



GREATER ARIZONA DEVELOPMENT AUTHORITY

Administered by the Water Infrastructure Finance Authority of Arizona

Jan Brewer, Governor

Sandra Sutton, Executive Director

Greg Linaman, GADA Chair

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February 19, 2013

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 Greater Arizona Development Authority (GADA) for A.A.C. Title 20, Chapter 8. All rules have been reviewed as part of this five-year review. GADA does not intend to let any rule expire. No rule review was rescheduled by the Council.

GADA was transferred from the Department of Commerce to the Water Infrastructure Finance Authority (WIFA) in Fiscal Year 2011. No policies have been promulgated for GADA by WIFA since the transfer. Staff has researched but not found any evidence of Substantive Policy Statements prior to the transfer. This effort included researching the records of the Secretary of State, the files of GADA, inquiries of former GADA staff and discussions with the Assistant Attorney General who worked with GADA. The Assistant Attorney General stated that the way GADA's statutes and rules were structured it did not require a need for substantive policies. Based on this research, we believe GADA is in compliance with A.R.S. 41-1091.

The contact for this report is:

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Sincerely,

A handwritten signature in blue ink that reads "Sandra Sutton".

Sandra L. Sutton
Executive Director



**Five Year Rule Review Report
to the
Governor's Regulatory Review Council**

A.A.C. Title 20, Chapter 8

February 2013

Overview

Created in 1997 and now housed in the Water Infrastructure Finance Authority of Arizona, the Greater Arizona Development Authority (GADA) received a one-time \$20 million appropriation in order to (1) leverage funding for infrastructure projects, (2) help accelerate project development and (3) lower costs of financing. GADA is governed by a Board consisting of four ex-officio members (Commerce Authority Chief Executive Officer, ADEQ Director, ADOT Director and Treasurer) and five at-large members appointed by the Governor.

GADA's mission is to assist Arizona communities and tribal governments with the development of public infrastructure projects that enhance community and economic development. GADA achieves these tenets through its Technical and Financial Assistance programs. By utilizing the Technical Assistance program, Arizona communities can develop public infrastructure projects in the pre-construction phase. Through the Financial Assistance program, communities can obtain long-term financing for these projects.

Rule Review

GADA's 2008 five-year review report identified numerous necessary clarifications, as well as Articles requiring amendment to conform to recent statutory changes. In July 25, 2008, GADA initiated a rulemaking process to satisfy commitments stated in the 2008 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 January 29, 2010, and the rules became effective on March 6, 2010. A copy of the rules being reviewed is included in Attachment A. The 2010 rulemaking recently revised the Chapter. As a result, this five-year review report identified no necessary updates to rules with the exception of citation corrections due to recent legislation.

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

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

A.R.S. § 41-2255(A)(3-4) directs the Authority to create rules governing the awarding of technical and financial assistance:

A. The authority shall:

- 3. Establish by rule criteria by which technical and financial assistance will be awarded. For financial assistance the criteria shall include a determination of the ability of the applicant to repay a loan according to its terms and other conditions established by this article.*
- 4. Adopt rules to prioritize applications for technical and financial assistance.*

All rules under 8 A.A.C. 8 stem from this statutory authority.

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:

The rules in 20 A.A.C. 8 are consistent with A.R.S. Title 41, Chapter 18. These statutes are included in Attachment B.

This is a state program and is governed by state 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)]

GADA believes that the rules in 20 A.A.C. 8 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)]

GADA 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)]

GADA 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)]

GADA 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)]

GADA 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, GADA 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 (March 2010), GADA has determined that its rules are satisfactory and does not plan to amend the rules in 20 A.A.C. 8 in the foreseeable future. However, a letter is being submitted to the Secretary of State requesting citation corrections through R1-1-109.

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

GADA completed the previous five-year review process in 2008.

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. Technical Assistance (A.A.C. R20-8-101 to 104)

A.A.C. R20-8-101. Definitions

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

The intent of this rule is to define the terms used throughout Article 1 of Chapter 8.

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 2008 five-year review report. Definitions were updated and those which were repetitive of statute were removed.

A.A.C. R20-8-102 Application Process

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

This rule formalizes the process of opening a new round of technical assistance. It also provides a list of items that the Authority requests as part of an application.

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 2008 five-year review report. Clarifying changes were made including allowing electronic notification of round openings and examples of acceptable documentation were added.

A.A.C. R20-8-103 Eligibility Criteria

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

The purpose of this rule is to set forth the eligibility criteria for receipt of technical 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 2008 five-year review report. Unnecessary words were removed and a section on the applicant's responsibility to cover costs incurred by the Authority was included.

A.A.C. R20-8-104 Priority; Approval and Disapproval; Appeal

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

These rules set forth the process of prioritizing technical assistance applications, making technical assistance awards based on the prioritization, and handling any appeal of prioritization or award.

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 2008 five-year review report. Ineffective criteria were removed and replaced with more effective measurements. The protest section was amended to match state law.

Article 2. Financial Assistance (A.A.C. R20-8-201 to 204)

A.A.C. R20-8-201 Definitions

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

The intent of this rule is to define the terms used throughout Article 2 of Chapter 8.

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 2008 five-year review report. Definitions were updated, new definitions were added and those which were repetitive of statute were removed.

A.A.C. R20-8-202 Application Process

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

This rule is intended to formalize the process of opening a new round of financial assistance. It also provides a list of items that the Authority may request as part of an application for 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 2008 five-year review report. Clarifying changes were made removing reference to extending rounds, including allowing electronic notification of round openings and examples of acceptable documentation were added. Clarification regarding which applicants need a public vote was achieved by including a reference to A.R.S. §41-2257.

A.A.C. R20-8-203 Eligibility Criteria

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

The objective of this rule is to set forth the eligibility criteria for the receipt of 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 2008 five-year review report. Unnecessary words were removed. Clarifying revisions were made, and subsection 8 was revised.

A.A.C. R20-8-204 Priority; Approval and Disapproval; Funding; Appeal

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

The purpose of this rule is to establish the process of prioritizing financial assistance applications, making financial assistance awards, and handling any appeal of prioritization or awards.

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 2008 five-year review report. Ineffective criteria were removed and replaced with more effective measurements. Points are included, enabling the prioritization of loan applications and breaking of ties. This has become increasingly necessary as the capacity of the program declines. Clarifying changes were made including allowing electronic notification. The protest section was amended to match state law.

Attachment A

A.A.C. Title 20, Chapter 8

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

(Authority: A.R.S. § 41-1554.04)

ARTICLE 1. TECHNICAL ASSISTANCE

Section	
R20-8-101.	Definitions
R20-8-102.	Application Process
R20-8-103.	Eligibility Criteria
R20-8-104.	Priority; Approval and Disapproval; Appeal
Table A.	Repealed
Table B.	Repealed

ARTICLE 2. FINANCIAL ASSISTANCE

Section	
R20-8-201.	Definitions
R20-8-202.	Application Process
R20-8-203.	Eligibility Criteria
R20-8-204.	Priority; Approval and Disapproval; Funding; Appeal

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

“Administrative fee” means any and all costs or expenses associated with processing, preparing or executing a technical assistance application or related transaction, including costs and expenses associated with staff, the Board, professional services, service providers, vendors or other entities involved in the transaction.

“Administratively complete” means that an applicant has completed the application for technical assistance and provided all of the information and documents that staff determines are applicable.

“Applicant” means a political subdivision, special district, Indian tribe, or tribal subdivision that applies to the Authority for technical assistance.

“Economic impact summary” means an economic analysis that establishes the economic context for a project based on information provided by the applicant.

“Project” means the whole, or any distinguishable segment or segments, of publicly owned infrastructure for which technical assistance is being requested or provided.

“Project Assistance Account” means an account within the Technical Assistance Program of the Authority designed to provide technical assistance for eligible infrastructure projects that are in the final phases of project development.

“Project Development Account” means an account within the Technical Assistance Program of the Authority designed to provide technical assistance to eligible infrastructure projects that are in the early or exploratory phases of project development.

“Staff” means the Executive Director and other employees of the Department of Commerce.

