. Water Supply Development Revolving Fund Program and Water Supply Development Technical Assistance Program, and
 4. Hardship Grant Fund Program.
- B.** Financial assistance available from the Authority includes any of the following:
1. Financial assistance loan repayment agreements;
 2. Planning and design loan repayment agreements in accordance with A.R.S. § 49-1203(16) and (17);
 3. The purchase or refinancing of local debt obligations;
 4. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
 5. Short-term emergency loan agreements in accordance with A.R.S. § 49-1269; and
 6. Providing linked deposit guarantees through third-party lenders as authorized by A.R.S. §§ 49-1223(A)(6), 49-1243(A)(6), and 49-1273(A)(6).
- C.** Technical assistance available from the Authority includes planning and design assistance grants, staff assistance, and professional assistance. Technical assistance may be offered at the Board’s or Committee’s discretion and shall be identified in the annual Technical Assistance Intended Use Plan as described in R18-15-502.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Former R18-15-102 renumbered to R18-15-103; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-103. Application Process

- A.** An applicant requesting assistance shall apply to the Authority for each type of financial or technical assistance described in R18-15-102 on forms provided by the Authority.

- B.** An applicant seeking financial assistance through the Clean Water Revolving Fund Program shall apply for financial assistance according to Articles 1 and 2 of this Chapter.
- C.** An applicant seeking financial assistance through the Drinking Water Revolving Fund Program shall apply for financial assistance according to Articles 1 and 3 of this Chapter.
- D.** An applicant seeking financial assistance through the Water Supply Development Revolving Fund Program shall apply for financial assistance according to Articles 1 and 4 of this Chapter.
- E.** An applicant seeking technical assistance available through the technical assistance programs shall apply for technical assistance according to Articles 1 and 5 of this Chapter.
- F.** An applicant shall mark any confidential information with the words “confidential information” on each page of the material containing such information. A claim of confidential information may be asserted for a trade secret or information that, upon disclosure, would harm a person’s competitive advantage. The Authority shall not disclose any information determined confidential. Upon receipt of a claim of confidential information, the Authority shall make one of the following written determinations:

1. The designated information is confidential and the Authority shall not disclose the information except to those individuals deemed by the Authority to have a legitimate interest.
2. The designated information is not confidential.
3. Additional information is required before a final confidentiality determination can be made.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-103 renumbered from R18-15-102 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-104. General Financial Assistance Application Requirements

- A.** The applicant shall provide in the financial assistance application the information in subsections (B), (C), (D), and (E).
- B.** The applicant shall demonstrate the applicant is legally authorized to enter into long-term indebtedness, and is legally authorized to pledge a dedicated revenue source for repayment under subsection (C).
1. If the applicant is a political subdivision and the long-term indebtedness is authorized through an election, the applicant shall provide all of the following:
 - a. One copy of the sample election ballot and election pamphlet,
 - b. One copy of the governing body resolution calling for the election, and
 - c. Official evidence of the election results following the election.
 2. If the applicant is a political subdivision and the long-term indebtedness is not required by law to be authorized through an election, the applicant shall provide one copy of the approved governing body resolution authorizing the long-term indebtedness.
 3. If the applicant is a political subdivision and the long-term indebtedness is authorized through a special taxing district creation process, the applicant shall provide one copy of all final documentation, notices, petitions, and related information authorizing the long-term indebtedness.

4. If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide evidence that the financial assistance from the Authority to the applicant is authorized by the Arizona Corporation Commission.
 5. All other applicants shall demonstrate that a majority of the beneficiaries consent to the terms and conditions of the financial assistance. The Authority shall assist each applicant to devise a process by which this consent is documented.
- C.** The applicant shall identify a dedicated revenue source for repayment of the financial assistance and demonstrate that the dedicated revenue source is sufficient to repay the financial assistance.
1. The applicant shall provide the following information:
 - a. Amount of the financial assistance requested;
 - b. One copy of each financial statement, audit, or comprehensive financial statement from at least the previous three fiscal years;
 - c. One copy of each budget, business plan, management plan, or financial plan from the previous and current fiscal years;
 - d. One copy of the proposed budget, business plan, management plan, or financial plan for the next fiscal year;
 - e. A projection of revenue anticipated to be collected over the next five fiscal years from the dedicated revenue source for repayment;
 - f. A summary of current fees for drinking or wastewater services including, as applicable, any resolutions passed by the governing body of a political subdivision; and
 - g. Copies of documentation relating to outstanding indebtedness pledged to the dedicated source for repayment, including official statements, financial assistance agreements, and amortization schedules.
 2. If any of the required information listed in subsection (C)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's financial capability.
 3. The Authority may ask for additional financial information as necessary to evaluate the applicant's financial capability.
- D.** The applicant shall demonstrate the applicant is technically capable to construct, operate, and maintain the proposed project.
1. The applicant shall provide the following information:
 - a. An estimate of the project costs in as much detail as possible, including an estimate of applicable planning, design, construction, and material costs;
 - b. The number of connections to be served by the proposed project;
 - c. The most recent version of the applicant's capital improvement plan or other plan explaining proposed infrastructure investments;
 - d. One copy of each feasibility study, engineering report, design memorandum, set of plans and specifications, and other technical documentation related to the proposed project and determined applicable by the Authority for the stage of project completion;
 - e. Copies of resumés, biographies, or related information of the certified operators, system employees, or contractors employed by the applicant to operate and maintain the existing facilities and the proposed project;
 - f. A description of the service area, including maps; and
 - g. A description of the existing physical facilities.
 2. The Authority may ask for additional information as necessary to evaluate the applicant's technical capability.
- E.** The applicant shall demonstrate the applicant is capable to manage the proposed project.
1. The applicant shall provide the following information:
 - a. Years of experience and related information regarding the owners, managers, chief elected officials, and governing body members of the applicant; and
 - b. A list of professional and outside services retained by the applicant and the proposed project.
 2. If any of the required information listed in subsection (E)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's managerial capability.
 3. The Authority may ask for additional information as necessary to evaluate the applicant's managerial capability.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-105. General Financial Assistance Conditions

- A.** The Authority shall not execute a financial assistance agreement with an applicant until the applicant provides all documentation specified by the Authority and the requirements of R18-15-106 are met. Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of R18-15-106. For planning and design loans that include an environmental information document or an environmental impact statement, the Authority may execute a financial assistance agreement with an applicant prior to the completion of the conditions of R18-15-106, provided that the applicant meets the requirements of R18-15-106 before proceeding with the design of the selected alternative.
- B.** The documentation required prior to execution of the financial assistance agreement shall at a minimum include:
1. One copy of the governing body resolution approving the execution of the financial assistance agreement,
 2. A project budget, and
 3. An estimated disbursement schedule.
- C.** The financial assistance agreement between the recipient and the Authority shall at a minimum specify:
1. Rates of interest, fees, and any costs as determined by the Authority;
 2. Project details;
 3. The maximum amount of principal and interest due on any payment date;
 4. Debt service coverage requirements;
 5. Reporting requirements;
 6. Debt service reserve fund and repair and replacement reserve fund requirements;
 7. The dedicated source for repayment and pledge;
 8. The requirement that the recipient comply with applicable federal, state and local laws;
 9. A schedule for repayment; and
 10. Any other agreed-upon conditions.
- D.** The Authority may require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.
- E.** The recipient shall maintain the project account in accordance with generally accepted government accounting standards. After reasonable notice by the Authority, the recipient shall make available any project records reasonably required to

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determine compliance with the provisions of this Chapter and the financial assistance agreement.

F. The Authority shall release loan proceeds subject to a disbursement request if the request is consistent with the financial assistance agreement and the disbursement schedule.

1. The applicant shall submit each disbursement request on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
2. The applicant shall include copies of invoices, canceled checks, or other documents that show proof of eligible costs incurred with each disbursement request.

G. The recipient shall make repayments according to an agreed-upon schedule in the financial assistance agreement. The Authority may charge a late fee for any loan repayment not paid when due. The Authority may refer any loan repayment past due to the Office of the Attorney General for appropriate action.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-106. Environmental Review

A. The Authority shall conduct an environmental review according to this Section for impacts of the design or construction of water infrastructure. Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of R18-15-106. As part of the application process, the Authority shall request information from the applicant to conduct an environmental review consistent with 40 CFR 35.3140 and 40 CFR 35.3580. The Authority shall determine whether the project meets the criteria for categorical exclusion under subsections (B) and (C), or whether the project requires the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) to identify and evaluate its environmental impacts.

B. A project may be categorically excluded from environmental review if the project fits within a category that is eligible for exclusion and the project does not involve any of the extraordinary circumstances listed in subsection (C). If, based on the application and other information submitted by the applicant, the Authority determines that a categorical exclusion from an environmental review is warranted, the project is exempt from the requirements of this Section, except for the public notice and participation requirements in subsection (J). The Authority may issue a categorical exclusion if information and documents demonstrate that the project qualifies under one or more of the following categories:

1. Any project relating to existing infrastructure systems that involves minor upgrading, minor expansion of system capacity, rehabilitation (including functional replacement) of the existing system and system components, or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include projects that:
 - a. Involve new or relocated discharges to surface water or groundwater,
 - b. Will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water,

- c. Will provide capacity to serve a population 30% greater than the existing population,
- d. Are not supported by the state or other regional growth plan or strategy, or
- e. Directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.

2. Any clean water project in unsewered communities involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate an existing discharge.

C. The Authority shall deny a categorical exclusion if any of the following extraordinary circumstances apply to the project:

1. The project is known or expected to have potentially significant adverse environmental impacts on the quality of the human environment either individually or cumulatively over time.
2. The project is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.
3. The project is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.
4. The project is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the Arizona or National Registers of Historic Places.
5. The project is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.
6. The project is known or expected to cause significant adverse air quality effects.
7. The project is known or expected to have a significant effect on the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use or federal land management plans.
8. The project is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.
9. The project is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.
10. The project is known or expected to conflict with federal, state, or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.

D. If the Authority denies the categorical exclusion under subsection (C), the Authority shall conduct an EA according to subsection (E), unless the Authority decides to prepare an EIS according to subsections (F) and (G) without first undertaking an EA. If the Authority conducts an EA, the applicant shall:

1. Prepare an environmental information document (EID) in a format prescribed by the Authority. The EID shall be of

- sufficient scope to undertake an environmental review and to allow development of an EA under subsection (E); or
2. Provide documentation, upon Authority approval, in another format if the documentation is of sufficient scope to allow the development of an EA under subsection (E).
- E.** The Authority shall conduct the EA that includes:
1. A brief discussion of:
 - a. The need for the project;
 - b. The alternatives, including a no action alternative;
 - c. The affected environment, including baseline conditions that may be impacted by the project and alternatives;
 - d. The environmental impacts of the project and alternatives, including any unresolved conflicts concerning alternative uses of available resources; and
 - e. Other applicable environmental laws.
 2. A listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders;
 3. Identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the project will not have significant impacts; and
 4. Incorporation of documents by reference, if appropriate, including the EID.
- F.** Upon completion of the EA required by subsection (E), the Authority shall determine whether an environmental impact statement (EIS) is necessary.
1. The Authority shall prepare or direct the applicant to prepare an EIS in the manner prescribed in subsection (G) if any of the following conditions exist.
 - a. The project would result in a discharge of treated effluent from a new or modified existing facility into a body of water and the discharge is likely to have a significant effect on the quality of the receiving water.
 - b. The project is likely to directly, or through induced development, have significant adverse effect upon local ambient air quality or local ambient noise levels.
 - c. The project is likely to have significant adverse effects on surface water reservoirs or navigation projects.
 - d. The project would be inconsistent with state or local government, or federally-recognized Indian tribe approved land use plans or regulations, or federal land management plans.
 - e. The project would be inconsistent with state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws and regulations for the protection of the environment.
 - f. The project is likely to significantly affect the environment through the release of radioactive, hazardous, or toxic substances, or biota.
 - g. The project involves uncertain environmental effects or highly unique environmental risks that are likely to be significant.
 - h. The project is likely to significantly affect national natural landmarks or any property on or eligible for the Arizona or National Registers of Historic Places.
 - i. The project is likely to significantly affect environmentally important natural resources such as wetlands, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.
 - j. The project in conjunction with related federal, state, or local government, or federally-recognized Indian tribe projects is likely to produce significant cumulative impacts.
 - k. The project is likely to significantly affect the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas.
 - l. The project is a new regional wastewater treatment facility or water supply system for a community with a population greater than 100,000.
 - m. The project is an expansion of an existing wastewater treatment facility that will increase existing discharge to an impaired water by more than 10 million gallons per day (mgd).
 2. The Authority may issue a finding of no significant impact (FONSI) if the EA supports the finding that the project will not have a significant impact on the environment. The FONSI shall include the submitted EA and a brief description of the project, alternatives considered, and project impacts. The FONSI must also include any commitments to mitigation that are essential to render the impacts of the project not significant. The Authority shall issue the FONSI for public comment in accordance with subsection (J).
- G.** The Authority shall prepare or direct the applicant to prepare an EIS required by subsection (F)(1) when the project will significantly impact the environment, including any project for which the EA analysis demonstrates that significant impacts will occur and not be reduced or eliminated by changes to, or mitigation of, the project. The Authority shall perform the following actions:
1. As soon as practicable after its decision to prepare an EIS and before the scoping process, the Authority shall prepare a notice of intent. The notice of intent shall briefly describe the project and possible alternatives and the proposed scoping process. The Authority shall distribute the notice of intent to affected federal, state, and local agencies, any affected Indian tribe, the applicant, and other interested parties. The Authority shall issue the notice of intent for public comment in accordance with subsection (J)(3).
 2. As soon as possible after the distribution and publication of the notice of intent required by subsection (G)(1), the Authority shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the applicant, and other interested parties. At the meeting, the parties attending the meeting shall determine the scope of the EIS by considering a number of factors, including all of the following:
 - a. The significant issues to be analyzed in depth in the EIS,
 - b. The preliminary range of alternatives to be considered,
 - c. The potential cooperating agencies and information or analyses that may be needed from cooperating agencies or other parties, and
 - d. The method for EIS preparation and the public participation strategy.
 3. Upon completion of the process described in subsection (G)(2), the Authority shall identify and evaluate all potentially viable alternatives to adequately address the range of issues identified. Additional issues also may be

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addressed, or others eliminated, and the reasons documented as part of the EIS.

4. After the analysis of issues is conducted according to subsection (G)(3), the Authority shall issue a draft EIS for public comment according to subsection (J)(4).
 5. Following public comment according to subsection (J), the Authority shall prepare a final EIS, consisting of all of the following:
 - a. The draft EIS.
 - b. An analysis of all reasonable alternatives and the no action alternative;
 - c. A summary of any coordination or consultation undertaken with any federal, state, or local government, or federally-recognized Indian tribe;
 - d. A summary of the public participation process;
 - e. Comments received on the draft EIS;
 - f. A list of persons commenting on the draft EIS;
 - g. The Authority's responses to significant comments received;
 - h. A determination of consistency with the Certified Water Quality Management Plan, if applicable;
 - i. The names and qualifications of the persons primarily responsible for preparing the EIS; and
 - j. Any other information added by the Authority.
 6. The Authority shall prepare or direct the applicant to prepare a supplemental EIS when appropriate, including when substantial changes are made to the project that are relevant to environmental concerns, or when there are significant new circumstances or information relevant to environmental concerns bearing on the project.
- H.** After issuance of a final EIS under subsection (G)(5), the Authority shall prepare and issue a record of decision (ROD) containing the Authority's decision whether to proceed or not proceed with a project. A ROD issued with a decision to proceed shall include a brief description of the project, alternatives considered, and project impacts. In addition, the ROD must include any commitments to mitigation, an explanation if the environmental preferred alternative was not selected, and any responses to substantive comments on the final EIS. A ROD issued with a decision not to proceed shall preclude the project from receiving financial assistance under this Article.
- I.** For all determinations (categorical exclusions, FONSI, or RODs) that are five years old or older and for which the project has not been implemented, the Authority shall re-evaluate the project, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the project and complete an appropriate environmental review document or reaffirm the Authority's original determination. The Authority shall provide public notice of the re-evaluation according to subsection (J)(5).
- J.** The Authority shall conduct public notice and participation under this Section as follows:
1. If a categorical exclusion is granted under subsection (B), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.
 2. If a FONSI is issued under subsection (F)(2), the Authority shall provide public notice that the FONSI is available for public review by publishing the notice as a legal notice at least once in one or more newspapers of general circulation in the county or counties concerned. The notice shall provide that comments on the FONSI may be submitted to the Authority for a period of 30 days from the date of publication of the notice. If no comments are received, the FONSI shall immediately become effective.

The Authority may proceed with the project subject to any mitigation measures described in the FONSI after responding to any substantive comments received on the FONSI during the 30-day comment period, or 30 days after issuance of the FONSI if no substantive comments are received.

3. If a notice of intent is prepared and distributed under subsection (G)(1), the Authority shall publish it as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.
4. If a draft EIS is issued under subsection (G)(4), the Authority shall provide public notice by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned, that the draft EIS is available for public review. The notice shall provide that comments on the draft EIS may be submitted to the Authority for a period of 45 days from the date of publication of the notice. When the Authority determines that a project may be controversial, the notice shall provide for a general public hearing to receive public comments.
5. If the Authority reaffirms or revises a decision according to subsection (I), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section repealed; new R18-15-106 renumbered from R18-15-107 and amended at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-107. Disputes

- A.** Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under this Chapter, excluding actions taken under R18-15-503, R18-15-504, and R18-15-505, may file a formal letter of dispute with the executive director according to subsections (B), (C), (D), and (E). Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under R18-15-503, R18-15-504 or R18-15-505 shall proceed under R18-15-503(H), R18-15-504(H) or R18-15-505(H), as applicable.
- B.** The interested party shall file the formal letter of dispute with the executive director within 30 days of the action and provide a copy to each member of the Board or Committee. The formal letter of dispute shall include the following information:
1. The name, address, and telephone number of the interested party;
 2. The signature of the interested party or the interested party's representative;
 3. A detailed statement of the legal and factual grounds of the dispute including:
 - a. Copies of relevant documents, and
 - b. The nature of the substantial financial interest or the nature of the substantial adverse financial impact of the interested party; and
 4. The form of relief requested.
- C.** Within 30 days of receipt of a dispute letter, the Authority shall issue a preliminary decision in writing, to be forwarded by certified mail to the party.

- D. Any party filing a dispute under subsection (B) that disagrees with a preliminary decision of the Authority may file a formal letter of appeal, explaining why the party disagrees with the preliminary decision, with the Board, provided the letter is received by the executive director not more than 15 days after the receipt by the party of the preliminary decision.
- E. The Board shall issue a final decision on issues appealed under subsection (D) not more than 60 days after receipt of the formal letter of appeal.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former R18-15-107 renumbered to R18-15-106; new R18-15-107 renumbered from R18-15-112 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-108. Repealed**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed; new Section R18-15-108 renumbered from R18-15-109 by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-109. Repealed**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Former Section R18-15-109 renumbered to R18-15-108; new Section R18-15-109 renumbered from R18-15-110 by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-110. Repealed**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Former Section R18-15-110 renumbered to R18-15-111; new Section adopted effective June 4, 1998 (Supp. 98-2). Former Section R18-15-110 renumbered to R18-15-109; new Section R18-15-110 renumbered from R18-15-111 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-111. Repealed**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Former Section R18-15-111 renumbered to R18-15-112; new Section R18-15-111 renumbered from R18-15-110 and amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-111 renumbered to R18-15-110; new Section R18-15-111 renumbered from R18-15-112 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-112. Renumbered**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Former Section R18-15-112 renumbered to R18-15-113;

new Section R18-15-112 renumbered from R18-15-111 (Supp. 98-2). Former Section R18-15-112 renumbered to R18-15-111; new Section R18-15-112 renumbered from R18-15-113 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-112 renumbered to R18-15-107 by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-113. Renumbered**Historical Note**

Section R18-15-113 renumbered from R18-15-112 (Supp. 98-2). Section R18-15-113 renumbered to R18-15-112 by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4).

ARTICLE 2. CLEAN WATER REVOLVING FUND**R18-15-201. Clean Water Revolving Fund Financial Assistance Eligibility Criteria**

To be eligible to receive financial assistance from the Clean Water Revolving Fund, the applicant shall demonstrate the applicant is a governmental unit requesting financial assistance for a purpose as defined in A.R.S. § 49-1223(A); the proposed project is to design, construct, acquire, improve, or refinance a publicly owned wastewater treatment facility, or for any other purpose permitted by the Clean Water Act including nonpoint source projects; and the proposed project appears on the Clean Water Revolving Fund Project Priority List developed under R18-15-203.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-202. Clean Water Revolving Fund Intended Use Plan

- A. The Authority annually shall develop and publish a Clean Water Revolving Fund Intended Use Plan that identifies the intended uses of funds available in the Clean Water Revolving Fund Program. The Intended Use Plan shall include the project priority list according to R18-15-203. If the Intended Use Plan is to be submitted as one of the documents required to obtain a federal capitalization grant under Title VI of the Clean Water Act, 33 U.S.C. 1381 to 1387, the Intended Use Plan shall include any additional information required by federal law.
- B. The Authority shall provide for a public review and written comment period of the draft Clean Water Revolving Fund Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Board review. After review of the summary, the Board shall make any appropriate changes to the Plan and then adopt the Clean Water Revolving Fund Intended Use Plan at a public meeting.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-202 renumbered from R18-15-203 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-203. Clean Water Revolving Fund Project Priority List

- A. The Authority annually shall prepare a Clean Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-202. The Board may waive the require-

ment to develop a Clean Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.

- B.** An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Clean Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Clean Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Clean Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-204(A), by which the project will be evaluated and the relative importance of each of the criterion.
- C.** In preparing the Clean Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B), all projects requested by regulatory authorities, and all plans prepared according to the Clean Water Act, 33 U.S.C. 1251 to 1387. The Authority shall evaluate the merits of each project with respect to water quality issues and determine the priority value of each project according to R18-15-204. At a minimum, the Clean Water Revolving Fund Project Priority List shall identify:
1. The applicant,
 2. Project title,
 3. Type of project,
 4. The amount requested for financial assistance,
 5. The subsidy rate index according to R18-15-204(C),
 6. Whether the project is within the fundable range according to R18-15-205, and
 7. The rank of each project by the priority value determined according to R18-15-204.
- D.** After adoption of the annual Intended Use Plan and project priority list according to R18-15-202, the Board may allow:
1. Updates and corrections to the adopted Clean Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after an opportunity for public comment at a public meeting; or
 2. Additions to the Clean Water Revolving Fund Project Priority List, if the additions are adopted by the Board after an opportunity for public comment at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Board may remove a project from the Clean Water Revolving Fund Project Priority List under one or more of the following circumstances:
1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
 2. The project was financed with long-term indebtedness from another source;
 3. The project is no longer an eligible project;
 4. The applicant requests removal;
 5. The applicant is no longer an eligible applicant; or
 6. The applicant did not update, modify, correct or resubmit a project that remained on the project priority list for more than 365 days.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-203 renumbered to R18-15-202; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-204. Clean Water Revolving Fund Project Priority List Ranking

- A.** The Authority shall rank each project on the Clean Water Revolving Fund Project Priority List based on the priority value of each project. The Authority shall consider the following categories to determine the priority value of each project:
1. The Authority shall evaluate the current conditions of the project, including existing environmental, structural, and regulatory integrity and the degree to which the project is consistent with the Clean Water Act, 33 U.S.C. 1251 to 1387.
 2. The Authority shall evaluate the degree to which the project improves or protects water quality.
 3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
 4. The Authority shall evaluate the degree to which the project promotes any of the following:
 - a. Consolidation of facilities, operations, and ownership;
 - b. Extending service to existing areas currently served by another facility; or
 - c. A regional approach to operations, management, or new facilities.
 5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
 6. The Authority shall evaluate the applicant's local fiscal capacity.
- B.** If two or more projects have the same rank according to subsection (A), the Authority shall give priority to the project with the highest current condition value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water quality improvement value under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same priority value, the Board shall determine the priority of the tied projects.
- C.** The Authority shall determine the subsidy rate index for each project on the Clean Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity value under subsection (A)(6) and the overall priority value of the project. The Authority shall incorporate the subsidy rate index in the financial assistance agreement.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-205. Clean Water Revolving Fund Fundable Range for Financial Assistance

- A.** Prior to adoption by the Board of the Clean Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B.** In determining the fundable range, the Authority shall evaluate each project for evidence that the project is ready to proceed. The Authority shall consider the following indicators when evaluating whether the project is within the fundable range:
1. Evidence of debt authorization according to R18-15-104(B);
 2. Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;

3. Evidence of approval by the appropriate authority of project plans and specifications; and
4. Evidence that the applicant has initiated the bid or solicitation process.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Section repealed; new Section R18-15-205 renumbered from R18-15-206 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-206. Clean Water Revolving Fund Application for Financial Assistance

- A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Clean Water Revolving Fund Project Priority List and is determined to be in the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Clean Water Revolving Fund Project Priority List.
- B. The Authority shall not forward an application to the Board for consideration until all the following conditions are met:
 1. The project is on the Clean Water Revolving Fund Project Priority List;
 2. The applicant has provided supporting documentation according to R18-15-205(B);
 3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability as described in R18-15-104;
 4. For nonpoint source projects, the applicant has provided evidence that the project is consistent with Section 319 and Title VI of the Clean Water Act, 33 U.S.C. 1329, 1381 to 1387;
 5. The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities; and
 6. The proposed project is consistent with the Certified Water Quality Management Plan.
- C. The application criteria required under subsections (A) and (B) shall not apply to financial assistance requests for short-term emergency loans under A.R.S. § 49-1269.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-206 renumbered to R18-15-205; new Section R18-15-206 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-207. Clean Water Revolving Fund Application Review for Financial Assistance

- A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. The analysis shall at a minimum include:
 1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
 2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
 3. A summary of the applicant's technical capability including its ability to construct, operate, and maintain the proposed project;

4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
5. A summary of the applicant's financial capability, including:
 - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three fiscal years,
 - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year, and
 - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five fiscal years;
6. The applicant's history of compliance with, as applicable, the Clean Water Act, 33 U.S.C. 1251 to 1387, related Arizona statutes, and related rules, regulations, and policies; and
7. A summary of any previous assistance provided by the Authority to the applicant.

- B. The Board shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:
 1. The proposed project,
 2. The applicant's legal structure and organization,
 3. The dedicated revenue source for repayment, or
 4. The structure of the financial assistance request.
- C. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Clean Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Clean Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D. Upon Board approval of the applicant's request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-208. Clean Water Revolving Fund Requirements

- A. The duly authorized agent, principal or officer of the applicant shall certify that the applicant has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning, design, or construction work on a wastewater treatment facility project.

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- B. All projects shall comply with the provisions of the Civil Rights Act of 1964, P.L. 88-352, 42 U.S.C. 2000d et seq., and all other applicable federal laws.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

ARTICLE 3. DRINKING WATER REVOLVING FUND**R18-15-301. Drinking Water Revolving Fund Financial Assistance Eligibility Criteria**

To be eligible to receive financial assistance from the Drinking Water Revolving Fund, the applicant shall demonstrate that the applicant is a drinking water facility as defined by A.R.S. § 49-1201 requesting financial assistance for a purpose as defined in A.R.S. § 49-1243(A); the proposed project is to plan, design, construct, acquire, or improve a drinking water facility or refinance an eligible drinking water facility; and the proposed project appears on the Drinking Water Revolving Fund Project Priority List developed under R18-15-303.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-302. Drinking Water Revolving Fund Intended Use Plan

- A. The Authority annually shall develop and publish a Drinking Water Revolving Fund Intended Use Plan that identifies the intended uses of funds available in the Drinking Water Revolving Fund Program. The Intended Use Plan shall include the project priority list according to R18-15-303. If an Intended Use Plan is to be submitted as one of the documents required to obtain a federal capitalization grant under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26, the Intended Use Plan shall include any additional information required by federal law.
- B. The Authority shall provide for a public review and written comment period of the draft Drinking Water Revolving Fund Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Board review. After review of the summary, the Board shall make any appropriate changes to the Plan and then adopt the Drinking Water Revolving Fund Intended Use Plan at a public meeting.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-302 renumbered from R18-15-303 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-303. Drinking Water Revolving Fund Project Priority List

- A. The Authority annually shall prepare a Drinking Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-302. The Board may waive the requirement to develop an annual Drinking Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.