“Technical assistance round” means a period of time established by the Board during which applications for technical assistance are sent to potential applicants, returned to the Authority, analyzed by Staff, and submitted to the Board for approval or disapproval.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

R20-8-102. Application Process

- A. The Board shall annually establish a due date by which applications for technical assistance from either the Project Development Account or the Project Assistance Account, or both accounts, shall be submitted for each technical assistance round, and the number of technical assistance rounds to be held in a given state fiscal year. To the extent it deems necessary, the Board may extend the due date by which applications for technical assistance are to be submitted.
- B. The Authority shall notify potential applicants in writing by electronic or other means of the due date for applications at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a notification list to be utilized by the Authority.
- C. An applicant shall provide to the Authority by the established due date for applications on a form provided by the Authority the following information:
 1. Contact information for the applicant, including name, address, and telephone number;
 2. A description of the type of technical assistance being requested and an estimate of the cost of the technical assistance;
 3. A detailed description of the project;
 4. A summary of the anticipated economic impact the project will have on the community as estimated by the applicant;
 5. The estimated starting date, completion date, and projected cost of the infrastructure project for which the technical assistance is being requested;
 6. The projected sources and uses of funds for the infrastructure project, including public and private in-kind contributions;
 7. A list of professional and outside service providers who have worked with the applicant on any part of the project;
 8. An indication of whether the application is for monies from the Project Development Account or the Project Assistance Account; and
 9. The amount of the applicant’s cash contribution to the technical assistance project.
- D. In addition to the application required in subsection (C), an applicant shall provide to the Authority by the established due date for applications the following information:
 1. An adopted planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;

2. If the project is listed on the priority list of the Water Infrastructure Finance Authority or on the Department of Transportation's Five-Year State Plan, a document evidencing this fact; and
 3. A resolution from the governing body of the applicant stating the following:
 - a. The project is in the best interests of the residents,
 - b. The estimated economic impact on the community, and
 - c. The commitment of a local cash contribution; or
 4. If the applicant is a tribal subdivision;
 - a. A resolution from the tribal council in support of the tribal subdivision's technical assistance application, or
 - b. Certification by the tribal council that the tribal subdivision may enter into intergovernmental agreements with state agencies without further tribal council action;
 5. The applicant's financial statements for the most recent three years.
- E. Staff shall analyze each application received on or prior to the due date for applications for technical assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-103. Applications for technical assistance that are determined to be both administratively complete and eligible for technical assistance under R20-8-103 shall be submitted to the Board for prioritization and possible funding. Applications that are either not administratively complete or do not meet the criteria in R20-8-103 shall not be submitted to the Board.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

R20-8-103. Eligibility Criteria

Applicants for the Project Assistance Account must satisfy all of the requirements in A.R.S. § 41-1554.05 in addition to the items below. To be eligible to receive technical assistance, an applicant shall satisfy all of the following criteria:

1. The applicant is a political subdivision, Indian tribe, tribal subdivision, or special district;
2. The technical assistance requested is for the development of an infrastructure project;
3. The application is administratively complete;
4. The applicant provides evidence that the project has public support;
5. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, a local strategic plan, general plan, comprehensive plan or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;
6. The cost of the technical assistance does not exceed 10% of the total cost of the final project;
7. The applicant does not have an open award for technical assistance from the Authority;
8. The applicant is not requesting technical assistance for a project that has already received funds from the Financial Assistance Program; and
9. Applicants are responsible for the payment of all administrative fees and penalties associated with technical assistance. Administrative fees shall be paid on or before 90 days from the date on the Authority's invoice. Administrative fees remaining unpaid after 90 days from the date of the Authority's invoice shall be subject to penalties of five percent per annum. Applicants with outstanding administrative fees or penalties are not eligible for technical or financial assistance.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

R20-8-104. Priority; Approval and Disapproval; Appeal

- A. During each technical assistance round, the Board shall determine the order and priority of infrastructure projects, for both the Project Development Account and the Project Assistance Account, for which an eligible application for technical assistance has been received. Application scores shall be prioritized based on a percentage of the points received to total points possible.
- B. For the Project Development Account, the Board shall use a scale of 100 points maximum for all applications based on subsection (B)(1) and (2). The minimum number of points required to be eligible for consideration for award by the Board shall be 70 percent or 70 points. Applicants scoring less than 70 percent will be notified in writing by electronic or other means. A score of 70 percent or higher does not guarantee funding.
 1. Applications for monies from the Project Development Account shall be assigned points under the following categories in descending order of importance:
 - a. Population as of the latest decennial census – only one of the following:
 - i. Cities or towns having a population up to and including 50,000 or counties having a population up to and including 200,000 - 30 points; or
 - ii. Tribes and special districts - 30 points; or
 - iii. Cities or towns having a population of more than 50,000 or counties having a population of more than 200,000 - 0 points.
 - b. Evidence of the project's impact on the community based on all of the following:
 - i. The project addresses health, safety, and welfare issues - Up to 15 points; and
 - ii. The economic impact summary prepared by the applicant - Up to 10 points; and
 - iii. The applicant has not previously received funding from the Project Development Account within the past five years - 5 points.
 - c. Evidence of local support for the project based on the following:
 - i. The adopted planning document specific to the locality or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant - Up to 15 points.

Greater Arizona Development Authority

- ii. The amount of the cash contribution provided by the applicant to the technical assistance project - Up to 10 points.
 - d. Evidence that financial capacity to operate and maintain the project will be researched and developed as part of the requested technical assistance - Up to 15 points.
 - 2. The prioritization using points assigned under subsection (B)(1) is as follows:
 - a. The tied application with the higher score under subsection (B)(1)(a) shall have priority over other applications;
 - b. If the tied applications have the same score under subsection (B)(1)(a), the application with the higher score under subsection (B)(1)(b) shall have priority over the other applications;
 - c. If the tied applications have the same score under subsections (B)(1)(a) and (b), the application with the higher score under subsection (B)(1)(c) shall have priority over the other applications;
 - d. If the tied applications have the same score under subsections (B)(1)(a), (b), and (c), the application with the higher score under subsection (B)(1)(d) shall have priority over the other applications; and
 - e. If tied applications have the same score under subsections (B)(1)(a), (b), (c), and (d), the Board shall determine the priority of the applications.
- C. For the Project Assistance Account, the Board shall use a scale consisting of 95 points maximum for tribal applications and a scale consisting of 100 points maximum for all other applications based on subsections (C)(1) and (2) of this Section. The minimum number of points required to be eligible for consideration for award by the Board shall be 70 percent, or 70 points. Tribal applications must receive 66.5 points to be eligible for consideration for award. Applicants scoring less than 70 percent will be notified in writing by electronic or other means. A score of 70 percent or higher does not guarantee funding.
- 1. Applications for monies from the Project Assistance Account shall be assigned points under the following categories in descending order of importance:
 - a. Evidence of local support for the project up to 35 points:
 - i. An adopted planning document specific to the locality or evidence that the project has been discussed in meetings or study sessions of the governing body of the applicant - Up to 15 points; and
 - ii. The project has public or private partnerships that provide financial or in-kind services - Up to 10 points; and
 - iii. The project has received a resolution of support from the governing body of the applicant - 5 points; and
 - iv. The project has received voter authorization. The Authority's statutes do not require tribal governments to obtain voter authorization for infrastructure projects. Therefore, technical assistance applications received from tribal governments will be based on an adjusted 95-point scale, as described in subsection (C) - 5 points.
 - b. Evidence of the project's impact on the community based on all of the following - Up to 30 points:
 - i. The economic impact summary prepared by the applicant - Up to 15 points;
 - ii. The project addresses health, safety, and welfare issues - Up to 10 points; and
 - iii. The applicant has not previously received funding from the Project Assistance Account in the past five years - Up to 5 points.
 - c. Evidence of a permanent funding source for the project - Up to 20 points:
 - i. The project is a likely candidate for a financial assistance loan from the authority - Up to 10 points, and
 - ii. A revenue stream has been identified to pay for the project - 5 points, and
 - iii. A funding source has been identified for the project - 5 points.
 - d. Evidence of sufficient financial capacity to operate and maintain the project - Up to 15 points.
2. The prioritization using points assigned under subsection (C)(1) is as follows:
- a. The tied application with the higher score under subsection (C)(1)(a) shall have priority over other applications;
 - b. If the tied applications have the same score under subsection (C)(1)(a), the application with the higher score under subsection (C)(1)(b) shall have priority over the other applications;
 - c. If the tied applications have the same score under subsections (C)(1)(a) and (b), the application with the higher score under subsection (C)(1)(c) shall have priority over the other applications;
 - d. If the tied applications have the same score under subsections (C)(1)(a), (b), and (c), the application with the higher score under subsection (C)(1)(d) shall have priority over the other applications;
 - e. If the tied applications have the same score under subsections (C)(1)(a), (b), (c), and (d), the Board shall determine the priority of the applications.
- D. The Board shall approve or disapprove each eligible application for technical assistance based upon the priority list and available funding for technical assistance. The Board shall not consider applications scoring less than 70 percent for either the Project Development Account or the Project Assistance Account. Applicants scoring less than 70 percent will be notified in writing by electronic or other means. A score of 70 percent does not guarantee funding. The Board may fund all or a portion of a technical assistance request.
- E. The Authority shall notify in writing by electronic or other means each applicant of the Board's determination within 90 days after the date that all applications for technical assistance are due.
- F. For each project approved for technical assistance funding, the Authority shall establish a date by which the commitment of the Authority to provide technical assistance expires. The Authority shall not provide technical assistance for an approved project scoring 70 percent or more if the applicant does not complete all agreements with the Authority on or before that date.
- G. The Authority shall bypass a project within a technical assistance round and offer funding to the next highest ranking project if the project is not ready to proceed within six months after the award date.
- H. An applicant whose project for technical assistance is disapproved or determined to be ineligible may appeal. The Authority shall use the Uniform Administrative Hearing Procedures of A.R.S. Title 41, Chapter 6, Article 10, to govern the initiation and conduct of formal adjudicative proceedings before the Authority.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

Table A. Repealed**Historical Note**

New Table adopted by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Table repealed by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

Table B. Repealed**Historical Note**

New Table adopted by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Table repealed by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

ARTICLE 2. FINANCIAL ASSISTANCE**R20-8-201. Definitions**

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

“A rating” means an applicant has been assigned a credit rating of A1, A2, or A3 by Moody’s or A+, A, or A- by Standard & Poor’s.