- B. An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Drinking Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Drinking Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Drinking Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-304(A) by which the project will be evaluated and the relative importance of each of the criterion.

- C. In preparing the Drinking Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B), all projects requested by regulatory authorities, and all plans prepared under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26. The Authority shall evaluate the merits of each project with respect to water quality issues and determine the priority value of each project according to R18-15-304. At a minimum, the Drinking Water Revolving Fund Project Priority List shall identify:

1. The applicant;
2. Project title;
3. Type of project;
4. Population of service area;
5. The amount requested for financial assistance;
6. The subsidy rate index according to R18-15-304(C);
7. Whether the project is within the fundable range according to R18-15-305; and
8. The rank of each project by the priority value, determined according to R18-15-304.

- D. After adoption of the annual Intended Use Plan and project priority list according to R18-15-302, the Board may allow:

1. Updates and corrections to the adopted Drinking Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after an opportunity for public comment at a public meeting; or
2. Additions to the Drinking Water Revolving Fund Project Priority List, if the additions are adopted by the Board after an opportunity for public comment at a public meeting.

- E. After an opportunity for public comment at a public meeting, the Board may remove a project from the Drinking Water Revolving Fund Project Priority List under one or more of the following circumstances:

1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
2. The project was financed with long-term indebtedness from another source;
3. The project is no longer an eligible project;
4. The applicant requests removal;
5. The applicant is no longer an eligible applicant; or
6. The applicant did not update, modify, correct or resubmit a project that remained on the project priority list for more than 365 days.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-303 renumbered to R18-15-302; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-304. Drinking Water Revolving Fund Project Priority List Ranking

A. The Authority shall rank each project listed on the Drinking Water Revolving Fund Project Priority List based on the priority value of each project. The Authority shall consider the following categories to determine the priority value of each project:

1. The Authority shall evaluate the current conditions of the system through the system's rank on the Department's master priority list.
2. The Authority shall evaluate the degree to which the project will result in improvement to the water system.
3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
4. The Authority shall evaluate the degree to which the project promotes any of the following:
 - a. Consolidation of facilities, operations, and ownership;
 - b. Extending service to existing areas currently served by another facility; or
 - c. A regional approach to operations, management, or new facilities.
5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
6. The Authority shall evaluate the applicant's local fiscal capacity.

B. If two or more projects have the same rank according to subsection (A), the Authority shall give priority to the project with the highest current condition value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water system improvement value under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same priority value, the Board shall determine the priority of the tied projects.

C. The Authority shall determine the subsidy rate index for each project on the Drinking Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity value and the overall priority value of the project. The Authority shall incorporate the subsidy rate index in the financial assistance agreement.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-305. Drinking Water Revolving Fund Fundable Range for Financial Assistance

A. Prior to adoption by the Board of the Drinking Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.

B. In determining the fundable range the Authority shall evaluate each project for evidence that the project is ready to proceed. The Authority shall consider the following indicators when evaluating whether the project is within the fundable range:

1. Evidence of debt authorization according to R18-15-104(B);
2. Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;
3. Evidence of approval by the appropriate authority of project plans and specifications; and

4. Evidence that the applicant has initiated the bid or solicitation process.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-305 repealed; new Section R18-15-305 renumbered from R18-15-306 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-306. Drinking Water Revolving Fund Application for Financial Assistance

A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Drinking Water Revolving Fund Project Priority List and is determined to be within the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Drinking Water Revolving Fund Project Priority List.

B. The Authority shall not forward an application to the Board for consideration until all the following conditions are met:

1. The project is on the Drinking Water Revolving Fund Project Priority List;
2. The applicant has provided supporting documentation according to R18-15-305(B);
3. The applicant has demonstrated legal capability, financial capability, technical capability and managerial capability as described in R18-15-104; and
4. The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities.

C. The application criteria required under subsections (A) and (B) shall not apply to financial assistance requests for short-term emergency loans under A.R.S. § 49-1269.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-306 renumbered to R18-15-305; new Section R18-15-306 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-307. Drinking Water Revolving Fund Application Review for Financial Assistance

A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. At a minimum, the analysis shall include:

1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
2. A summary of the applicant's legal capability, including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
3. A summary of the applicant's technical capability, including its ability to construct, operate, and maintain the proposed project;
4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
5. A summary of the applicant's financial capability, including:

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- a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three fiscal years,
 - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year, and
 - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five fiscal years;
6. The applicant's history of compliance with, as applicable, the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26, related Arizona statutes, and related rules, regulations and policies; and
 7. A summary of any previous assistance provided by the Authority to the applicant.

B. The Board shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:

1. The proposed project,
2. The applicant's legal structure and organization,
3. The dedicated revenue source for repayment, or
4. The structure of the financial assistance request.

C. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Drinking Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Drinking Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.

D. Upon Board approval of the applicant's request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-308. Drinking Water Revolving Fund Requirements

- A.** The duly authorized agent, principal or officer of the applicant shall certify the applicant has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning, design, or construction work on a project.
- B.** All projects shall comply with the provisions of the Civil Rights Act of 1964, P.L. 88-352, 42 U.S.C. 2000d et seq., and all other applicable federal laws.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rule-

making at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

ARTICLE 4. WATER SUPPLY DEVELOPMENT REVOLVING FUND**R18-15-401. Water Supply Development Revolving Fund Financial Assistance Eligibility Criteria**

To be eligible to receive financial assistance from the Water Supply Development Revolving Fund, the applicant shall demonstrate the applicant is a water provider as defined by A.R.S. § 49-1201(14) requesting financial assistance for a purpose as defined in A.R.S. § 49-1273(A); the water provider meets the requirements of A.R.S. § 49-1273(C); and the proposed project appears on the Water Supply Development Revolving Fund Project Priority List developed under R18-15-403.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-402. Water Supply Development Revolving Fund Intended Use Plan

A. The Authority annually shall develop and publish a Water Supply Development Revolving Fund Intended Use Plan that identifies the intended uses of funds available in the Water Supply Development Revolving Fund Program. The Intended Use Plan shall include the project priority list according to R18-15-403 and specify whether funds are available to subsidize the projects. The Authority is not required to prepare a Water Supply Development Revolving Fund Intended Use Plan if funds are not adequate to assist any projects or if the Committee determines that no financial assistance will be offered for the annual funding cycle.

B. The Authority shall provide for a public review and written comment period of the draft Water Supply Development Revolving Fund Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Committee review. After review of the summary, the Committee shall make any appropriate changes to the Plan and then adopt the Water Supply Development Revolving Fund Intended Use Plan at a public meeting.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-403. Water Supply Development Revolving Fund Project Priority List

A. The Authority annually shall prepare a Water Supply Development Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-402. The Authority is not required to prepare a Water Supply Development Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Committee determines that no financial assistance will be offered for the annual funding cycle.

B. An applicant pursuing financial assistance from the Authority for a water supply development project shall request to have the project included on the Water Supply Development Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Water Supply Development Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Water Supply Development Revolving Fund Project Priority List on or before a date specified by the Authority and in an

application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-404(A) by which the project will be evaluated and the relative importance of each of the criterion.

- C. In preparing the Water Supply Development Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B). The Authority shall evaluate the merits of each project with respect to water supply development issues and determine the priority value of each project according to R18-15-404. At a minimum, the Water Supply Development Revolving Fund Project Priority List shall identify:
1. The applicant;
 2. Project title;
 3. Type of project;
 4. Population of water provider's service area;
 5. The amount requested for financial assistance;
 6. The subsidy rate index according to R18-15-404(C);
 7. Whether the project is within the fundable range according to R18-15-405; and
 8. The rank of each project by the priority value, determined according to R18-15-404.
- D. After adoption of the annual Intended Use Plan and Water Supply Development Revolving Fund Project Priority List according to R18-15-402, the Committee may allow:
1. Updates and corrections to the adopted Water Supply Development Revolving Fund Project Priority List, if the updates and corrections are adopted by the Committee after an opportunity for public comment at a public meeting; or
 2. Additions to the Water Supply Development Revolving Fund Project Priority List, if the additions are adopted by the Committee after an opportunity for public comment at a public meeting.
- E. After an opportunity for public comment at a public meeting, the Committee may remove a project from the Water Supply Development Revolving Fund Project Priority List under one or more of the following circumstances:
1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
 2. The project was financed with long-term indebtedness from another source;
 3. The project is no longer an eligible project;
 4. The applicant requests removal;
 5. The applicant is no longer an eligible applicant; or
 6. The applicant did not update, modify, correct or resubmit a project that remained on the project priority list for more than 365 days.

Historical Note

Adopted effective September 18, 1997 (Supp. 97-3).
Amended effective June 4, 1998 (Supp. 98-2). Section repealed by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-404. Water Supply Development Revolving Fund Project Priority List Ranking

- A. The Authority shall rank each project listed on the Water Supply Development Revolving Fund Project Priority List based on the priority value of each project. The Authority shall consider the following categories to determine the priority value of each project.

1. The Authority shall evaluate the existing, near-term, and long-term water demands of the water provider as compared to the existing water supplies of the water provider.
 2. The Authority shall evaluate the existing and planned conservation and water management programs of the water provider.
 3. The Authority shall evaluate the current conditions of the water provider's facilities and the water provider's water supply needs, and evaluate how effectively the project will benefit the infrastructure or water supply needs.
 4. The Authority shall evaluate the sustainability of the water supply to be developed through the project.
 5. The Authority shall evaluate the applicant's local fiscal capacity.
- B. If two or more projects have the same rank according to subsection (A), the Authority shall give priority to the project with the highest water demand value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest conservation and water management value under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (5), sequentially. If projects continue to have the same priority value, the Committee shall determine the priority of the tied projects.
- C. If monies are available to provide a subsidy to the project, the Authority shall determine the subsidy rate index for each project on the Water Supply Development Revolving Fund Project Priority List based on the applicant's local fiscal capacity value and the overall priority value of the project. The Authority shall incorporate the subsidy rate index in the financial assistance agreement.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-405. Water Supply Development Revolving Fund Fundable Range for Financial Assistance

- A. Prior to adoption by the Committee of the Water Supply Development Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B. In determining the fundable range the Authority shall evaluate each project for evidence that the project is ready to proceed. The Authority shall consider any of the following indicators when evaluating whether the project is within the fundable range:
1. Evidence of debt authorization according to R18-15-104(B);
 2. Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;
 3. Evidence of approval by the appropriate authority of project plans and specifications; and
 4. Evidence that the applicant has initiated the bid or solicitation process.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-406. Water Supply Development Revolving Fund Application for Financial Assistance

- A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Water Supply Development Revolving Fund Project Priority List and is determined to be within the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on

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- a Committee-adopted Water Supply Development Fund Project Priority List.
- B.** The Authority shall not forward an application for financial assistance to the Committee for consideration until all the following conditions are met:
1. The water supply development project has been prioritized;
 2. The applicant has provided supporting documentation according to R18-15-405(B);
 3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability under R18-15-104;
 4. The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities; and
 5. The applicant has demonstrated the ability to meet any applicable environmental requirements imposed by federal, state, or local agencies.
2. The applicant's legal structure and organization,
3. The dedicated revenue source for repayment, or
4. The structure of the financial assistance request.
- C.** If the Committee determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Water Supply Development Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Committee shall determine the amount of funding available, if any, to provide financial assistance for the applications by the Authority. The Committee shall consider each application in the order the project appears within the fundable range on the current Water Supply Development Revolving Fund Project Priority List. The Committee shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D.** Upon Committee approval of the applicant's request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-407. Water Supply Development Revolving Fund Application Review for Financial Assistance

- A.** The Authority shall evaluate and summarize each application for financial assistance received and develop an analysis that provides recommendations to the Committee. The analysis shall at a minimum include:
1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
 2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
 3. A summary of the applicant's technical capability, including its ability to construct, operate and maintain the proposed project;
 4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
 5. A summary of the applicant's financial capability, including:
 - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three fiscal years,
 - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year, and
 - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five fiscal years;
 6. A summary of any previous assistance provided by the Authority to the applicant; and
 7. A summary of the applicant's ability to meet any applicable permitting and environmental requirements imposed by federal, state, or local agencies.
- B.** The Committee shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Committee shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Committee's determination, which may include recommended modifications to any of the following:
1. The proposed project,

Historical Note

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-408. Water Supply Development Revolving Fund Requirements

The duly authorized agent, principal or officer of the applicant shall certify the applicant has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning, design, or construction work on a project.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

ARTICLE 5. TECHNICAL ASSISTANCE**R18-15-501. Technical Assistance**

The Authority may provide Clean Water technical assistance, Drinking Water technical assistance, and Water Supply Development technical assistance if funding is approved in the Technical Assistance Intended Use Plan according to R18-15-502. The Authority shall provide technical assistance in compliance with A.R.S. § 49-1203(B)(16) and (17).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-501 renumbered to R18-15-502; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-502. Technical Assistance Intended Use Plan

- A.** The Authority annually shall develop and publish one or more Technical Assistance Intended Use Plans that identify intended uses of funds available for Clean Water technical assistance and Drinking Water technical assistance. The Authority shall develop a Water Supply Development Technical Assistance Intended Use Plan if funds are available or if the Committee determines that Water Supply Development technical assistance will be offered. The Intended Use Plan shall identify whether funds are available and the amount of funds available for planning and design assistance grants, staff assistance, and professional assistance for Clean Water, Drinking Water, and Water Supply Development. The Authority may develop Technical Assistance Intended Use Plans separately for Clean

Water, Drinking Water, and Water Supply Development or as parts of the Intended Use Plans required under R18-15-202, R18-15-302, and R18-15-402. If the Technical Assistance Intended Use Plan is to be submitted as a document required to obtain a federal capitalization grant, the Technical Assistance Intended Use Plan shall include any additional information required by federal law. The Authority is not required to prepare a Water Supply Development Technical Assistance Intended Use Plan if funds are not adequate to assist any projects or if the Committee determines that no Water Supply Development technical assistance will be offered for the annual funding cycle.