“Access to capital” means an applicant’s ability to obtain funding based on the security of the revenues to be pledged, the general financial condition of the applicant and other factors outside of the applicant’s control.

“Administrative fee” means any and all costs and expenses associated with processing, preparing or executing a financial assistance application or related bond transaction, including costs and expenses associated with staff, the Board, professional services, service providers, vendors or other entities involved in the transaction.

“Administratively complete” means that an applicant has completed the application for financial assistance and provided all of the information and documents that the staff determines are applicable.

“Applicant” means a political subdivision, special district, or Indian tribe that applies to the Authority for financial assistance.

“Baa rating” means an applicant has been assigned a credit rating of Baa1, Baa2, or Baa3 by Moody’s.

“BBB rating” means an applicant has been assigned a credit rating of BBB+, BBB, or BBB- by Standard & Poor’s.

“Category I” means a rating indication assigned by Moody’s that applies to applicants that have credit ratings determined to fall into category of A3 or higher.

“Category II” means a rating indication assigned by Moody’s to applicants that have credit ratings determined to Baa3, Baa2, or Baa1.

“Coverage ratio” means the ratio produced by the fraction in which pledged revenues are the numerator and debt service is the denominator.

“Debt service” means annual principle and interest payments on all loans from the Authority plus any principle and interest payments on other debt secured with an equal pledge on the same revenues pledged to the Authority’s loans.

“Dedicated revenue source” means the origin of money committed by an Indian tribe to be used for repayment of a loan.

“Financial assistance round” means a period of time established by the Board during which applications for financial assistance are sent to potential applicants, returned to the Authority, analyzed by Staff, and submitted to the Board for approval or disapproval.

“General obligation” means a pledge by the applicant’s voters of the full faith and credit and unlimited taxing ability to secure a loan. The applicant must have the ability to levy and increase property taxes for payment of debt obligations.

“Moody’s” means Moody’s Investors Service, Inc., its successors and their assigns.

“Project” means the whole, or any distinguishable segment or segments, of publicly owned infrastructure for which financial assistance is being requested or provided.

“Staff” means the Executive Director and other employees of the Department of Commerce.

“Standard & Poor’s” means Standard & Poor’s Ratings Service, its successors and their assigns.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

R20-8-202. Application Process

- A. The Board shall annually establish due dates by which applications for financial assistance shall be submitted.
- B. The Authority shall notify in writing by electronic or other means potential applicants of the due date for applications and of any limitation of the amount of funding available at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a notification list to be utilized by the Authority.
- C. An applicant shall provide to the Authority by the established due date for applications on a form provided by the Authority the following information:
 1. Contact information for the applicant, including name, address, and telephone number;
 2. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the applicant’s current fiscal year;
 3. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the previous five fiscal years;
 4. The proposed or estimated financial statement or budget, and business plan or management plan for the current and next fiscal years;
 5. A fee schedule for the applicable enterprise funds for the current and past five fiscal years if not included in response to subsections (C)(2), (3), and (4);

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6. The source of pledged revenues or dedicated revenue source to be used to repay the requested financial assistance;
 7. The amount of pledged revenues or money collected through the dedicated revenue source for each of the previous five fiscal years;
 8. An estimate of the amount of pledged revenues or money that will be collected through the dedicated revenue source for the current fiscal year;
 9. A projection of the amount of pledged revenues or money that will be collected through the dedicated revenue source for each of the next five fiscal years;
 10. A list of professional and outside service providers, including their professional qualifications, that are working or have worked on the project;
 11. An estimate of the project costs, including applicable planning, design, and construction costs, as well as estimated annual operation, maintenance, and replacement costs;
 12. An estimated schedule of required disbursements of the financial assistance; and
 13. Any information that may have a negative effect on the applicant's application, or on its financial condition, including material information relating to other projects undertaken by the applicant, pending lawsuits, and current investigations by state or federal authorities.
- D.** In addition to the application and documentation required in subsection (C), an applicant shall provide to the Authority by the established due date for applications the following information:
1. Copies of documentation relating to outstanding indebtedness, including official statements, financial assistance agreements, and amortization schedules;
 2. A detailed description of the project, with an explanation of how the project complements the overall development of the community, including the following, if available and applicable:
 - a. Copies of project feasibility studies, engineering reports, project designs, rate studies, and related material;
 - b. A detailed timeline for the project; and
 - c. A planning document specific to the locality of the project for which the financial assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document;
 3. A resolution of the governing body of the applicant stating the following:
 - a. The project is in the best interests of its residents;
 - b. The commitment of local funds, if applicable; and
 - c. If a political subdivision, then confirmation of the pledge of the state-shared revenues;
 4. For a political subdivision, a written commitment by its governing body to complete all applicable reviews and approvals and to secure all required permits in a timely manner;
 5. To the extent required under A.R.S. § 41-1554.06, for a political subdivision, evidence of voter approval to incur debt in connection with the project:
 - a. If the election for voter authorization has been held, a copy of the ballot evidencing voter authorization for the debt in connection with the project and official action canvassing the results of the election;
 - b. If the election for voter authorization is scheduled to be held after the application date, sample ballot language and evidence of a plan to obtain voter authorization for the debt to be incurred in connection with the project;
 6. For a political subdivision, if voter approval has been obtained for substantially the same project but with a different funding source, evidence of that approval in lieu of that required by subsection (D)(5); and
 7. For an Indian tribe, evidence of the current or proposed establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity subject to suit by the Attorney General, or evidence that additional funds or revenue streams that are subject to execution by the Attorney General without the waiver of any claim of sovereign immunity by the Tribe have been designated as additional security.
- E.** Staff shall analyze each application received on or prior to the due date for applications for financial assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-203. Applications for financial assistance that are determined to be both administratively complete and eligible for financial assistance under R20-8-203 shall be submitted to the Board for prioritization and possible funding. Applications that are either not administratively complete or do not meet the criteria in R20-8-203 shall not be submitted to the Board.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1).

R20-8-203. Eligibility Criteria

To be eligible to receive financial assistance, an applicant shall satisfy all of the following criteria:

1. The applicant is a political subdivision, special district, or Indian tribe;
2. The financial assistance requested is for an infrastructure project;
3. The application is administratively complete;
4. The applicant demonstrates that the financial assistance can be repaid and the level of security pledged to the loan is consistent with A.R.S. §§ 41-1554.06(D)(4) through (6);
5. The applicant demonstrates that the project is ready for construction and the applicant is ready to proceed;
6. The applicant provides evidence that the project has public support;
7. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document;
8. The applicant demonstrates that the loan proceeds will be managed and expended in accordance with the timetable set forth in the application;
9. The minimum number of points required to be eligible for consideration for funding by the Board shall be 70 percent or 70 points; and
10. Applicants are responsible for the payment of all administrative fees and penalties associated with financial assistance. Administrative fees shall be paid on or before 90 days from the date on the Authority's invoice. Administrative fees remaining unpaid after 90 days from the date on the Authority's invoice shall be subject to penalties of five percent per annum. Applicants with outstanding administrative fees or penalties are not eligible for financial or technical assistance.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
Amended by final rulemaking at 7 A.A.R. 2042, effective
April 10, 2001 (Supp. 01-2). Amended by final
rulemaking at 16 A.A.R. 190, effective March 6, 2010
(Supp. 10-1).

R20-8-204. Priority; Approval and Disapproval; Funding; Appeal

- A. The Board shall not review an application for financial assistance that does not meet the eligibility criteria in R20-8-203.
- B. During each financial assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for financial assistance has been received. Application scores shall be prioritized based on a percentage of the points received to total points possible. The minimum number of points required to be eligible for consideration for funding by the Board is 70 percent or 70 points. Applicants scoring less than 70 percent will be notified in writing by electronic or other means. A score of 70 percent does not guarantee funding. Applications for financial assistance shall be assigned points under the following categories in descending order of importance:
1. The applicant demonstrates strong credit worthiness and ability to repay the obligation based on the source of the repayment pledge - Up to 50 points,
 - a. Category I, A, and general obligation pledges - Up to 50 points; or
 - b. Category II, Baa, BBB, and previously unrated pledges with coverage ratios of 1.50 or higher - Up to 45 points; or
 - c. Previously unrated pledges with coverage ratios less than 1.50 - Up to 35 points.
 2. The applicant demonstrates that it has little or no access to alternative funding sources that provide the same or lower access to capital as that provided by the Authority - Up to 25 points,
 - a. No access to alternative funding sources - 25 points, or
 - b. One alternative funding source - 15 points, or
 - c. Two or more alternative funding sources - 5 points, or
 - d. No alternative funding sources researched - 0 points.
 3. There is evidence of the project's public support based on the adopted planning document specific to the locality or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant - Up to 15 points,
 4. The purpose of the project is the following:

- a. Public infrastructure or economic development - Up to 10 points, or
 - b. Refinancing of public infrastructure debt - Up to 5 points.
- C. The Board shall approve or disapprove each application for financial assistance based upon the priority list and available funding for financial assistance. The Board may fund all or a portion of a financial assistance request. Disbursement of funds to an approved applicant shall only occur upon the applicant's agreement with the terms and conditions established by the Board in accordance with A.R.S. § 41-1554.06. The prioritization using points assigned under subsection (B) is as follows:
1. The tied application with the higher score under subsection (B)(1) shall have priority over other applications;
 2. If the tied applications have the same score under subsection (B)(1) the application with the higher score under subsection (B)(2) shall have priority over the other applications;
 3. If the tied applications have the same score under subsections (B)(1) and (2) the application with the higher score under subsection (B)(3) shall have priority over the other applications;
 4. If the tied applications have the same score under subsections (B)(1), (2), and (3), the application with the higher score under subsection (B)(4) shall have priority over the other applications;
 5. If the tied applications have the same score under subsections (B)(1), (2), (3), and (4), the Board shall determine the priority of the applications.
- D. The Authority shall notify in writing by electronic or other means each applicant of the Board's determination within 90 days after the date that all applications for financial assistance were due.
- E. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide financial assistance expires. The Authority shall not provide financial assistance for an approved project if the applicant does not complete all agreements with the Authority on or before that date.
- F. An applicant whose project for financial assistance is disapproved or determined to be ineligible may appeal. The Authority shall use the Uniform Administrative Hearings Procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern the initiation and conduct of formal adjudicative proceedings before the Authority.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
Amended by final rulemaking at 16 A.A.R. 190, effective
March 6, 2010 (Supp. 10-1).

Attachment B

A.R.S. Title 41, Chapter 18

**Arizona Revised Statutes for
Greater Arizona Development Authority
41-2251 through 41-2263
(as taken from www.azleg.gov on 1/9/13)**

41-2251. Definitions

In this article, unless the context otherwise requires:

1. "Authority" means the greater Arizona development authority.
2. "Board" means the board of directors of the authority as established by section 41-2252.
3. "Financial assistance" means assistance provided by the authority to eligible political subdivisions, special districts and Indian tribes pursuant to section 41-2257.
4. "Fund" means the greater Arizona development authority revolving fund established by section 41-2254.
5. "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.
6. "Infrastructure" means any land, building or other improvement and equipment or other personal property that will make up part of a facility that is located in this state for public use and that is owned by a political subdivision, special district or Indian tribe that retains ultimate responsibility for its operation and maintenance.
7. "Loan" means bonds, leases, loans or other evidences of indebtedness.
8. "Loan repayment agreement" means an agreement to repay a loan entered into by a political subdivision, special district or Indian tribe.
9. "Pledged revenues" means any monies to be received by a political subdivision, special district or Indian tribe, including property taxes, other local taxes, fees, assessments or charges pledged by a political subdivision, special district or Indian tribe as a source for repayment of a loan repayment agreement.
10. "Political subdivision" means a county, city or town.
11. "Short-term assistance" means assistance provided by the authority to political subdivisions, special districts and Indian tribes in connection with the financing of infrastructure.
12. "Special district" means any of the following entities established pursuant to title 48:
 - a) Municipal improvement district.
 - b) Fire district.
 - c) County improvement district.
 - d) Special road district.
 - e) Sanitary district.

- f) Drainage or flood protection district.
- g) County flood control district.
- h) County jail district.
- i) Regional public transportation authority.
- j) Regional transportation authority.

- 13. "Technical assistance" means assistance provided pursuant to section 41-2256.
- 14. "Technical assistance repayment agreement" means an agreement to repay assistance provided pursuant to section 41-2256.
- 15. "Tribal subdivision" means any chapter, district or village that is recognized by an Indian tribe by resolution or through tribal constitution and that receives technical assistance.

41-2252. Greater Arizona development authority; board; staff; conflict of interest prohibited; violation; classification

- A. The greater Arizona development authority is established. The authority shall be governed by a board of directors consisting of the following members:
 - 1. The chief executive officer of the Arizona commerce authority or the director's designee who shall serve as the chairperson.
 - 2. The director of the department of environmental quality or the director's designee.
 - 3. The director of the department of transportation or the director's designee.
 - 4. The state treasurer or the state treasurer's designee.
 - 5. Five members, one of whom is a representative of a tribal nation of Arizona, appointed by the governor pursuant to section 38-211. All appointed members shall reside in different counties, and no more than three members may be members of the same political party.
- B. Members appointed by the governor serve staggered five year terms.
- C. Members of the board are not eligible to receive compensation for their services under this chapter but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2 for their services under this chapter.
- D. Members of the board serving under this chapter are public officers for purposes of title 38, chapter 3, article 8 and the authority is a public body for purposes of title 38, chapter 3, article 3.1.
- E. No appointed member may serve more than two consecutive terms, except that service for a partial term of less than three years shall not be counted toward the two term limitation.
- F. The water infrastructure finance authority of Arizona shall provide general administrative support, equipment and office and meeting space to the greater Arizona development authority.
- G. The water infrastructure finance authority of Arizona may hire staff to provide administrative and technical assistance on behalf of the authority. Earnings on the monies in the greater Arizona development authority revolving fund may be used to pay for staff services.
- H. Members of the board shall not participate in any direct discussions or actions related to any project financed under this article in which the member has any direct or indirect personal financial interest.

For purposes of this subsection, a member of the board who is an employee or official of a participant in or applicant for a loan shall not be considered to have a direct or indirect personal financial interest in a project by virtue of the member's services alone. A violation of this subsection is a class 1 misdemeanor.

41-2253. Powers and duties of authority

- A. The authority is a body corporate and politic and shall have an official seal that is judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property as necessary to carry out its responsibilities under this article.
- B. The authority, through its board, may:
 - 1. Issue bonds to provide financial assistance to political subdivisions, special districts and Indian tribes for acquiring, constructing, improving or equipping infrastructure or for refinancing outstanding bonds or other obligations of the political subdivisions, special districts or Indian tribes that were issued to acquire, construct, improve or equip infrastructure. The bonds shall be in the name of the authority.
 - 2. Provide financial assistance to political subdivisions, special districts and Indian tribes to finance or refinance infrastructure projects.
 - 3. Guarantee debt obligations of political subdivisions, special districts and Indian tribes that are issued to finance or refinance infrastructure projects.
 - 4. Provide technical assistance or short-term assistance to political subdivisions, special districts, Indian tribes and tribal subdivisions.
 - 5. Apply for, accept and administer grants and other monetary assistance from the United States government and from other public and private sources to carry out its responsibilities under this article.
 - 6. Hire professional assistance as needed to carry out this article.
- C. The board shall:
 - 1. Approve all policies and procedures of the authority.
 - 2. Approve which projects receive technical and financial assistance.
 - 3. Approve loan repayment agreements entered into with political subdivisions, special districts and Indian tribes.
- D. The authority may impose administrative fees and penalties that are necessary to recover the costs incurred in connection with entering into or enforcing a loan repayment agreement or providing financial or technical assistance.
- E. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 5 of this section in the fund.

41-2254. Greater Arizona development authority revolving fund

- A. The greater Arizona development authority revolving fund is established consisting of:
 - 1. Monies appropriated by the legislature.
 - 2. Monies received from the United States government to carry out this article.