- B.** The Authority shall provide for a public review and written comment period of any draft Technical Assistance Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments received and prepare responses. The Authority shall provide a summary of the written comments and the Authority's responses regarding the Clean Water and Drinking Water Technical Assistance Intended Use Plans to the Board and provide a summary of the written comments and the Authority's responses regarding any Water Supply Development Technical Assistance Intended Use Plan to the Committee. After review of the comments and the Authority's responses to comments received during the public review and written comment period, the Board or the Committee, as applicable, shall adopt the applicable Technical Assistance Intended Use Plan or Plans at a public meeting with any changes made in response to public comments or comments by members of the Board or Committee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-502 renumbered from R18-15-501 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-503. Clean Water Planning and Design Assistance Grants

- A.** Planning and design assistance grants to a specific wastewater treatment facility shall assist that system to achieve or enhance its legal, financial, technical, or managerial capability to facilitate the design, construction, acquisition, improvement, or consolidation of the wastewater treatment facility. The Board shall approve funds available for planning and design assistance grants in the annual Clean Water Technical Assistance Intended Use Plan. The Board may determine that no assistance will be offered for the annual funding cycle.
- B.** To be eligible to receive a planning and design assistance grant under the Clean Water Technical Assistance Program, the grant applicant shall demonstrate the applicant is a governmental unit that owns a wastewater treatment facility, or a non-governmental unit requesting technical assistance specifically for the purpose of forming a political subdivision. An eligible grant applicant shall apply for a planning and design assistance grant on or before a date specified by the Authority and on a grant application form specified by the Authority.
- C.** A grant applicant shall commit to a matching contribution toward the total project cost as specified in the Request for Grant Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the grant applicant's match requirement according to criteria established in the Request for Grant Applications.

- D.** The Authority shall solicit, evaluate, and award planning and design assistance grants in accordance with A.R.S. § 41-2702.
- E.** The Authority shall evaluate the grant applications received to determine which projects are eligible under the Clean Water Act, 33 U.S.C. 1381 to 1387. Eligible grant applications shall specify a demonstrated need of the grant applicant for assistance in securing financial assistance for development and implementation of a wastewater capital improvement project.
- F.** The Authority shall determine planning and design assistance grant awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance grant award recommendations to the Board for review and approval at a public meeting. The Board may adopt, modify, or reject the Authority's recommendations in whole or in part.
- G.** Within 30 days after the adoption of the planning and design assistance grant awards at a public meeting, the Authority shall notify all grant applicants whether or not they received an award.
- H.** An unsuccessful grant applicant may submit an appeal in writing in accordance with A.R.S. § 41-2704.
- I.** The Authority and the grant applicant shall enter into a planning and design assistance grant agreement that shall include at a minimum:
1. A scope of work,
 2. The amount of the grant awarded,
 3. The amount of the local match required,
 4. A final project budget and timeline, and
 5. Reporting requirements.
- J.** Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.
- K.** The Authority shall release grant proceeds subject to a disbursement request if the request is consistent with the planning and design assistance grant agreement and the disbursement schedule.
1. The grant recipient shall request each disbursement on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
 2. The grant recipient shall include copies of invoices, canceled checks, or other documents that show proof of eligible costs incurred with each disbursement request.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-504. Drinking Water Planning and Design Assistance Grants

- A.** Planning and design assistance grants to a specific drinking water facility, excluding a nonprofit noncommunity water system, shall assist that facility to achieve or enhance its legal, financial, technical, or managerial capability to facilitate the design, construction, acquisition, improvement, or consolidation of a community water system. The Board shall approve funds available for planning and design assistance grants in the annual Drinking Water Technical Assistance Intended Use Plan. The Board may determine that no assistance will be offered for the annual funding cycle.
- B.** To be eligible to receive a planning and design assistance grant under the Drinking Water Technical Assistance Program, the

grant applicant shall demonstrate the applicant owns a drinking water facility, excluding a nonprofit noncommunity water system. An eligible grant applicant shall apply for a planning and design assistance grant on or before a date specified by the Authority and on a grant application form specified by the Authority.

- C. A grant applicant shall commit to a matching contribution toward the total project cost as specified in the Request for Grant Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the grant applicant's match requirement according to criteria established in the Request for Grant Applications.
- D. The Authority shall solicit, evaluate, and award planning and design assistance grants in accordance with A.R.S. § 41-2702.
- E. The Authority shall evaluate the grant applications received to determine which projects are eligible under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26. Eligible grant applications shall specify a demonstrated need of the grant applicant for assistance in securing financial assistance for development and implementation of a drinking water capital improvement project.
- F. The Authority shall determine planning and design assistance grant awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance grant award recommendations to the Board for review and approval at a public meeting. The Board may adopt, modify, or reject the Authority's recommendations in whole or in part.
- G. Within 30 days after the adoption of the planning and design assistance grant awards at a public meeting, the Authority shall notify all grant applicants whether or not they received an award.
- H. An unsuccessful grant applicant may submit an appeal in writing according to A.R.S. § 41-2704.
- I. The Authority and the grant applicant shall enter into a planning and design assistance grant agreement that shall include at a minimum:
 1. A scope of work,
 2. The amount of the grant awarded,
 3. The amount of the local match required,
 4. A final project budget and timeline, and
 5. Reporting requirements.
- J. Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.
- K. The Authority shall release grant proceeds subject to a disbursement request if the request is consistent with the planning and design assistance grant agreement and the disbursement schedule.
 1. The grant recipient shall request each disbursement on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
 2. The grant recipient shall include copies of invoices, canceled checks, or other documents that show proof of eligible costs incurred with each disbursement request.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Former Section R18-15-504 repealed; new Section R18-15-504 renumbered from R18-15-505 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001

(Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-505. Water Supply Development Planning and Design Assistance Grants

- A. Planning and design assistance grant funding to a water provider shall assist the water provider in the planning or design of a water supply development project. A single planning and design assistance grant award shall not exceed \$100,000. The Committee shall approve funds available for planning and design assistance grants in the annual Water Supply Development Technical Assistance Intended Use Plan. The Committee may determine that no assistance will be offered for the annual funding cycle.
- B. To be eligible to receive a planning and design assistance grant under the Water Supply Development Technical Assistance Program, the grant applicant shall demonstrate the applicant is a water provider as defined in A.R.S. § 49-1201 and meet the requirements of A.R.S. § 49-1273(C). An eligible grant applicant shall apply for a planning and design assistance grant on or before a date specified by the Authority and on a grant application form specified by the Authority.
- C. A grant applicant shall commit to a matching contribution toward the total project cost as specified in the Request for Grant Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the grant applicant's match requirement according to criteria established in the Request for Grant Applications.
- D. The Authority shall solicit, evaluate, and award planning and design assistance grants in accordance with A.R.S. § 41-2702.
- E. The Authority shall evaluate the grant applications received to determine which projects are eligible. Eligible grant applications shall specify a demonstrated need of the grant applicant for assistance in securing financial assistance for planning and design of a water supply capital improvement project.
- F. The Authority shall determine planning and design assistance grant awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance grant award recommendations to the Committee for review and approval at a public meeting. The Committee may adopt, modify, or reject the Authority's recommendations in whole or in part.
- G. Within 30 days after the adoption of the planning and design assistance grant awards at a public meeting, the Authority shall notify all grant applicants whether or not they received an award.
- H. An unsuccessful grant applicant may submit an appeal in writing according to A.R.S. § 41-2704.
- I. The Authority and the grant applicant shall enter into a planning and design assistance grant agreement that shall include at a minimum:
 1. A scope of work,
 2. The amount of the grant awarded,
 3. The amount of the local match required,
 4. A final project budget and timeline, and
 5. Reporting requirements.
- J. Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.
- K. The Authority shall release grant proceeds subject to a disbursement request if the request is consistent with the planning and design assistance grant agreement and the disbursement schedule.
 1. The grant recipient shall request each disbursement on the forms provided by the Authority. Each disbursement

request shall include a certification and signature document, and a cost-incurred report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.

2. The grant recipient shall include copies of invoices, canceled checks, or other documents that show proof of eligible costs incurred with each disbursement request.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Former Section R18-15-505 renumbered to R18-15-504; new Section R18-15-505 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-5-506. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-507. Repealed

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-508. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-509. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-510. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-511. Repealed

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

ARTICLE 6. HARDSHIP GRANT FUND PROGRAM

R18-15-601. Hardship Grant Fund Administration

- A. The Authority shall establish a separate account or accounts for the Hardship Grant Fund Program from any monies

received according to A.R.S. § 49-1267(A). The Authority shall only use the monies from the Hardship Grant Fund Program for:

1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities; and
 2. Providing training and technical assistance related to operation and maintenance of wastewater treatment facilities.
- B. The Authority shall identify any funding available for financial assistance under the Hardship Grant Fund Program in the annual Clean Water Revolving Fund Intended Use Plan described in R18-15-202 and any funding available for technical assistance in the Clean Water Technical Assistance Intended Use Plan described in R18-15-502. If the Board determines no funding is available for the Hardship Grant Fund Program, the Authority shall not evaluate any applications for financial assistance or grant applications for technical assistance for funding from the Hardship Grant Fund Program.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-602. Hardship Grant Fund Financial Assistance

- A. If funding is available in the Hardship Grant Fund Program, the Authority shall determine if any of the applicants requesting placement on the Clean Water Revolving Fund Project Priority List meet the requirements according to A.R.S. § 49-1268(A)(2). In addition to meeting the requirements of A.R.S. § 49-1268(A)(2), the applicant shall meet the following:
 1. On the date the applicant applies for financial assistance, the per capita annual income of the community's residents does not exceed 80% of national per capita income as reported by the U.S. Census Bureau.
 2. On the date the applicant applies for financial assistance, the community's local unemployment rate exceeds by one percentage point or more the most recently reported average yearly national unemployment rate as reported by the U.S. Department of Labor's Bureau of Labor Statistics.
- B. The Authority shall make the determination of applicant's eligibility for the Hardship Grant Fund Program during the ranking of the project under R18-15-204. Of the applicants eligible to receive financial assistance from the Hardship Grant Fund Program, the Authority shall award the hardship grant monies based on an applicant's financial capability and ability to generate sufficient revenues to pay for debt service.
- C. The Authority shall proceed according to Article 2 of this Chapter for any applicant meeting the eligibility requirements for the Hardship Grant Fund Program. In addition to proceeding under R18-15-207, the Authority shall identify any applicant that qualifies for Hardship Grant Fund Program financial assistance and shall make a recommendation to the Board regarding the amount of funding to provide the applicant from the Hardship Grant Fund Program.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

R18-15-603. Hardship Grant Fund Technical Assistance

- A. If funding is available in the Hardship Grant Fund Program, the Authority shall identify in the Request for Grant Applications prepared according to A.R.S. § 41-2702(B) the amount of funding for technical assistance available from the Hardship Grant Fund Program.
- B. The Authority shall make the determination of grant applicant's eligibility for the Hardship Grant Fund Program during the ranking of the project under R18-15-503. Of the grant applicants eligible to receive technical assistance from the Hardship Grant Fund Program, the Authority shall award the hardship grant monies based on the financial capability of a grant applicant.
- C. The Authority shall proceed according to R18-15-503 for any grant applicant requesting assistance for operation and maintenance for a wastewater treatment facility. In addition to proceeding under R18-15-503(F), the Authority shall identify any grant applicant that qualifies for Hardship Grant Fund Program technical assistance and shall make a recommendation to the Board regarding the amount of funding to provide the grant applicant from the Hardship Grant Fund Program.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4,

2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL**R18-15-701. Interest Rate Setting and Forgivable Principal**

- A. The Authority shall prescribe the rate of interest, including interest rates as low as 0% on Authority loans, bond purchase agreements, and linked deposit guarantees based on the applicant's local fiscal capacity under R18-15-204(A)(6), R18-15-304(A)(6), or R18-15-404(A)(5), and an applicant's ability to generate sufficient revenues to pay debt service.
- B. The Authority may forgive principal on Authority loans, bond purchase agreements, and linked deposit guarantees made to local units of government to plan, acquire, construct, or improve drinking water facilities based on:
 1. An applicant's local fiscal capacity under R18-15-304(A)(6), and
 2. An applicant's ability to generate sufficient revenues to pay debt service.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

Attachment B

A.R.S. Title 49, Chapter 8

A.R.S. Title 41, Chapter 24, Article 1
(state grant code)

Title 49 Chapter 8 Water Infrastructure Finance Program

ARTICLE 1. GENERAL PROVISIONS

49-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Authority" means the water infrastructure finance authority of Arizona.
2. "Board" means the board of directors of the authority.
3. "Bonds of a political subdivision" means bonds issued by a political subdivision as authorized by law.
4. "Clean water act" means the federal water pollution control act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water quality act of 1987 (P.L. 100-4; 101 Stat. 7).
5. "Committee" means the water supply development fund committee established by section 49-1202, subsection B.
6. "Drinking water facility" means a community water system or a nonprofit noncommunity water system as defined in the safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in this state. For purposes of this article, drinking water facility does not include water systems owned by federal agencies.
7. "Financial assistance loan repayment agreement" means an agreement to repay a loan provided to design, construct, acquire, rehabilitate or improve water or wastewater infrastructure, related property and appurtenances or a loan provided to finance a water supply development project.
8. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.
9. "Nonpoint source project" means a project designed to implement a certified water quality management plan.
10. "Political subdivision" means a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities, drinking water facilities or nonpoint source projects.
11. "Safe drinking water act" means the federal safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.
12. "Technical assistance loan repayment agreement" means either of the following:
 - (a) An agreement to repay a loan provided to develop, plan and design water or wastewater infrastructure, related property and appurtenances. The agreement shall be for a term of not more than three years and the maximum amount that may be borrowed is limited to not more than five hundred thousand dollars.
 - (b) An agreement to repay a loan provided to develop, plan or design a water supply development project.
13. "Wastewater treatment facility" means a treatment works, as defined in section 212 of the clean water act, that is located in this state and that is designed to hold,

cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the clean water act.

14. "Water provider" means any of the following:

(a) A municipal water delivery system as defined in section 42-5301, paragraphs 1 and 3.

(b) A municipal water delivery system as defined in section 42-5301, paragraph 2, which has entered into a partnership with a city, town or county for a water supply augmentation plan.

(c) A county water augmentation authority established under title 45, chapter 11.

(d) A county water authority established under title 45, chapter 13.

(e) An Indian tribe.

(f) A community facilities district as established by title 48, chapter 4.

15. "Water supply development" means either of the following:

(a) The acquisition of water or rights to or contracts for water to augment the water supply of a water provider.

(b) The development of facilities for any of the following purposes:

(i) Conveyance, storage or recovery of water.

(ii) Reclamation and reuse of water.

(iii) Replenishment of groundwater.

49-1202. Water infrastructure finance authority of Arizona; board; water supply development fund committee; violation; classification

A. The water infrastructure finance authority of Arizona is established. A board of directors shall govern the authority. The board of directors consists of:

1. The director of environmental quality, or the director's representative, who serves as chairman.

2. The chief executive officer of the Arizona commerce authority or the chief executive officer's representative.

3. The state treasurer or the treasurer's representative.

4. One member who is appointed by the governor to represent municipalities with populations of fifty thousand persons or more.

5. One member who is appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons.

6. One member who is appointed by the governor to represent counties with populations of five hundred thousand persons or more.

7. One member who is appointed by the governor to represent sanitary districts in counties with populations of less than five hundred thousand persons.

8. The director of water resources or the director's representative.

9. The chairman of the Arizona corporation commission or the chairman's representative.

10. One member who is appointed by the governor from a public water system that serves five hundred persons or more.

11. One member who is appointed by the governor from a public water system that serves fewer than five hundred persons.

12. One member who is appointed by the governor to represent Indian tribes.

B. The water supply development fund committee of the authority is established.

The committee consists of:

1. The director of water resources, or the director's representative, who serves as chairperson of the committee.
 2. The director of environmental quality, or the director's representative, who serves as vice-chairperson of the committee.
 3. The chairman of the corporation commission or the chairman's representative.
 4. The state treasurer or the treasurer's representative.
 5. One member who is appointed by the governor to represent municipalities with populations of fifty thousand persons or more but less than one hundred thousand persons.
 6. One member who is appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons.
 7. One member who is appointed by the governor to represent counties with populations of less than eight hundred thousand persons.
 8. One member who is appointed by the governor to represent counties with populations of eight hundred thousand persons or more but less than one million five hundred thousand persons.
 9. One member who is appointed by the governor to represent counties with populations of one million five hundred thousand persons or more.
 10. One member who is appointed by the governor to represent cities with populations of more than one hundred thousand persons in counties with populations of more than one million persons.
 11. One member who is appointed by the governor from a public service corporation that serves one thousand eight hundred fifty persons or more.
 12. One member who is appointed by the governor from a public water system that serves fewer than one thousand eight hundred fifty persons.
 13. One member who is appointed by the governor to represent Indian tribes.
- C. Members of the board and the committee who are appointed by the governor serve at the governor's pleasure and serve staggered five year terms. Members of the board and the committee are not eligible to receive compensation for their services but are eligible for reimbursement for travel and other expenses pursuant to title 38, chapter 4, article 2. Members of the board and the committee are public officers for purposes of title 38, and the authority and the committee are public bodies for purposes of title 38, chapter 3, article 3.1.
- D. Members of the board shall not have any direct or indirect personal financial interest in any clean water or drinking water project financed under this article. Members of the committee shall not have any direct or indirect personal financial interest in any water supply development project financed under this article. For the purposes of this subsection, a member of the board or the committee who is a full-time employee of a participant in or applicant for a loan does not have a direct or indirect personal financial interest in a project. A violation of this subsection is a class 1 misdemeanor.
- E. The department of environmental quality shall provide clerical support and office and meeting space to the board.
- F. The department of water resources shall provide technical assistance to the committee as requested by the committee.

49-1203 Version 2. Powers and duties of authority; definition

(L12, ch 321, sec. 166. Eff. until 9/29/12) Version 2

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.

B. The authority, through its board, may:

1. Issue negotiable water quality bonds pursuant to section 49-1261 for the following purposes:

(a) To generate the state match required by the clean water act for the clean water revolving fund and to generate the match required by the safe drinking water act for the drinking water revolving fund.

(b) To provide financial assistance to political subdivisions, Indian tribes and eligible drinking water facilities for constructing, acquiring or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects and other related water quality facilities and projects.

2. Issue water supply development bonds for the purpose of providing financial assistance to water providers for water supply development purposes pursuant to sections 49-1274 and 49-1275.

3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. Provide financial assistance to water providers from monies in the water supply development revolving fund to finance water supply development.

6. Guarantee debt obligations of, and provide linked deposit guarantees through third party lenders to:

(a) Political subdivisions that are issued to finance wastewater treatment projects.

(b) Drinking water facilities that are issued to finance these facilities.

(c) Water providers that are issued to finance water supply development projects.

7. Provide linked deposit guarantees through third party lenders to political subdivisions, drinking water facilities and water providers.

8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

9. Enter into capitalization grant agreements with the United States environmental protection agency.

10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility and nonpoint source project financial assistance under this chapter, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

11. Subject to title 41, chapter 4, article 4, hire a director and staff for the authority.

12. Contract for the services of outside advisors, attorneys, consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to water providers in connection with the planning or design of water supply development projects as determined by the committee pursuant to section 49-1274. A single grant shall not exceed one hundred thousand dollars. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the committee and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority or the committee does not create any liability for the authority, the committee or this state regarding the design, construction or operation of any water supply development project.

C. The authority, in consultation with the committee, may:

1. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of water supply development fund project financial assistance under this chapter and the administration of the water supply development revolving fund.

2. Appoint a technical advisory subcommittee of not more than five persons with expertise in water resource planning and development to advise the committee regarding the technical feasibility of water supply development projects.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

E. Disbursements of monies by the water infrastructure finance authority pursuant to a financial assistance agreement are not subject to title 41, chapter 23.

F. For the purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other

appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

G. For the purposes of this section, "CERCLA" has the same meaning prescribed in section 49-201.

49-1203. Powers and duties of authority; definition

(L07, ch 226, sec. 4. Eff. until 9/29/12)

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.

B. The authority, through its board, may:

1. Issue negotiable water quality bonds pursuant to section 49-1261 for the following purposes:

(a) To generate the state match required by the clean water act for the clean water revolving fund and to generate the match required by the safe drinking water act for the drinking water revolving fund.

(b) To provide financial assistance to political subdivisions, Indian tribes and eligible drinking water facilities for constructing, acquiring or improving wastewater treatment facilities, drinking water facilities, nonpoint source projects and other related water quality facilities and projects.

2. Issue water supply development bonds for the purpose of providing financial assistance to water providers for water supply development purposes pursuant to sections 49-1274 and 49-1275.

3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. Provide financial assistance to water providers from monies in the water supply development revolving fund to finance water supply development.

6. Guarantee debt obligations of, and provide linked deposit guarantees through third party lenders to:

(a) Political subdivisions that are issued to finance wastewater treatment projects.

(b) Drinking water facilities that are issued to finance these facilities.

(c) Water providers that are issued to finance water supply development projects.

7. Provide linked deposit guarantees through third party lenders to political subdivisions, drinking water facilities and water providers.

8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

9. Enter into capitalization grant agreements with the United States environmental protection agency.

10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility and nonpoint source project financial assistance under this chapter, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

11. Hire a director and staff for the authority.

12. Contract for the services of outside advisors, attorneys, consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to water providers in connection with the planning or design of water supply development projects as determined by the committee pursuant to section 49-1274. A single grant shall not exceed one hundred thousand dollars. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the committee and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority or the committee does not create any liability for the authority, the committee or this state regarding the design, construction or operation of any water supply development project.

C. The authority, in consultation with the committee, may:

1. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of water supply development fund project financial assistance under this chapter and the administration of the water supply development revolving fund.

2. Appoint a technical advisory subcommittee of not more than five persons with expertise in water resource planning and development to advise the committee regarding the technical feasibility of water supply development projects.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

E. Disbursements of monies by the water infrastructure finance authority pursuant to a financial assistance agreement are not subject to title 41, chapter 23.

F. For the purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

G. For the purposes of this section, "CERCLA" has the same meaning prescribed in section 49-201.

49-1204. Annual audit and report

A. The board shall cause an audit to be made of the funds administered by the authority. The audit shall be conducted by a certified public accountant within one hundred twenty days after the end of the fiscal year. The board shall immediately file a certified copy of the audit with the auditor general.

B. The auditor general may make any further audits and examinations as deemed necessary and may take appropriate action relating to the audit or examination pursuant to title 41, chapter 7, article 10.1. If the auditor general takes no official action within twenty days after the audit is filed, the audit is deemed sufficient.

C. The board shall pay any fees and costs of the certified public accountant and auditor general under this section from the funds administered by the board.

D. Not later than January 1 of each year the board shall make an annual report of its activities, including a copy of the annual audit, to the governor, the president of the senate and the speaker of the house of representatives.

ARTICLE 2. CLEAN WATER REVOLVING FUND, DRINKING WATER REVOLVING FUND AND HARDSHIP GRANT FUND FINANCIAL PROVISIONS

49-1221. Clean water revolving fund

A. The clean water revolving fund is established to be maintained in perpetuity consisting of:

1. Monies appropriated by the legislature for the clean water revolving fund.
2. Monies received for that purpose from the United States government, including capitalization grants.
3. Monies received from the issuance and sale of bonds under section 49-1261.
4. Monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties.
5. Interest and other income received from investing monies in the fund.
6. Gifts, grants and donations received for that purpose from any public or private source.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

49-1222. Clean water revolving fund; administration

- A. The clean water revolving fund is established. The board shall administer the fund pursuant to rule and in compliance with the requirements of this article and the clean water act.
- B. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.
- C. The board shall use the monies and other assets in the fund solely for the purposes authorized by this article.
- D. The board shall establish a capitalization grant transfer account and as many other accounts and subaccounts as required to administer the clean water revolving fund and any other fund that is administered by the board.

49-1223. Clean water revolving fund; purposes; capitalization grants

- A. Monies in the clean water revolving fund may be used for the following purposes:
 - 1. Making wastewater treatment facility and nonpoint source project loans to political subdivisions and Indian tribes under section 49-1225.
 - 2. Purchasing or refinancing debt obligations of political subdivisions or refinancing debt obligations of Indian tribes at or below market rates, provided that the debt obligation was issued after March 7, 1985 for the purpose of constructing, acquiring or improving wastewater treatment facilities or nonpoint source projects.
 - 3. Providing financial assistance to political subdivisions to purchase insurance for local wastewater treatment facility or nonpoint source project bond obligations.
 - 4. Paying the costs to administer the fund, but no more than four per cent of the aggregate of federal capitalization grants may be used to pay these costs. Monies from other sources may be used without limit to pay these costs.
 - 5. Funding other programs that are authorized for federal monies deposited in the fund including programs relating to nonpoint source discharges.
 - 6. Providing linked deposit guarantees through third party lenders by depositing monies with the lender on the condition that the lender make a loan on terms approved by the board, at a rate of return on the deposit approved by the board and the state treasurer and by giving the lender recourse against the deposit of loan repayments that are not made when due.
- B. If the monies pledged to secure water quality bonds become insufficient to pay the principal and interest on the water quality bonds that are guaranteed by the clean water revolving fund, the board shall direct the state treasurer to liquidate securities in the fund as may be necessary and apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.
- C. All proceeds of capitalization grants received from the United States pursuant to the clean water act shall be deposited in the capitalization grant transfer account and shall be used solely to provide financial assistance to political subdivisions and Indian tribes to construct, acquire, restore or rebuild wastewater treatment facilities, to purchase bond insurance or for any other purpose permitted by the clean water act including nonpoint source projects. All principal received on loan

repayments made by borrowers pursuant to this section shall be deposited in the clean water revolving fund and shall be invested and used to provide additional financial assistance or shall be used to support the administration of the fund subject to the limits prescribed by the clean water act.

49-1224. Clean water revolving fund financial assistance; procedures; rules

A. In compliance with any applicable requirements, a political subdivision may apply to the authority for, accept and incur indebtedness as a result of a loan, or other financial assistance under section 49-1223, subsection A, paragraphs 1, 2 and 3, from the clean water revolving fund to support a wastewater treatment facility or nonpoint source project owned by the political subdivision. An Indian tribe may apply to the authority for, accept and incur indebtedness as a result of a loan or refinancing under section 49-1223, subsection A, paragraphs 1 and 2 from the clean water revolving fund to support a wastewater treatment facility or nonpoint source project owned by the Indian tribe. To qualify for financial assistance under this section the wastewater treatment facility or nonpoint source project must appear on this state's priority list pursuant to section 212 of the clean water act.

B. In compliance with any applicable requirements, the board shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.
2. Establish by rule criteria by which assistance will be awarded, including requirements for local participation in project costs, if deemed advisable. The criteria shall include a determination of the ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of the board, the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.

3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water quality issues.

C. The authority shall review on its merits each application received and shall inform the applicant of the board's determination within ninety days after receipt of a complete and correct application. If the application is not approved, the board shall notify the applicant, stating the reasons. If the application is approved, the board may condition the approval on assurances the board deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

49-1225. Clean water revolving fund financial assistance; terms

A. Financial assistance from the clean water revolving fund shall be evidenced by a financial assistance agreement or bonds of a political subdivision, delivered to and held by the authority.

B. A loan under this section:

1. Shall be repaid in not to exceed thirty years from the date incurred for wastewater treatment facility and nonpoint source loans.
2. Shall require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. The authority may provide

that loan interest accruing during construction and one year beyond completion of the construction be capitalized in the loan.

3. Shall be conditioned on the establishment of a dedicated revenue source for repaying the loan.

4. To an Indian tribe shall either be conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation, or any other tribal entity that is subject to suit by the attorney general to enforce the loan contract, or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

C. The authority shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority may also provide for flexible interest rates and interest free loans under rules adopted by the authority. All financial assistance agreements or bonds of a political subdivision shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date.

D. The approval of a loan is conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. All monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties shall be deposited in the appropriate accounts of the clean water revolving fund.