3. Monies received from political subdivisions, Indian tribes, tribal subdivisions and special districts as loan repayments, technical assistance repayments, interest, administrative fees and penalties.
 4. Interest and other income received from investing monies in the fund.
 5. Gifts, grants and donations received from any public or private source to carry out this article.
 6. Any other monies received by the authority.
- B. The board shall administer the fund in compliance with the requirements of this article. The board shall separately account for monies received from each source listed in subsection A of this section. Monies received pursuant to subsection A, paragraph 1 of this section shall not be used for any purpose except securing bonds issued by the authority and providing assistance under technical assistance repayment agreements if the amount used for providing this assistance is not more than eight hundred thousand dollars. This subsection does not limit the power of the authority to pledge other monies in the fund to secure bonds issued by the authority or to provide assistance under technical assistance repayment agreements.
- C. The board may establish accounts and subaccounts as necessary to properly account for and use monies received by the authority.
- D. Monies in the fund may be used for securing bonds of the authority.
- E. Monies in the fund received pursuant to subsection A, paragraphs 2, 3, 4, 5 and 6 of this section may be used for:
1. Providing technical assistance to political subdivisions, special districts, Indian tribes and tribal subdivisions.
 2. Providing financial assistance to political subdivisions, special districts and Indian tribes.
 3. Paying the compensation and employment related expenses associated with the employees hired pursuant to section 41-2252, subsection E.
 4. Paying the costs to operate the authority, to administer the fund and to carry out the requirements of this article.
 5. Paying the costs of professional assistance hired by the authority pursuant to section 41-2253, subsection B, paragraph 6.
- F. 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.
- G. If the monies pledged to secure the bonds become insufficient to pay the principal and interest on the bonds, the board may direct the state treasurer to divest monies in the fund as may be necessary and may 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 shall report these findings to the attorney general. The attorney general shall conduct an investigation and report these findings to the governor and the legislature.

41-2255. Project application and prioritization

- A. The authority shall:
1. Establish an application form for technical and financial assistance.

2. Establish a procedure to review and approve or disapprove on its merits each administratively complete application for technical and financial assistance.
 3. Establish by rule criteria by which technical and financial assistance will be awarded. For financial assistance the criteria shall include a determination of the ability of the applicant to repay a loan according to its terms and other conditions established by this article.
 4. Adopt rules to prioritize applications for technical and financial assistance.
 5. Inform the applicant of the board's determination within ninety days after the application date established by the authority pursuant to paragraph 2 of this subsection.
- B. The board shall:
1. Approve or disapprove applications for financial and technical assistance.
 2. Determine the order and priority of projects assisted under this article based on the merits of the applications.
- C. If the application is approved, the board may condition the approval on assurances the board deems necessary to ensure that the technical assistance or financial assistance will be used according to law and the terms of the application. The loan repayment agreement shall include any conditions concerning financial assistance deemed necessary by the board.
- D. The authority shall only make financial assistance or short-term assistance available when the applicant is ready to proceed or, if the financial assistance is for refinancing outstanding bonds or other obligations, when the outstanding bonds or other obligations are to be refunded. The authority may provide technical assistance on an as needed basis. The authority may charge the applicant fees sufficient to cover the authority's costs related to the project.
- E. A political subdivision, a special district or an Indian tribe may apply to the authority for financial assistance and may accept assistance in connection with an infrastructure project owned by the political subdivision, special district or Indian tribe. 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 may be accepted by the board as evidence regarding the ability of the applicant to repay a loan.
- F. The authority shall only make financial assistance available upon a determination of the ability of the applicant to repay the financial assistance according to its terms and conditions.
- G. Applications for financial assistance shall:
1. Be solicited annually, semiannually, quarterly or monthly as determined by the authority pursuant to subsection A, paragraph 2.
 2. Be administratively complete before being reviewed by the authority.
 3. Include documentation concerning the ability of the applicant to repay the financial assistance according to its terms and conditions.
 4. Include a resolution from the governing body of the political subdivision, special district or Indian tribe that the project is in the best interests of the residents.
- H. Applications for technical assistance shall:
1. Be solicited annually or semiannually as determined by the authority pursuant to subsection A, paragraph 2, except that an application for short-term assistance may be solicited at those times as the authority determines.

2. Be administratively complete before being reviewed by the authority.
3. Include a resolution from the governing body of the political subdivision, special district or Indian tribe that the project is in the best interests of the residents.

41-2256. Technical assistance; repayment agreements

- A. The authority may provide technical assistance to political subdivisions, special districts, Indian tribes and tribal subdivisions in connection with the development or financing of infrastructure.
- B. Technical assistance may include the following:
 1. Assistance in selecting outside consultants.
 2. Evaluation of design and construction options.
 3. Financial advisory services.
 4. Assistance in satisfying statutory requirements.
 5. Short-term assistance.
- C. Assistance provided under a technical assistance repayment agreement:
 1. Shall not be more than two hundred fifty thousand dollars for a single project.
 2. Shall be repaid not more than three years after the date the monies for the assistance are advanced to the applicant.
 3. Shall be in a form and under terms determined by the authority.
- D. Short-term assistance represents an advance of financial assistance. The authority shall not provide short-term assistance unless the political subdivision, special district or Indian tribe has an approved financial assistance application on file with the authority. A political subdivision, special district or Indian tribe shall repay short-term assistance pursuant to a technical assistance repayment agreement.
- E. The authority shall establish an application process and method of determining the allocation of technical assistance pursuant to section 41-2255.
- F. Before technical assistance may be provided, the board shall approve the application for technical assistance.
- G. 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.

41-2257. Financial assistance

- A. The authority may provide financial assistance to political subdivisions, special districts and Indian tribes in developing, acquiring, constructing, improving, equipping or refinancing infrastructure. The financial assistance shall include:
 1. Loans as provided in this section.
 2. Credit enhancements purchased for a political subdivision's, special district's or Indian tribe's bonds or other forms of indebtedness.

- B. A loan shall be evidenced by a loan repayment agreement, lease purchase agreement or bonds of a political subdivision, special district or Indian tribe that are delivered to and held by the authority.
- C. The authority shall prescribe a principal repayment schedule for each loan made. Loan principal payments may be rescheduled at the discretion of the authority but may not be forgiven.
- D. A loan under this section:
 - 1. Shall be repaid not more than thirty years after the date it is incurred.
 - 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 holders of any of the authority's bonds that provided funding for the loan. The authority may provide that loan interest accruing during construction of the borrower's infrastructure project and up to one year after completion of the construction be capitalized in the loan.
 - 3. Shall be repayable in at least annual principal installments and at least semiannual interest installments.
 - 4. Shall be conditioned on the identification of pledged revenues for repaying the loan. If the infrastructure financed by the loan is part of a municipal utility and the city or town pledges revenues of the utility to repay the loan, the loan shall be treated under section 9-530, subsection B as a lawful long-term obligation incurred for a specific capital purpose.
 - 5. To the extent permitted by law, shall be secured by a debt service reserve account that is held in trust and that is in such amount, if any, as determined by the authority.
 - 6. Shall be either:
 - a) For a political subdivision, additionally secured by an irrevocable pledge of the shared state revenues due the political subdivision for the life of the loan as provided by a resolution of the board.
 - b) For an Indian tribe, conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation or 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.
- E. The authority shall prescribe the rate or rates of interest on loans made under this section, but the rate or rates shall not exceed the prevailing market rate for similar types of loans. A political subdivision or special district may negotiate the sale of its bonds to or a loan repayment agreement with the authority without complying with any public or accelerated bidding requirements imposed by any other law for the sale of its bonds.
- F. The approval of a loan is conditioned on a written commitment by the political subdivision or special district to complete all applicable reviews and approvals and to secure all required permits in a timely manner.
- G. The approval of financial assistance to a city or town having a population of more than fifty thousand persons shall be conditioned on approval of its voters. An election is not required if voter approval has previously been received for substantially the same project.
- H. The approval of financial assistance to a county having a population of more than two hundred thousand persons shall be conditioned on approval of its voters. An election is not required if voter approval has previously been received for substantially the same project.
- I. By resolution of the board, the authority may impose any additional requirements it considers necessary to ensure that the loan principal and interest are timely paid.

- J. All monies received from political subdivisions, special districts and Indian tribes as loan repayments, interest and penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.
- K. The attorney general may take whatever actions are necessary to enforce the loan contract and achieve repayment of loans provided by the authority pursuant to this article.
- L. If 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 direct a withholding of state shared revenues as provided in subsection M of this section. The certificate of default shall be in the form determined by the authority, provided the certificate specifies the amount required to satisfy the unpaid payment obligation of the political subdivision.
- M. On receipt of a certificate of default from the authority, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold the monies from the next succeeding distribution of monies pursuant to section 42-5029 due to the defaulting political subdivision. In the case of a city or town, the state treasurer shall also withhold from the next succeeding distribution of monies pursuant to section 43-206 due to the defaulting city or town the amount specified in the certificate of default and immediately deposit the amount withheld in the fund. The state treasurer shall continue to withhold and deposit the monies until the authority certifies to the state treasurer that the default has been cured. In no event shall the state treasurer withhold any amount that is necessary, as certified by the defaulting political subdivision to the state treasurer and the authority, to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued prior to the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to sections 42-5029 and 43-206.