F. A loan made to a political subdivision under this section after June 30, 2001 may be secured additionally by an irrevocable pledge of the shared state revenues due to the political subdivision for the duration of the loan as prescribed by a resolution of the authority's board. If the authority's board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements after June 30, 2001, the authority's board shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a political subdivision fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting political subdivision that the political subdivision has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection G of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the political subdivision.

G. On receipt of a certificate of default from the authority, the state treasurer to the extent not expressly prohibited by law shall withhold the monies due to the defaulting political subdivision from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the fund.

The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then

due for the payment of principal and interest on bonds of the political subdivision if so certified by the defaulting political subdivision to the state treasurer and the authority. The political subdivision shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

49-1226. Enforcement; attorney general

The attorney general may take actions necessary to enforce the loan contract and achieve repayment of loans provided by the authority pursuant to sections 49-1224 and 49-1225.

49-1241. Drinking water revolving fund

A. The drinking water revolving fund is established to be maintained in perpetuity consisting of:

1. Monies appropriated by the legislature for the drinking water revolving fund.
2. Monies received for that purpose from the United States government, including capitalization grants.
3. Monies received from the issuance and sale of bonds under section 49-1261.
4. Monies received from drinking water facilities as loan repayment, interest and penalties.
5. Interest and other income received from investing monies in the fund.
6. Gifts, grants and donations received for that purpose from any public or private source.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

49-1242. Drinking water revolving fund; administration; capitalization grant transfer account

A. The drinking water revolving fund is established. The board shall administer the fund pursuant to rule and in compliance with this article and the safe drinking water act.

B. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. The board shall use the monies and other assets in the fund solely for the purposes authorized by this article.

D. The board shall establish a capitalization grant transfer account and as many other accounts and subaccounts as required to administer the drinking water revolving fund and any other fund administered by the board.

49-1243. Drinking water revolving fund; purposes; capitalization grants

A. Monies in the drinking water revolving fund may be used for the following purposes:

1. Making drinking water facility loans including forgivable principal to political subdivisions of this state, Indian tribes under section 49-1245 and other eligible entities as determined by the board pursuant to the safe drinking water act.
2. Making drinking water facility loans under section 49-1244.

3. Purchasing or refinancing debt obligations of drinking water facilities at or below market rate if the debt obligation was issued after July 1, 1993 for the purpose of constructing, acquiring or improving drinking water facilities.

4. Providing financial assistance to drinking water facilities to purchase insurance for local drinking water facility bond obligations.

5. Paying the costs to administer the fund but not more than four per cent of the aggregate of federal capitalization grants may be used to pay these costs. Monies from other sources may be used without limit to pay these costs.

6. Funding other programs that are authorized pursuant to the safe drinking water act.

7. Providing linked deposit guarantees through third party lenders by depositing monies with the lender on the condition that the lender make a loan on terms approved by the board, at a rate of return on the deposit approved by the board and the state treasurer and by giving the lender recourse against the deposit of loan repayments that are not made when due.

B. If the monies pledged to secure water quality bonds become insufficient to pay the principal and interest on the water quality bonds guaranteed by the drinking water revolving fund, the board shall direct the state treasurer to liquidate securities in the fund as may be necessary and shall apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.

C. All proceeds of capitalization grants received from the United States pursuant to the safe drinking water act shall be deposited in the capitalization grant transfer account and shall be used solely to make loans to drinking water facilities to construct, acquire, restore or rebuild these facilities, to purchase bond insurance or for any other purpose permitted by the safe drinking water act. All principal received on loan repayments made by borrowers under this section shall be deposited in the drinking water revolving fund and shall be invested, used to provide financial assistance or used to support the administration of the fund subject to the limits defined in the safe drinking water act.

49-1244. Drinking water revolving fund financial assistance: procedures

A. In compliance with any applicable requirements, a drinking water facility may apply to the authority for and accept and incur indebtedness as a result of a loan or any other financial assistance pursuant to section 49-1243, subsection A, paragraphs 2, 3 and 4 from the drinking water revolving fund to construct, acquire or improve a drinking water facility. To qualify for financial assistance pursuant to this section, the drinking water facility must appear on this state's priority list pursuant to the safe drinking water act.

B. In compliance with any applicable requirements, the board shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.

2. Establish by rule criteria by which assistance will be awarded, including requirements for local participation in project costs, if deemed advisable. The criteria shall include a determination of the ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of

the board, the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.

3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water quality issues.

C. The authority shall review on its merits each application received and shall inform the applicant of the board's determination within ninety days after receipt of a complete and correct application. If the application is not approved, the board shall notify the applicant, stating the reasons. If the application is approved, the board may condition the approval on assurances the board deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

49-1245. Drinking water revolving fund financial assistance; terms

A. A loan from the drinking water revolving fund shall be evidenced by a loan repayment agreement or bonds of a political subdivision, delivered to and held by the authority.

B. A loan under this section:

1. Shall be repaid in not to exceed thirty years from the date incurred for drinking water facility loans.

2. Shall require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. The authority may provide that loan interest accruing during construction and one year beyond completion of the construction be capitalized in the loan.

3. Shall be conditioned on the establishment of a dedicated revenue source for repaying the loan.

4. To an Indian tribe shall either be conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation, or any other tribal entity that is subject to suit by the attorney general to enforce the loan contract, or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

C. The authority shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority may also provide for flexible interest rates, interest free loans and forgivable principal under rules adopted by the authority. All financial assistance agreements or bonds of a political subdivision shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date.

D. The approval of a loan is conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. All monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties shall be deposited in the appropriate accounts of the drinking water revolving fund.

F. A loan made to a political subdivision under this section after June 30, 2001 may be secured additionally by an irrevocable pledge of the shared state revenues due to the political subdivision for the duration of the loan as prescribed by a resolution of the authority's board. If the authority's board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements after June 30, 2001, the authority's board shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a political subdivision fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting political subdivision that the political subdivision has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection G of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the political subdivision.

G. On receipt of a certificate of default from the authority, the state treasurer to the extent not expressly prohibited by law shall withhold the monies due to the defaulting political subdivision from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision if so certified by the defaulting political subdivision to the state treasurer and the authority. The political subdivision shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

49-1246. Enforcement; attorney general

The attorney general may take actions necessary to enforce the loan contract and achieve repayment of loans provided by the authority pursuant to sections 49-1244 and 49-1245.

49-1261. Water quality bonds

A. The authority, through the board of directors, may issue negotiable water quality bonds in a principal amount that in its opinion is necessary to provide sufficient monies for financial assistance under this article, maintaining sufficient reserves to secure the bonds, to pay the necessary costs of issuing, selling and redeeming the bonds and to pay other expenditures of the authority incidental to and necessary and convenient to carry out the purposes of this article.

B. The board must authorize the bonds by resolution. The resolution shall prescribe:

1. The rate or rates of interest and the denominations of the bonds.

2. The date or dates of the bonds and maturity.
3. The coupon or registered form of the bonds.
4. The manner of executing the bonds.
5. The medium and place of payment.
6. The terms of redemption.

C. The bonds shall be sold at public or private sale at the price and on the terms determined by the board. All proceeds from the issuance of bonds shall be deposited in the appropriate accounts of the funds administered by the board.

D. The board shall publish a notice of its intention to issue bonds under this article for at least five consecutive days in a newspaper published in this state. The last day of publication must be at least ten days before issuing the bonds. The notice shall state the amount of the bonds to be sold and the intended date of issuance. A copy of the notice shall be hand delivered or sent, by certified mail, return receipt requested, to the director of the department of administration on or before the last day of publication.

E. To secure any bonds authorized by this section, the board by resolution may:

1. Provide that bonds issued under this section may be secured by a first lien on all or part of the monies paid into the appropriate account or subaccount of the funds administered by the authority.
2. Pledge or assign to or in trust for the benefit of the holder or holders of the bonds any part or appropriate account or subaccount of the monies in the funds as is necessary to pay the principal and interest of the bonds as they come due.
3. Set aside, regulate and dispose of reserves and sinking funds.
4. Provide that sufficient amounts of the proceeds from the sale of the bonds may be used to fully or partly fund any reserves or sinking funds set up by the bond resolution.
5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which consent may be given.
6. Provide for payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the board in issuing, selling, delivering and paying the bonds.
7. Do any other matters that in any way may affect the security and protection of the bonds.

F. The members of the board or any person executing the bonds are not personally liable for the payment of the bonds. The bonds are valid and binding obligations notwithstanding that before the delivery of the bonds any of the persons whose signatures appear on the bonds cease to be members of the board. From and after the sale and delivery of the bonds, they are incontestable by the board.

G. The board, out of any available monies, may purchase bonds, which may be canceled, at a price not exceeding either of the following:

1. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.
2. If the bonds are not then redeemable, the redemption price applicable on the first date after purchase on which the bonds become subject to redemption plus accrued interest to that date.

49-1262. Water quality bonds; purpose

A. Water quality bonds may be issued to provide financial assistance, to provide matching state monies for the clean water revolving fund and the drinking water revolving fund, to increase the capitalization of the clean water revolving fund and to increase the capitalization of the drinking water revolving fund to accomplish the purposes stated in sections 49-1223 and 49-1243. These bonds may be secured by any monies received or to be received in the clean water revolving fund and the drinking water revolving fund. Amounts in the clean water revolving fund may be used to cure defaults on loans made from the drinking water revolving fund and amounts in the drinking water revolving fund may be used to cure defaults on loans made from the clean water revolving fund to the extent permitted by applicable federal law.

B. Any pledge made under this article is valid and binding from the time when the pledge is made. The monies pledged and received to be placed in the appropriate fund are immediately subject to the lien of the pledge without any future physical delivery or further act, and any such lien of any pledge is valid or binding against all parties having claims of any kind in tort, contract or otherwise against the board regardless of whether the parties have notice of the lien. The official resolution or trust indenture or any instrument by which this pledge is created, when placed in the board's records, is notice to all concerned of the creation of the pledge, and those instruments need not be recorded in any other place.

C. The bonds issued under this section, their transfer and the income they produce are exempt from taxation by this state or by any political subdivision of this state.

49-1263. Bond obligations of the authority

Bonds issued under this article are obligations of the water infrastructure finance authority of Arizona, are payable only according to their terms and are not obligations general, special or otherwise of this state. The bonds do not constitute a legal debt of this state and are not enforceable against this state. Payment of the bonds is not enforceable out of any state monies other than the income and revenue pledged and assigned to, or in trust for the benefit of, the holder or holders of the bonds.

49-1264. Certification of bonds by attorney general

The board may submit any water quality bonds issued under this article to the attorney general after all proceedings for their authorization have been completed. On submission the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if the attorney general determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the board, the attorney general shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

49-1265. Water quality bonds as legal investments

Water quality bonds issued under this article are securities in which public officers and bodies of this state and of municipalities and political subdivisions of this state, all companies, associations and other persons carrying on an insurance business, all financial institutions, investment companies and other persons carrying on a

banking business, all fiduciaries and all other persons who are authorized to invest in obligations of this state may properly and legally invest. The bonds are also securities that may be deposited with public officers or bodies of this state and municipalities and political subdivisions of this state for purposes that require the deposit of state bonds or obligations.

49-1266. Agreement of state

This state pledges to and agrees with the holders of the bonds that this state will not limit or alter the rights vested in the water infrastructure finance authority of Arizona or any successor agency to collect the monies necessary to produce sufficient revenue to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until all bonds issued under this article, together with interest, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The board as agent for this state may include this pledge and undertaking in its resolutions and indentures securing its bonds.

49-1267. Hardship grant fund

A. The hardship grant fund is established to be administered by the authority consisting of:

1. Monies received for that purpose from the United States government, including monies that are awarded to this state pursuant to title II of the clean water act and that are no longer obligated to the construction grants program.
2. Gifts, grants and other donations received for that purpose from public or private sources.
3. Monies appropriated by the legislature for the hardship grant program.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The board shall administer the fund pursuant to rule and in compliance with this section and guidance from the United States government.

D. Monies in the fund may be used for the following purposes:

1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.
2. Providing training and technical assistance related to the operation and maintenance of wastewater systems.

E. The board shall use the monies and other assets in the fund only for the purposes authorized by this article.

F. The board shall establish a hardship grant program account and as many other accounts and subaccounts as required to administer the hardship grant fund.

G. All proceeds of hardship grant program monies that are received from the United States shall be deposited in the hardship grant fund and shall be used only to provide grants and technical assistance to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.

49-1268. Hardship grant financial assistance

A. In compliance with any applicable requirements:

1. A political subdivision or Indian tribe may apply to the authority for and accept financial and technical assistance pursuant to section 49-1267, subsection C. To qualify for financial assistance pursuant to this section, the political subdivision's or Indian tribe's project must appear on this state's clean water revolving fund priority list.

2. The applicant must be a community in a rural area that complies with both of the following:

(a) The community has a population of three thousand persons or less as determined by the most recent United States decennial census.

(b) The community lacks centralized wastewater treatment or collection systems or needs improvements to its treatment systems.

B. In compliance with any applicable requirement, the board shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.

2. Establish by rule criteria by which assistance will be awarded including requirements for local participation in project cost, if deemed advisable.

3. Determine the order and priority of projects assisted pursuant to this section based on the merits of the application with respect to water quality issues.

C. The authority shall review on its merits each application received and shall inform the applicant of the board's determination within sixty days after receipt of a complete and correct application. If the application is not approved, the board shall notify the applicant, stating the reasons. If the application is approved, the board may condition the approval on those assurances that the board deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

D. The approval of financial assistance shall be conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

49-1269. Short-term emergency loan agreements; conditions

A. The authority, through its board, may enter into short-term emergency loan agreements with political subdivisions or Indian tribes under the following conditions:

1. The term of the loan does not exceed one year.

2. The dollar amount of the loan does not exceed two hundred fifty thousand dollars for each borrower for each emergency event.

3. The purpose of the loan is to provide assistance for designing, redesigning, engineering, reengineering, constructing or reconstructing water or wastewater systems that have failed as the result of a disaster, a natural disaster or a catastrophic event.

4. The disaster, natural disaster or catastrophic event is memorialized in a declaration of emergency by the governor or the federal emergency management agency.