41-2258. Greater Arizona development authority bonds

- A. The authority, through the board, may issue negotiable bonds in a principal amount that in its opinion is necessary to provide sufficient monies for assistance under this article, to refund bonds, when the authority deems it expedient to do so, maintaining sufficient reserves in the fund 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 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, except any amounts used to pay costs associated with the issuance and sale of the bonds, shall be deposited in the fund or a separately held account as specified in the resolution.

- D. 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 lien on all or part of the monies paid into the appropriate account or subaccount of the fund.
 2. Pledge or assign to or in trust to be held by the state treasurer or a trustee appointed by the authority for the benefit of the holder or holders of the bonds any part of the appropriate account or subaccount of the fund monies 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. Provide terms necessary to secure credit enhancement or other sources of payment or security.
 8. Provide any other terms and conditions that in any way may affect the security and protection of the bonds.
- E. Any pledge of revenues by a political subdivision, a special district, an Indian tribe or the authority made under this article is valid and binding from the time when the pledge is made. The monies pledged and received by the state treasurer to be placed in the fund or in any account or subaccount in the fund are immediately subject to the lien of the pledge without any future physical delivery or further act, and any 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.
- F. A member of the board 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.
- G. The board, out of any available monies, may purchase bonds, which may then 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.
- H. 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.
- I. If a political subdivision fails to make a 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 payment and direct withholding pursuant to subsection J of this section. The authority may determine the form of

the certificate of default, except that the certificate must specify the amount of money required to satisfy the unpaid payment obligation of the political subdivision.

- J. On receipt of a certificate of default from the authority, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold an amount from the defaulting political subdivision's next distribution of monies pursuant to section 42-5029 and an amount from a defaulting city's or town's next distribution of monies pursuant to section 43-206 necessary to meet the certified amount of the deficiency. The state treasurer shall immediately deposit in the fund the amount withheld. The state treasurer shall continue to withhold distributions pursuant to sections 42-5029 and 43-206 and deposit them into the fund until the authority certifies to the state treasurer that the default has been cured.
- K. Notwithstanding subsection J of this section, the state treasurer shall not withhold from the distribution of monies under section 42-5029 any amount, as certified by the defaulting political subdivision to the state treasurer and the authority, that is necessary to make any required deposits then due for payment of principal and interest on bonds of the political subdivision that have been secured by a pledge of the distribution.

41-2259. Bond obligations of the authority

Bonds issued under this article are obligations of the authority, are payable only according to their terms and are not general, special or other obligations 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.

41-2260. Agreement of state

- A. 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 authority 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, with 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.
- B. The board as agent for this state may include this pledge and undertaking in its resolutions and indentures securing its bonds.

41-2261. Certifications of bonds by attorney general

- A. The board may submit any bonds issued under this article to the attorney general after all proceedings for their authorization have been completed. Within fifteen days after submission the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings.
- B. 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.

41-2262. Bonds as legal investments

Bonds issued under this article are securities:

1. 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.
2. 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.

41-2263. Annual audit and reporting

- A. The board shall cause an annual audit to be made of the fund. The audit shall be conducted by a certified public accountant within one hundred fifty days after the close 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 further audits and examinations that the auditor general considers to be necessary and 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 annual audit is filed pursuant to subsection A, the audit is considered to be sufficient.
- C. The board shall pay any fees and costs of the certified public accountant and auditor general under this section from the earnings on the fund.
- D. Not later than January 1 of each year, the board shall submit 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.

Attachment C

2010 Economic, Small Business and Consumer Impact Statement

ECONOMIC SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

Greater Arizona Development Authority's Amended Rules

A.A.C. R20-8-101 through R20-8-204

This document is presented pursuant to ARS §41-1055 et seq.

A. The economic, small business and consumer impact summary.

1. An identification of the proposed rule making.

In 1997, the Arizona State Legislature established the Greater Arizona Development Authority (Authority) for the purpose of making funds available to provide assistance for infrastructure projects. The Authority provides assistance to political subdivisions, Indian tribes, and special districts. In the 2007 legislative session, HB 2785 was passed, enacting several amendments to the Authority's statutes. In addition, a number of potential changes to the Authority's rules have been identified since the last rulemaking which will provide greater clarity and improve the effectiveness of the program.

The proposed rule amendments accomplish the following:

- Defines terms used throughout Articles 1 and 2 of Chapter 8. These terms result from the passage of HB 2785 during the 2007 legislative session, changes in the program's operating environment and as changes being proposed to other sections of the rules.
- Formalizes the process of opening new rounds of Technical Assistance and Financial Assistance, differentiates the two Technical Assistance programs and identifies a list of items that the Authority requests as part of an application.
- Adds population as a priority criterion for the Project Development Account portion of the Technical Assistance program and establishes a minimum score required to be eligible for grant awards.
- Requires projects that are the subject of either Technical Assistance or Financial Assistance applications to be included in a plan adopted by the applicant's governing body.
- Conforms the appeals process for both the Technical Assistance and Financial Assistance programs with A.R.S. Title 41, Chapter 6, Article 10 concerning hearings for state agencies.
- Removes the "economic overview" prepared by the Department of Commerce as a scoring criteria for Technical Assistance as this information is prepared for every application, rendering it an ineffective criteria. Also eliminates the requirement for the Department of Commerce to conduct a

- cost/benefit analysis for each Financial Assistance application as the agency does not have the staff resources to provide this analysis.
- Establishes the criteria and scoring by which applications for Financial Assistance will be prioritized.
- Deletes the scoring tables and includes the points within the narrative.

2. A brief summary of the information included in the economic, small business and consumer impact statement.

A.R.S. § 41-1554.04 requires the Authority to establish application forms for both Technical Assistance and Financial Assistance, a procedure to review and approve or disapprove applications for each program, criteria by which assistance under either program will be awarded, and a means to prioritize applications for both programs. A.R.S. § 41-1554.05(E) provides that the Authority shall establish an application process and method of determining all allocations of technical assistance in accordance with A.R.S. §41-1554.04.

The proposed amendments will improve the process for determining the eligibility and prioritizing applications for Technical or Financial Assistance by providing greater clarity, more flexibility for staff of the authority to gather certain information from the applicant, and establishing priority criteria and scoring for the Financial Assistance Program. The amendments also enable the Authority to recapture costs incurred on behalf of an applicant if their application is withdrawn or otherwise terminated, and use technology to disseminate notices of rounds and award determinations.

The expected beneficial contribution can be summarized as “focusing scarce resources on projects that are ready to proceed.” As the Authority’s bonding capacity and grant budget decline, it is increasingly important that its resources are utilized for projects that have formal governing Board approval and have demonstrated a commitment to timely completion. This will help sustain the life of the program and its availability to applicants for as long as possible.

3. Agency employee who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:

Name: Jennifer Pittman-Leeper
 Executive Director
 Greater Arizona Development Authority
 Address: 1700 W. Washington St. Suite 600
 Phoenix, AZ 85007
 Telephone: 602-771-1136
 FAX number: 602-771-1200
 Email: jenniferl@azcommerce.com

B. The economic, small business and consumer impact statement.

1. An identification of the proposed rule making.

In 1997, the Arizona State Legislature established the Greater Arizona Development Authority (Authority) for the purpose of making funds available to provide assistance for infrastructure projects. The Authority provides assistance to political subdivisions, Indian tribes, and special districts. In the 2007 legislative session, HB 2785 was passed, enacting several amendments to the Authority's statutes. In addition, a number of potential changes to the Authority's rules have been identified since the last rulemaking which will provide greater clarity and improve the effectiveness of the program.

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- Formalizes the process of opening new rounds of Technical Assistance and Financial Assistance, differentiates the two Technical Assistance programs, and identifies a list of items that the Authority requests as part of an application.
- Adds population as a priority criterion for the Project Development Account portion of the Technical Assistance program and establishes a minimum score required to be eligible for grant awards.
- Requires projects that are the subject of either Technical Assistance or Financial Assistance applications to be included in a plan adopted by the applicant's governing body.
- Conforms the appeals process for both the Technical Assistance and Financial Assistance programs with A.R.S. Title 41, Chapter 6, Article 10 concerning hearings for state agencies.
- Removes the "economic overview" prepared by the Department of Commerce as a scoring criteria for Technical Assistance as this information is prepared for every application, rendering it an ineffective criteria. Also eliminates the requirement for the Department of Commerce to conduct a cost/benefit analysis for each Financial Assistance application as the agency does not have the staff resources to provide this analysis.
- Establishes the criteria and scoring by which applications for Financial Assistance will be prioritized.
- Deletes the scoring tables and includes the points within the narrative.

2. An identification of the persons who will be directly affected by, bear the costs or directly benefit from the proposed rule making.

Eligible applicants for GADA's technical assistance are political subdivisions, Indian tribes, tribal subdivisions, and special districts. GADA's projects focus on publicly owned infrastructure such as roads, public buildings and community facilities, as well as environmental infrastructure as it is related to economic development.

Those political subdivisions of the state, special districts, Indian tribes, and tribal subdivisions that apply for technical assistance will bear very few costs and enjoy the benefits of this proposed rule making. The rules clarify the application and approval process for eligible projects. There are minimal costs associated with organizing the information required. There is potential additional cost incurred by the political subdivision or Indian tribe in connection with engineering studies, permits, voter authorizations and related activities if the award is made. It should be noted that these costs would have to be incurred by the political subdivisions or Indian tribes regardless of the source of financing for the project. The Authority is not seeking additional information or studies beyond what is reasonably required by a similar funding source.

There may also be substantial costs for applicants that withdraw or otherwise terminate their applications for Financial Assistance due to the proposed rule requiring applicants to reimburse the Authority for costs incurred on their behalf. Depending on when the application is withdrawn/terminated, these costs may exceed \$20,000.

Applicants benefit from the proposed point system in that it provides a clearer understanding of the Authority's prioritization process, more objective selection criteria, and criteria to ensure the Authority's resources are being employed efficiently.

3. Cost Benefit Analysis

The information in this section is presented in Figure 1 and is organized according to the elements required in ARS §41-1055.B for each section of the AAC being amended (R-20-8-101, -102, -103, -104, -201, -202, -203, and -204):

- The probable costs and benefits to the *implementing agency and other agencies* directly affected by the implementation and enforcement of the proposed rule making (ARS §41-1055.B.3(a))
- The probable costs and benefits to a *political subdivision of this state* directly affected by the implementation and enforcement of the proposed rule making (ARS §41-1055.B.3(b))

With respect to ARS §41-1055, sections B.3(c) and B.5, businesses are not eligible for funding from the Authority. Therefore, the probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule-making have not been included in the Cost/Benefit Analysis table in Figure 1 but are summarized below:

Costs:

- Businesses are not eligible for funding under the GADA program, so costs would be minimal and indirect. Minimal was defined in the Authority's 1997 and 2000 Cost/Benefit Analyses to be less than \$1000.
- Depending on the financial resources of the political subdivision, there may be costs resulting from higher local taxes or user fees to pay for the infrastructure developed with Technical Assistance from the Authority or funded through the Financial Assistance program.

Benefits:

- Benefits would accrue from increased economic opportunities resulting from growth associated with new or improved infrastructure and from the savings realized by the political subdivision through the Authority's Technical Assistance grants, or the lower interest rates and cost of issuance subsidy typically provided in the Financial Assistance program.
- Indirect benefits realized may include faster commute time due to new/better roadways; better water quality from new sewer/water systems, reduced juvenile crime due to park and library facilities; and faster public safety response times associated with new fire and police stations, etc.

Further, with respect to ARS §41-1055.B.4 requiring a general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rule making, no changes to public employment related to the Authority or the Department of Commerce are anticipated due to the proposed rule changes.

However, there will be short, medium and long-term positive impacts on public and private employment associated with projects that receive Technical and Financial Assistance. In the short and medium terms, Financial Assistance will help pay for construction labor, engineering, and related service contracts associated with the construction of the infrastructure. In the long term, the operation and maintenance of the project may require additional staff employed by the political subdivision. Economic development should accrue to the political subdivision as a result of the infrastructure project, bringing with it a variety of private employment opportunities.

Figure 1

Cost/Benefit Analysis Table	
Section	Topic
R-20-8-101	<p>Technical Assistance – Definitions</p>
Costs/Benefits to:	
<p>Implementing Agency and Other Agencies ARS §41-1055.B.3(a)</p>	<p>Political Subdivision of Arizona ARS §41-1055.B.3(b)</p>
<p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> • Greater clarity regarding the elements constituting complete applications. • Greater flexibility with job duties and titles – currently Finance Director duties are handled by the Executive Director due to staff reductions. • Enables the Authority to recoup costs as authorized in statute which are incurred in connection with entering into or enforcing a loan repayment agreement or providing financial or technical assistance. Notification of the applicant's responsibility for these costs will become part of the application and any award agreement executed. 	<p><i>Costs:</i></p> <ul style="list-style-type: none"> • Costs for legal and financial advisory services may result for applicants that violate the terms and conditions of their technical assistance contract to the extent the Authority must pursue legal action. Those costs will be documented and directly related to time and expenses associated with enforcing the contract. Professional service fees are tracked on an hourly basis. <p><i>Benefits:</i></p> <ul style="list-style-type: none"> • The proposed clarifications will make the rules easier to understand.
R-20-8-102	<p>Technical Assistance – Application Process</p>
<p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> • By allowing electronic notification, reduces costs of mailing notices of application rounds (estimated savings are \$105 per 1st class mailing of 250 pieces). • Currently, technical assistance grants and loans are covered in the same subsection. As they are two distinct programs, specifying them as such provides greater clarity. • The Authority is rarely able to provide the full amount of grant funding needed for a project. Requiring the applicant to state the amount of matching funds allows staff to determine if the project can be successfully completed if it receives a partial award. Please note applicants are not required to provide matching funds. By requiring the plan on which a project – and therefore, application to the Authority –adopted by an applicant's governing body, the 	
<p><i>No costs</i> – any additional submission requirements are related to documents applicants already have, such as their procurement policy.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> • Electronic notification will reach a wider audience of potential applicants, providing critical grant funding opportunities. • Serious applicants with projects that are part of a plan adopted by the governing body have a better chance of getting a grant award and possibly a larger award, depending upon funding availability, the number of applicants and total amount of requests. 	

R-20-8-103	Technical Assistance – Eligibility Criteria	<p>Authority can help ensure the project is “solid”. This will discourage speculative or tentative projects and conserve scarce resources for applications with strong backing.</p> <p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> Removing the reference to “financing” clarifies that the technical assistance program is related to early stage development of projects. Financing is handled under the Project Assistance Account and Financial Assistance program (Article 2). Requiring the project to be part of an adopted planning document ensures the Authorities scarce resources are used for solid projects that are ready to proceed. Eliminating unnecessary words eliminates confusion between the Authority’s grant and loan programs, and provides more clarity in implementing the rules. 	<p><i>Costs.</i></p> <ul style="list-style-type: none"> Only applicants withdrawing or otherwise terminating their applications will incur costs. Those costs will be documented and directly related to time and expenses associated with their application. Professional service fees are tracked on an hourly basis. <p><i>Benefits:</i></p> <ul style="list-style-type: none"> The proposed clarifying changes will make the rules easy to understand. Serious applicants with projects that are part of a plan adopted by the governing body have a better chance of getting a grant award.
R-20-8-104	Technical Assistance – Priority; Approval and Disapproval; Protest	<p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> Currently, the required economic overview information is prepared for every applicant, rendering it ineffective as a scoring criterion. Currently, technical assistance grants and loans are covered in the same subsection. As they are two distinct programs, splitting them into separate subsections covering prioritization, approval and disapproval provides greater clarity. Requiring a minimum score ensures only strong projects that are ready to proceed are actually funded. Including population as a priority criterion will help direct the Authority’s scarce grant monies to entities that need it most. The Legislature named the program the Greater Arizona Development Authority, and committee testimony and fact sheets indicate they had small and rural communities in mind. This is confirmed by the population cap under which a community or county can bond through GADA without the need for a public vote (50,000 for cities or towns and 200,000 for counties). <p>In a recent round, a city in the Greater Phoenix area with ample financial resources and population in excess of 200,000 applied for a grant. The population criterion is necessary to align the goals of the grant program with those of the bond program, and to ensure the Authority’s resources are directed to cities or towns under 50,000 and</p>	<p><i>No costs</i> – no additional requirements are being placed on applicants in this section.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> The proposed changes differentiating the prioritization, approval, and disapproval of the two Technical Assistance programs will make the rules easy to understand. By requiring a minimum score, applicants are encouraged to submit better applications. Further, by utilizing funds only for strong, ready to proceed projects, larger awards may be available to such projects. The population criterion will help ensure grant monies are awarded to the small and rural communities for which the Authority was created. Electronic notice of award determination speeds up official notification. It enables successful applicants to begin their projects more quickly and lets unsuccessful applicants make decisions about alternatives in a timelier manner. Amending the protest rules ensure applicants an appeals process which is consistent with and provides them access to the administrative law system. With all of the scoring contained in one location, there is less potential for confusion.