B. Subject to board approval, for any loan made pursuant to this section, the authority shall execute appropriate and binding legal agreements with the borrower that require repayment of monies from eligible sources of repayment.

Notwithstanding any other statute, a loan may be made and an obligation to repay

may be incurred pursuant to this section without a vote of the electors of the political subdivision or Indian tribe.

ARTICLE 3. WATER SUPPLY DEVELOPMENT REVOLVING FUND FINANCIAL PROVISIONS

49-1271. Water supply development revolving fund; legislative intent

A. The water supply development revolving fund is established to be maintained in perpetuity consisting of:

1. Monies received from the issuance and sale of water supply development bonds under section 49-1278.
2. Monies appropriated by the legislature to the water supply development revolving fund.
3. Monies received for water supply development purposes from the United States government.
4. Monies received from water providers as loan repayments, interest and penalties.
5. Interest and other income received from investing monies in the fund.
6. Gifts, grants and donations received for water supply development purposes from any public or private source.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The legislature finds that many water providers in this state, particularly in rural areas, lack access to sufficient water supplies to meet their long-term water demands and need financial assistance to construct water supply projects and obtain additional water supplies. It is the intent of the legislature that the water supply development revolving fund established by this section be used to provide financial assistance to these water providers under the terms set forth in this article.

49-1272. Water supply development revolving fund; administration

A. The board shall administer the water supply development revolving fund.

B. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Monies and other assets in the fund shall be used solely for the purposes authorized by this article.

49-1273. Water supply development revolving fund; purposes; limitation

A. Monies in the water supply development revolving fund may be used for the following purposes:

1. Making water supply development loans to water providers in this state under section 49-1274 for water supply development purposes.
2. Making loans or grants to water providers for the planning or design of water supply development projects. A single grant shall not exceed one hundred thousand dollars.
3. Purchasing or refinancing debt obligations of water providers at or below market rate if the debt obligation was issued for a water supply development purpose.

4. Providing financial assistance to water providers with bonding authority to purchase insurance for local bond obligations incurred by them for water supply development purposes.

5. Paying the costs to administer the fund.

6. Providing linked deposit guarantees through third party lenders by depositing monies with the lender on the condition that the lender make a loan on terms approved by the committee, at a rate of return on the deposit approved by the committee and the state treasurer and by giving the lender recourse against the deposit of loan repayments that are not made when due.

B. If the monies pledged to secure water supply development bonds issued pursuant to section 49-1278 become insufficient to pay the principal and interest on the water supply development bonds guaranteed by the water supply development revolving fund, the authority shall direct the state treasurer to liquidate securities in the fund as may be necessary and shall apply those proceeds to make current all payments then due on the bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.

C. Monies in the water supply development revolving fund shall not be used to provide financial assistance to a water provider, other than an Indian tribe, unless one of the following applies:

1. The board of supervisors of the county in which the water provider is located has adopted the provision authorized by section 11-823, subsection A.

2. The water provider is located in a city or town and the legislative body of the city or town has enacted the ordinance authorized by section 9-463.01, subsection O.

3. The water provider is located in an active management area established pursuant to title 45, chapter 2, article 2.

49-1274. Water supply development revolving fund financial assistance: procedures

A. In compliance with any applicable requirements, a water provider may apply to the authority for and accept and incur indebtedness as a result of a loan or any other financial assistance pursuant to section 49-1273 from the water supply development revolving fund for water supply development purposes. In compliance with any applicable requirements, a water provider may also apply to the authority for and accept grants, staff assistance or technical assistance for the planning or design of a water supply development project. A water provider that applies for and accepts a loan or other financial assistance under this article is not precluded from applying for and accepting a loan or other financial assistance under article 2 of this chapter or under any other law.

B. The authority, in consultation with the committee, shall:

1. Prescribe a simplified form and procedure to apply for and approve assistance.

2. Establish by rule criteria by which assistance will be awarded, including requirements for local participation in project costs, if deemed advisable. The criteria shall include:

(a) A determination of the ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of the committee,

the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.

(b) A determination of the applicant's legal capability to enter into a loan repayment agreement.

(c) A determination of the applicant's financial ability to construct, operate and maintain the project if it receives the financial assistance.

(d) A determination of the applicant's ability to manage the project.

(e) A determination of the applicant's ability to meet any applicable environmental requirements imposed by federal or state agencies.

(f) A determination of the applicant's ability to acquire any necessary regulatory permits.

3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water supply development issues, including the following:

(a) Existing, near-term and long-term water demands of the water provider compared to the existing water supplies of the water provider.

(b) Existing and planned conservation and water management programs of the water provider.

(c) Benefits of the project.

(d) The sustainability of the water supply to be developed through the project.

(e) The water provider's need for financial assistance.

(f) The cost-effectiveness of the project.

C. The committee shall review on its merits each application received and shall inform the applicant of the committee's determination within ninety days after receipt of a complete and correct application. If the application is not approved, the committee shall notify the applicant, stating the reasons. If the application is approved, the committee may condition the approval on assurances the committee deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

D. On approval of an application under this section by the committee, the authority shall use monies in the water supply development revolving fund to finance the project.

49-1275. Water supply development revolving fund financial assistance: terms

A. A loan from the water supply development revolving fund shall be evidenced by bonds, if the water provider has bonding authority, or by a financial assistance agreement, delivered to and held by the authority.

B. A loan under this section shall:

1. Be repaid not more than thirty years after the date incurred.

2. Require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to the holders of any of the authority's bonds that provided funding for the loan. If the loan is for construction of water supply development facilities, the authority may provide that loan interest accruing during construction and one year after completion of the construction be capitalized in the loan.

3. Be conditioned on the establishment of a dedicated revenue source for repaying the loan.

C. The authority, in consultation with the committee, shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority, upon recommendations from the committee, may adopt rules which provide for flexible interest rates and interest free loans. All financial assistance agreements or bonds of a water provider shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date.

D. The approval of a loan is conditioned on a written commitment by the water provider to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. A loan made to a water provider under this section may be secured additionally by an irrevocable pledge of any shared state revenues due to the water provider for the duration of the loan as prescribed by a resolution of the committee. If the committee requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements, the authority shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. If a pledge is required and a water provider fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting water provider that the water provider has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection F of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the water provider.

F. On receipt of a certificate of default from the authority, the state treasurer, to the extent not expressly prohibited by law, shall withhold any monies due to the defaulting water provider from the next succeeding distribution of monies pursuant to section 42-5029. In the case of a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the water supply development revolving fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds of the water provider if so certified by the defaulting water provider to the state treasurer and the authority. The water provider shall not certify deposits as necessary for payment for bonds unless the bonds were issued before the date of the loan repayment agreement and the bonds were secured by a pledge of distribution made pursuant to sections 42-5029 and 43-206.

49-1276. Enforcement; attorney general

The attorney general may take actions necessary to enforce the loan contract and achieve repayment of loans provided by the authority pursuant to sections 49-1274 and 49-1275.

49-1277. Water supply development bonds

A. The authority may issue negotiable water supply development bonds in a principal amount necessary to provide sufficient monies for those projects approved under this article and including such items as maintaining sufficient reserves to secure the bonds, to pay the necessary costs of issuing, selling and redeeming the bonds and to pay other expenditures of the authority incidental to and necessary and convenient to carry out the purposes of this article. The board shall issue the bonds pursuant to subsections C and D.

B. The board shall authorize the bonds by resolution. The resolution shall prescribe:

1. The rate or rates of interest and the denominations of the bonds.
2. The date or dates of the bonds and maturity.
3. The coupon or registered form of the bonds.
4. The manner of executing the bonds.
5. The medium and place of payment.
6. The terms of redemption.

C. The bonds shall be sold at public or private sale at the price and on the terms determined by the board. All proceeds from the issuance of bonds shall be deposited in the appropriate accounts of the funds administered by the authority.

D. The board shall publish a notice of its intention to issue bonds under this article for at least five consecutive days in a newspaper published in this state. The last day of publication must be at least ten days before issuing the bonds. The notice shall state the amount of the bonds to be sold and the intended date of issuance. A copy of the notice shall be hand delivered or sent, by certified mail, return receipt requested, to the director of the department of administration on or before the last day of publication.

E. To secure any bonds authorized by this section, the board by resolution may:

1. Provide that bonds issued under this section may be secured by a first lien on all or part of the monies paid into the appropriate account or subaccount of the funds administered by the authority.
2. Pledge or assign to or in trust for the benefit of the holder or holders of the bonds any part or appropriate account or subaccount of the monies in the funds as is necessary to pay the principal and interest of the bonds as they come due.
3. Set aside, regulate and dispose of reserves and sinking funds.
4. Provide that sufficient amounts of the proceeds from the sale of the bonds may be used to fully or partly fund any reserves or sinking funds set up by the bond resolution.
5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which consent may be given.
6. Provide for payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the board in issuing, selling, delivering and paying the bonds.
7. Do any other matters that in any way may affect the security and protection of the bonds.

F. Any member of the board, any member of the committee or any person executing the bonds is not personally liable for the payment of the bonds. The bonds are valid and binding obligations notwithstanding that before the delivery of

the bonds any of the persons whose signatures appear on the bonds cease to be members of the board. From and after the sale and delivery of the bonds, they are incontestable by the board and the committee.

G. The board, out of any available monies, may purchase bonds, which may be canceled, at a price not exceeding either of the following:

1. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.
2. If the bonds are not then redeemable, the redemption price applicable on the first date after purchase on which the bonds become subject to redemption plus accrued interest to that date.

49-1278. Water supply development bonds: purpose

A. Water supply development bonds may be issued to provide financial assistance under this article and to increase the capitalization of the water supply development revolving fund to accomplish the purposes stated in section 49-1273. These bonds may be secured by any monies received or to be received in the water supply development revolving fund. Amounts in the water supply development revolving fund may be used to cure defaults on loans made from the water supply development revolving fund to the extent otherwise permitted by law.

B. Any pledge made under this article is valid and binding from the time when the pledge is made. The monies pledged and received to be placed in the appropriate fund are immediately subject to the lien of the pledge without any future physical delivery or further act, and any such lien of any pledge is valid or binding against all parties having claims of any kind in tort, contract or otherwise against the board regardless of whether the parties have notice of the lien. The official resolution or trust indenture or any instrument by which this pledge is created, when placed in the board's records, is notice to all concerned of the creation of the pledge, and those instruments need not be recorded in any other place.

C. The bonds issued under this section, their transfer and the income they produce are exempt from taxation by this state or by any political subdivision of this state.

49-1279. Bond obligations of the authority

Bonds issued under this article are obligations of the water infrastructure finance authority of Arizona, are payable only according to their terms and are not general obligations, special obligations or otherwise of this state. The bonds do not constitute a legal debt of this state and are not enforceable against this state. Payment of the bonds is not enforceable out of any state monies other than the income and revenue pledged and assigned to, or in trust for the benefit of, the holder or holders of the bonds.

49-1280. Certification of bonds by attorney general

The board may submit any water supply development bonds issued under this article to the attorney general after all proceedings for their authorization have been completed. On submission, the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if the attorney general determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the

board, the attorney general shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

49-1281. Water supply development bonds as legal investments

Water supply development bonds issued under this article are securities in which public officers and bodies of this state and of municipalities and political subdivisions of this state, all companies, associations and other persons carrying on an insurance business, all financial institutions, investment companies and other persons carrying on a banking business, all fiduciaries and all other persons who are authorized to invest in obligations of this state may properly and legally invest. The bonds are also securities that may be deposited with public officers or bodies of this state and municipalities and political subdivisions of this state for purposes that require the deposit of state bonds or obligations.

49-1282. Agreement of state

This state pledges to and agrees with the holders of the bonds that this state will not limit or alter the rights vested in the water infrastructure finance authority of Arizona or any successor agency to collect the monies necessary to produce sufficient revenue to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until all bonds issued under this article, together with interest, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged. The board as agent for this state may include this pledge and undertaking in its resolutions and indentures securing its bonds.

Title 41 Chapter 24 Solicitation and Award of Grants

ARTICLE 1. GENERAL PROVISIONS

41-2701. Definitions

In this chapter, unless the context otherwise requires:

1. "Grant" means the furnishing of financial or other assistance, including state funds or federal grant funds, by any state governmental unit to any person for the purpose of supporting or stimulating educational, cultural, social or economic quality of life.
2. "Person" means any corporation, business, individual, committee, club or other organization or group of individuals.
3. "State governmental unit" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of this state.

41-2702. Solicitation and award of grant applications

A. State governmental units shall award any grant in accordance with the competitive grant solicitation requirements of this chapter.

B. A state governmental unit shall prepare and issue a request for grant applications that includes at least the following information:

1. A description of the nature of the grant project, including the scope of the work to be performed by an awardee.
2. An identification of the funding source and the total amount of available funds.
3. Whether a single award or multiple awards may be made.
4. Encouragement of collaboration by entities for community partnerships, if appropriate.
5. Any additional information required by the applications.
6. The criteria or factors under which applications will be evaluated for award and the relative importance of each criteria or factor.
7. The due date for submittal of applications and the anticipated time the awards may be made.

C. Adequate public notice of the request for grant applications shall be given at least six weeks before the due date for the submittal of applications. Adequate notification of the request for grant applications shall also be provided to the central state permitting program pursuant to section 41-1505.08.

D. A preapplication conference may be conducted before the due date for the submittal of applications to explain the grant application requirements. If a preapplication conference is held, it shall be held at least twenty-one days before the due date. Statements made at a preapplication conference are not amendments to the request for grant applications unless a written amendment is issued.

E. Grant applications shall be publicly received at the time and place designated in the request for grant applications. The name of each applicant shall be publicly read and recorded. All other information in the grant application is confidential during the process of evaluation. All applications shall be open for public inspection after grants are awarded. To the extent the applicant designates and the state concurs,

trade secrets and other proprietary information contained in the application shall remain confidential.

F. Applications shall be evaluated by at least three evaluators who are peers or other qualified individuals. The evaluators may allow applicants to make oral or written presentations regarding the scope of work, terms and conditions of the grant, budget and other relevant matters set forth in the request for grant applications. Applicants shall be accorded fair treatment with respect to any opportunity for oral or written presentations. The evaluators may require an applicant to revise its application to reflect information provided in an oral or written presentation. Any person who has information contained in the application of competing applications shall not disclose that information.