R-20-8-201		<p>countries under 200,000 to the greatest extent possible.</p> <ul style="list-style-type: none"> Grant applicants are always very eager to know the outcome of the application round. Enabling the Authority to notify applicants electronically will speed up notification and reduce costs for the Authority (42¢ for each applicant). Hard copies of award determination letters will be sent via US mail in cases where electronic access does not exist, or at the applicant's request. The Authority's current rules related to protests of Technical Assistance funding decisions are not in compliance with A.R.S. §41-1092 et seq. that governs hearings for state agencies. Therefore, it must be amended to make it compliant with state law. Please note GADA has never received a protest on a board decision. The removal of the tables eliminates the possibility of discrepancy within the rules. 	
R-20-8-202	Financial Assistance – Definitions	<p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> The proposed changes will reflect recent statutory changes and ensure the definitions remain consistent with current practice and changes to other sections of the current rules. The addition of definition helps applicants understand many technical terms used in public finance. <p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> By allowing electronic notification, reduces costs of mailing notices of application rounds (estimated savings are \$105 per 1st class mailing of 250 pieces). The Authority generally conducts two Financial Assistance application rounds annually. Deleting “assets” and inserting “funds or revenue streams” clarifies requirements for making tribal loans. The Authority has no capacity to take collateral in the form of real or personal property, nor would this be sufficient security for bonds in the eyes of the rating agencies, bond insurers and other parties to the transaction. 	<p><i>No costs</i> – no additional requirements are being placed on applicants in this section.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> The proposed changes will conform rules with statutory changes and provide greater clarity for bonding applicants.
R-20-8-202	Financial Assistance – Application Process	<p><i>No costs.</i></p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> Only applicants withdrawing or otherwise terminating their applications will incur costs. Those costs will be documented and directly related to time and expenses associated with their application. Professional service fees are tracked on an hourly basis. <p>Depending on the size and complexity of the applicant's loan and the point at which they withdraw, these costs could exceed \$20,000.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> Electronic notification will reach a wider audience of potential applicants in a timelier manner, providing notice of bonding opportunities. Clarifying tribes must provide “funds or revenue streams” instead of assets helps align the program with the requirements and expectations of the financial markets and encourages tribal applicants to submit credit arrangements that may be more likely to be funded. 	<p><i>No costs</i> – no additional requirements are being placed on applicants in this section.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> The proposed changes will conform rules with statutory changes and provide greater clarity for bonding applicants. <p><i>Costs:</i></p> <ul style="list-style-type: none"> Only applicants withdrawing or otherwise terminating their applications will incur costs. Those costs will be documented and directly related to time and expenses associated with their application. Professional service fees are tracked on an hourly basis. <p>Depending on the size and complexity of the applicant's loan and the point at which they withdraw, these costs could exceed \$20,000.</p> <p><i>Benefits:</i></p> <ul style="list-style-type: none"> Electronic notification will reach a wider audience of potential applicants in a timelier manner, providing notice of bonding opportunities. Clarifying tribes must provide “funds or revenue streams” instead of assets helps align the program with the requirements and expectations of the financial markets and encourages tribal applicants to submit credit arrangements that may be more likely to be funded.

<p>R-20-8-203</p>	<p>Financial Assistance – Eligibility Criteria</p>	<p><i>No costs.</i></p> <p>Benefits:</p> <ul style="list-style-type: none"> The Authority is authorized in statute to impose administrative fees and penalties that are necessary to recover the costs incurred in connection with entering into or enforcing a loan repayment agreement or providing financial or technical assistance. Notification of the applicant's responsibility for these costs if an eligible and complete application is withdrawn or terminated, or if the Authority must enforce contract documents, will become part of the application and any award agreement executed. Since 2006, at least four applications have been withdrawn by applicants after costs were incurred for bond counsel, financial advisors, printing, conference calls and on occasion, travel expenses. These costs had to be borne by the other applicants in the round, the Authority or its professional consultants. The Authority's capacity to issue debt is limited, but the needs of its primary borrowers (cities under 50,000 and counties under 200,000) are numerous. As a result, the best use of the Authority's resources is for projects that are solid and ready to proceed. Requiring the project to be part of an adopted planning document will help ensure applications are focused on such projects. According to federal tax law, bond proceeds are to be expended within three years. Applicants that do not expend these monies in a timely manner risk incurring arbitrage rebate liability and may have to pay the IRS if they earn more interest than allowed. Requiring applicants to demonstrate they will spend the funds on schedule for their project minimizes the financial exposure to the applicants. 	<ul style="list-style-type: none"> Conforming the actions associated with eligible and administratively complete Financial Assistance applications with those under Technical Assistance will make the Authority's programs more predictable and easier to understand.
<p>R-20-8-204</p>	<p>Financial Assistance – Priority; Approval and Disapproval; Funding; Protest</p>	<p><i>No costs.</i></p> <p>Benefits:</p> <ul style="list-style-type: none"> Applicants and their voters are the best ones to determine the value of a project to their jurisdiction, not the Authority. If voters are willing to raise their property taxes to fund a project, that is more than acceptable to the financial markets and should also be sufficient for the Authority's purposes as credit security is clearly emphasized in 	<p>Costs:</p> <p>Only applicants withdrawing or otherwise terminating their applications will incur costs. Costs for legal, financial advisory and other professional services may also result for applicants that violate the terms and conditions of their financial assistance contract documents to the extent the Authority must pursue legal action or incurs financial or legal liabilities. Those costs will be documented and directly related to time and expenses associated with entering into or enforcing the contract. Professional service fees are tracked on an hourly basis.</p> <p>Depending on the size and complexity of the applicant's loan and the point at which they withdraw, these costs could exceed \$20,000.</p> <p>Benefits:</p> <ul style="list-style-type: none"> Serious applicants with projects that are part of a plan adopted by the governing body are more likely to complete their project, and are a better use of the Authority's limited bonding capacity than tentative projects not yet formally approved. Recently, at least four applicants have incurred arbitrage rebate liabilities (ranging from \$32,157.57 to \$174,692.75) because they are not spending their loan proceeds quickly enough. Requiring applicants to demonstrate they will spend the proceeds according to a project schedule provides two benefits: 1) applicants are more aware of the timeframe and will develop their projects accordingly, and 2) as a result, it will help applicants avoid potential arbitrage rebate liabilities. <p><i>No costs.</i></p> <p>Benefits:</p> <ul style="list-style-type: none"> Applicants will now have clear information regarding how their applications will be evaluated. By requiring a minimum score, applicants are encouraged to submit better applications. Further, by utilizing funds only for strong, ready to proceed projects, larger awards may be available to such projects.

		<p>statute. Additionally, the required cost/benefit analysis requires resources the Department of Commerce is unable to provide as it requires staff trained to operate sophisticated modeling software. Eliminating the requirement for this analysis relieves a burden on the Department and leaves the decision regarding the value of a project to the affected jurisdiction.</p> <ul style="list-style-type: none"> As the Authority's bonding capacity begins to decline, it has become necessary to develop updated priority criteria and scoring system. Unlike the Technical Assistance program, scores were not previously developed for Financial Assistance. The proposed language changes reflect current market practices, establish more appropriate criteria and scores for each. Enabling the Authority to notify applicants electronically will speed up notification and reduce costs for the Authority (42¢ for each applicant). Requiring a minimum score ensures only strong projects that are ready to proceed are actually funded. In the case where no applicant achieves the minimum score required, the Authority will not issue bonds. The Authority's current rules related to protests of Financial Assistance funding decisions are not in compliance with A.R.S. §41-1092 et seq. that governs hearings for state agencies. Therefore, it must be amended to make it compliant with state law. Please note GADA has never received a protest on a board decision. 	<ul style="list-style-type: none"> Electronic notice speeds up official notification for applicants. It enables them to begin their projects more quickly and lets unsuccessful applicants make decisions about alternatives in a more timely manner. Amending the protest rules ensure applicants an appeals process which is consistent with and provides them access to the administrative law system upon referral by the Board.
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- 4. A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rule making.**

See Section 3, Cost/Benefit Analysis, above

- 5. A statement the probable impact of the proposed rule making on small businesses.**

See Section 3, Cost/Benefit Analysis, above

- 6. A statement of the probable effect on state revenues.**

The most likely effect of the proposed rules is conservation of the Authority's scarce grant funds and declining bonding capacity, extending the life of the program. As a result of making the original capitalization last as long as possible, the Authority will not have to seek an additional appropriation as soon as otherwise might be necessary.

- 7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making.**

It could be less time consuming for political subdivisions if the Authority were to reduce the amount of information it requires in these rules. However, this would directly affect the quality of the Authority's analysis and funding decisions, and run the risk of violating statutory requirements.

ARS §41-1055, sections C through E do not apply to this rule making.