G. The evaluators shall review each application based solely on the evaluation criteria or factors set forth in the request for grant applications. The evaluators shall maintain a written record of the assessment of each application, which shall include comments regarding compliance with each evaluation criteria or factor, the citation of a specific criteria or factor as the basis of each stated strength or weakness and a clear differentiation between comments based on facts presented in the application and comments based on professional judgment. Evaluator assessments shall be made available for public inspection no later than thirty days after a formal award is made.

H. The evaluators shall make award recommendations to the head of the state governmental unit based on the evaluators' reviews of each application. The evaluators' recommendations may include the adjustment of the budgets of the applicants individually or collectively.

I. The head of the state governmental unit may affirm, modify or reject the evaluators' recommendations in whole or in part. Modification of the evaluators' recommendations may include the adjustment of the budget on any proposed award individually or on all awards by an amount or percentage. If the head of the state governmental unit does not affirm the recommendations, the head of the state governmental unit shall document in writing the specific justifications for the action taken. The specific justifications shall be made available for public inspection no later than thirty days after the action is taken.

J. The head of a state governmental unit may enter into agreements with other state governmental units to furnish assistance in conducting the solicitation of grant applications.

41-2703. Waiver of solicitation and award procedures

A. Notwithstanding any other provision of this chapter, the director of the department of administration or the director's designee may waive the solicitation and award procedures if a situation exists that makes compliance with section 41-2702 impracticable, unnecessary or contrary to the public interest, except that the grant solicitation and award shall be made with competition that is practicable under the circumstances.

B. A state governmental unit seeking a waiver of solicitation and award procedures shall prepare a written request documenting and explaining the situation justifying the waiver. The request shall be submitted to the director of the department of administration or the director's designee, who shall determine in writing whether to grant the request. If the request is granted, the determination shall state the

manner in which the grant is to be solicited and awarded and the limits of the determination.

C. A copy of each request and determination shall be kept on file in the office of the state governmental unit requesting the waiver and the office of the director of the department of administration or the office of the director's designee.

41-2704. Remedies

The head of the state governmental unit may resolve protests of the award or proposed award of a grant. An appeal from a decision of the head of a state governmental unit may be made to the director of the department of administration. A protest of an award or proposed award of a grant and any appeal shall be resolved in accordance with the rules of procedure adopted by the director pursuant to section 41-2611.

41-2705. Violation; classification; liability; enforcement authority

A. A person who violates this chapter is personally liable for the recovery of all public monies paid plus twenty per cent of the amount and legal interest from the date of payment and all costs and damages arising out of the violation.

B. A person who intentionally or knowingly participates in the award of a grant pursuant to a scheme or artifice to avoid the requirements of this chapter is guilty of a class 4 felony.

C. A person who serves as an evaluator of grant applications pursuant to this chapter shall sign a statement before reviewing applications that the person has no interest in any application other than that disclosed and shall not have contact with any representative of an applicant during the evaluation of applications, except those contacts specifically authorized by this chapter. The person shall disclose on the statement any contact unrelated to the review of the grant applications that the person may need to have with a representative of an applicant and any contact with a representative of an applicant during evaluation of applications except those specifically authorized by this chapter. A person who serves as an evaluator and who fails to disclose contact with a representative of an applicant or who fails to provide accurate information on the statement is subject to a civil penalty of at least one thousand dollars but no more than ten thousand dollars.

D. The attorney general on behalf of this state shall enforce the provisions of this chapter.

41-2706. Applicability of chapter

A. This chapter applies to the solicitation of grants initiated after August 6, 1999.

B. This chapter does not apply to:

1. Any grant program that was exempt from chapter 23, article 3 of this title and for which administrative rules establishing grant solicitation procedures were adopted pursuant to chapter 6 of this title before August 6, 1999.

2. The Arizona board of regents and schools, colleges, institutions and universities under its control if the Arizona board of regents adopts rules or policies governing the award of grants that encourage as much competition as practicable.

3. Grants made by the cotton research and protection council for research programs related to cotton production or protection.

4. Grants made by the Arizona iceberg lettuce research council for research programs under section 3-526.02, subsection C, paragraph 3 or 5.
5. Grants made by the Arizona citrus research council for research programs under section 3-468.02, subsection C, paragraph 3 or 5.
6. Grants made by the Arizona grain research and promotion council for research projects and programs under section 3-584, subsection C, paragraph 5.
7. Grants made under section 3-268, subsection C.
8. Grants made by the Arizona commerce authority from the Arizona competes fund pursuant to chapter 10, article 5 of this title. With respect to other grants, the authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public.
9. Grants of less than five thousand dollars from the veterans' donations fund if the department of veterans' services adopts rules or policies governing these grants that encourage as much competition as practicable.

Attachment C

Economic, Small Business and Consumer Impact Statement

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

A. Introduction

The Water Infrastructure Finance Authority of Arizona (WIFA) is a public financing agency; it does not regulate any consumer or business. WIFA's purpose is to provide financial and technical assistance to governmental units for their wastewater infrastructure projects and to governmental units and private water companies for their drinking water infrastructure projects. WIFA is a self-supporting agency which receives monies from federal capitalization grants authorized under the Clean Water Act and Safe Drinking Water Act; appropriations approved by the legislature; the issuance and sale of water quality revenue bonds; loan repayments, interest and penalties; and gifts, grants and donations received from any public or private source. WIFA pays administrative costs from income received from interest on loan repayments or from a maximum of four percent of each of the Clean Water and Drinking Water federal capitalization grants as authorized by law.

During fiscal year 2010 WIFA executed 30 Clean Water and 50 Drinking Water loans. However, these numbers are atypical and reflect 44 loans funded by the American Recovery and Reinvestment Act (ARRA). During fiscal year 2009, WIFA executed 12 Clean Water and eight Drinking Water loans, two of which were ARRA funded. Over the last five years, WIFA has provided financial assistance to an average of 23 drinking water and wastewater facilities each year.

In addition to providing assistance to wastewater and drinking water facilities, WIFA is authorized to provide financial and technical assistance to water providers for water supply development projects under the Water Supply Development Revolving Fund (WSDRF) which was established during the 2007 legislative session. This rulemaking establishes the process of applying for, evaluating applications for, and awarding assistance from the WSDRF following the structure of the Drinking Water Revolving Fund and describes the WSDRF Committee requirements and actions in parallel to the Board's requirements and actions for the Drinking Water Revolving Fund. Although this program has not yet been funded, funds for administering the WSDRF program and providing assistance are

authorized to be received from the issuance and sale of water supply development bonds; appropriation approved by the legislature; funds received from the United States government; loan repayments, interest and penalties; interest and other income received from investing monies in the fund; and gifts, grants and donations received from any public or private source.

The rulemaking does not propose new or higher standards or new costs or fees that make it more difficult for communities to apply for and receive financial or technical assistance from WIFA. The rule amendments include restructuring the content and removing redundancy to provide a direct presentation of the required actions and process for applying for, evaluating applications for, and awarding financial and technical assistance.

B. Potential Impacts on Regulated Industry

This rulemaking has a beneficial impact to the regulated industries which include wastewater treatment facilities, drinking water facilities and water providers. As a public financing agency, WIFA structures, issues and manages revenue bonds as a source of loan proceeds for communities throughout Arizona. The communities receiving financial assistance repay these bond-funded-loans to WIFA and WIFA, in turn, repays bondholders. WIFA provides additional subsidization on the interest rates for wastewater and drinking water infrastructure projects through the use of the Clean Water and Drinking Water federal capitalization grants and 'AAA' bond rating.

WIFA conducts reviews of the potential environmental impacts of design and construction Clean Water and Drinking Water projects through a National Environmental Policy Act (NEPA)-like state environmental review process. Federal regulations at 40 CFR 6 regarding procedures for implementing NEPA were amended on September 19, 2007 and were further amended on February 4, 2009. This rulemaking updates the rule to be consistent with these federal regulations. These amendments do not change the process or the results of environmental review, and therefore do not make it more difficult for regulated industries to comply.

WIFA emphasizes that although a cost is associated with obtaining financial and technical assistance, wastewater and drinking water facilities initiate requests for assistance to come into compliance or correct a problem. Without the

financial and technical assistance available through WIFA, many wastewater and drinking water facilities would otherwise find it difficult, if not impossible, to obtain funding to achieve compliance or correct problems associated with water quality standards. WIFA anticipates that when water supply development funds become available, water providers will initiate requests for financial and technical assistance to address water supply needs. As with wastewater and drinking water facilities, water providers may find it difficult, if not impossible, to obtain funding to address their needs without the assistance available from WIFA. Overall, the net impact upon the regulated industries represents a cost-savings benefit.

The regulated industries are not the only beneficiaries from the assistance provided by WIFA. Customers of the wastewater facilities, drinking water facilities, or water providers receive the ultimate benefit from improved water quality and having an adequate water supply. Although acceptance of financial assistance may trigger an increase in user rates for the consumer, it is believed that the user rates will be lower than could have been achieved by any other alternative funding option.

C. Social Impacts

This rulemaking is not expected to have a quantifiable social cost. This is because compliance by the regulated industry is not a requirement for the rule, but a goal as the result of funding “out-of-compliance” facilities. It is not anticipated that the rule amendments will add any deadweight-welfare losses (policy changes that make people worse off), adjustment costs for displaced resources, or other business or market costs. Because WIFA does not anticipate any type of reduction in industry output and deadweight-welfare losses are expected to be zero, no losses in consumers’ and producers’ surplus are anticipated. Finally, the rule amendments will not have an impact on state revenues.

D. Anticipated Impacts on Employment, Revenues, and Expenditures

This rulemaking is expected to have either a positive or neutral impact on short and long-term employment, production or revenues.

E. General Impact on Small Businesses and Reduction of Impacts

Per the Environmental Protection Agency (EPA), small water systems consist of those serving 3,300 persons or less while small wastewater systems are defined as small communities serving fewer than 10,000 persons with wastewater flows less than 1 million gallons per day. WIFA directs financial and technical assistance to assist small businesses, in the form of privately-owned drinking water facilities and small communities because those entities tend to have the smallest user base and are less likely to be able to upgrade or rehabilitate their infrastructure without outside assistance. The general impact of this rule on small businesses and small communities is a greater availability for financial and technical assistance to improve wastewater or drinking water infrastructure. Additionally, there are no competitive disadvantages to small businesses expected as a result of this rulemaking.

Requirements of A.R.S. § 41-1035.

- i. Establish less stringent compliance and reporting requirements for small businesses.*

The rules do not establish any reporting requirements.

- ii. Establish less stringent compliance or reporting schedules or deadlines for small businesses.*

The rules do not establish any reporting schedules or deadlines for small businesses.

- iii. Consolidate or simplify the rule's compliance and reporting requirements for small businesses.*

The rulemaking does not prescribe reporting requirements.

- iv. Establish performance standards for small businesses to replace design and operational standards.*

The rules do not establish design or operational standards for small businesses.

- v. Exempt small businesses from any or all requirements of the rule.*

WIFA does not regulate any consumer or business; thus exemptions are not applicable.

F. The probable costs and benefits to the political subdivisions directly affected

Political subdivision as defined by A.R.S. § 49-1201 means a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities, drinking water facilities or nonpoint source projects. Political subdivisions are impacted in the same manner as small businesses in that they can solve infrastructure problems, improve water quality, and ensure public health protection with financial and technical assistance obtained from WIFA.

G. The probable cost-benefit to government agencies

This rulemaking primarily impacts WIFA but also impacts the Arizona Corporation Commission (ACC), Arizona Department of Environmental Quality (ADEQ), and Arizona Department of Water Resources (ADWR).

- i. The ACC is minimally affected by these rules. Privately-owned drinking water facilities must request authorization for debt and any associated rate increase from the ACC prior to applying for financial assistance from WIFA. There are no additional costs to the ACC due to the rule amendments.
- ii. ADEQ is impacted favorably by the rulemaking as wastewater and drinking water facilities provided with assistance from WIFA can mitigate outstanding compliance issues with ADEQ. There are no additional costs to ADEQ due to the rule amendments.
- iii. ADWR is impacted by this rulemaking. The rules outline the required actions and process for applying for, evaluating and awarding financial and technical assistance from the WSDRF. Per A.R.S. § 49-1202(F), ADWR shall provide technical assistance to the WSDRF Committee as requested. At this time, the impact on ADWR is minimal since there is no current funding for the WSDRF program and no applications for assistance will be solicited until funding becomes available.
- iv. WIFA is impacted favorably by this rulemaking as the amendments restructure the content, reduce redundancy, and provide for a direct presentation of the required actions of applying for, evaluating, and awarding financial and technical assistance. Rule amendments are not expected to increase WIFA's administrative costs of providing financial or technical assistance.

H. Data limitations and methods employed to attempt to obtain data if adequate data were not available

WIFA will continue to utilize ADEQ databases of eligible wastewater and drinking water facilities in the state as a source of data to solicit applications for financial and technical assistance. Additionally, WIFA will utilize ADWR records as a source of data to solicit applications for water supply development projects when funding is available. Through annual public meetings and workshops conducted throughout the state, eligible wastewater and drinking water facilities and water providers are aware of the financial and technical assistance available from WIFA. Another method of outreach WIFA utilizes is through Arizona's Rural Water Infrastructure Committee (RWIC). The committee is composed of representatives from various infrastructure loan and grant programs, federal and state lending authorities,

and technical assistance providers with the goal of assisting small, rural facilities to navigate the federal, state and local financial and technical assistance programs available. By utilizing RWIC, WIFA can reach additional facilities in need of assistance. WIFA understands the infrastructure needs of small and rural communities and has reflected these needs within this rulemaking.

I. The probable benefits outweigh the probable costs

WIFA's goal is to provide financial and technical assistance, which in some instances may trigger an increase in user rates for the consumer; however, it is believed that the rate will be lower than could have been achieved by any other alternative method. WIFA is able to reduce the impact on recipients of assistance through providing below-market rate loans and by allowing in-kind contributions in place of any monetary local match requirements that may be required as a condition of receiving technical assistance. In the end, the community benefits, sometimes significantly, from the financial and technical assistance provided from WIFA.