



18 A.A.C. 15

Supp. 24-2

## TITLE 18. ENVIRONMENTAL QUALITY

### CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

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**The release of this Chapter in Supp. 24-2 replaces Supp. 18-1, 1-19 pages.**

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31  
Second Quarter: April 1 - June 30  
Third Quarter: July 1 - September 30  
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

### RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, [www.azsos.gov](http://www.azsos.gov) under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

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*Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.*

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

Authority: A.R.S. § 49-1203 et seq.

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## CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

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

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

“ADEQ” means the Arizona Department of Environmental Quality.

“Applicant” means an entity that is seeking financial or technical assistance from the Authority under the provisions of this Chapter.

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

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

“Board” has the same meaning as prescribed in A.R.S. § 49-1201(2).

“Certified Water Quality Management Plan” means a plan prepared by a designated Water Quality Management Planning Agency under Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4), certified by the Governor or the Governor’s designee, and approved by the United States Environmental Protection Agency.

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

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

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

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

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

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

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

“EA” means an environmental assessment.

“EID” means an environmental information document.

“EIS” means an environmental impact statement.

“EPA” means the United States Environmental Protection Agency.

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

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

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

“FONSI” means a finding of no significant impact, it is a public decision document that briefly describes why the project will not have any significant environmental effects.

“Fundable range” means a subset of a Project Priority List that demarcates the ranked projects which have been determined to be ready to proceed.

“Impaired water” means a navigable water for which credible scientific data exists that satisfies the requirements of A.R.S. § 49-232 and that demonstrates that the water should be identified pursuant to 33 U.S.C. 1313(d) and the regulations implementing that statute.

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

“Long-Term Water Augmentation Committee” means the committee established by A.R.S. § 49-1208(B).

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

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

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

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

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

“Planning and design technical assistance application” means a request for planning and design assistance submitted to the Board by an applicant in a format prescribed by the Authority.

“Planning and design loan repayment agreement” means the same as technical assistance loan repayment agreement and has the meaning at A.R.S. § 49-1201(11)

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

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

“Project Priority List” means the document developed by the Authority according to R18-15-203; R18-15-303; or R18-402

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that ranks projects according to R18-15-204; R18-15-304; or R18-15-403.

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

“ROD” means a record of decision, it is the conclusion of the EIS process.

“Staff assistance” means the use of monies for a specific water or wastewater treatment facility to assist that system to improve its operations or assist a specific water provider with a water supply delivery system. For water providers, staff assistance is limited to planning and design of water supply development projects according to A.R.S. § 49-1203(B)(17).

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

“Wastewater treatment facility” has the same meaning as prescribed in A.R.S. § 49-1201(19).

“Water Conservation Grant Committee” means the committee established by A.R.S. § 49-1335.

“Water provider” has the same meaning as prescribed in A.R.S. § 49-1201(20).

“Water supply development” has the same meaning as prescribed in A.R.S. § 49-1201(22).

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

#### Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

#### R18-15-102. Types of Assistance Available

- A.** The Authority may provide financial and technical assistance under the following programs if the Board determines funding is available:
1. Clean Water Revolving Fund and Clean Water Technical Assistance;
  2. Drinking Water Revolving Fund and Drinking Water Technical Assistance;
  3. Water Supply Development Revolving Fund;
  4. Hardship Grant Fund;
  5. Long-Term Water Augmentation Fund; and
  6. Water Conservation Grant Fund.
- B.** Financial assistance available from the Authority includes any of the following:
1. Financial assistance loan repayment agreements;
  2. The purchase or refinancing of local debt obligations;
  3. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
  4. Short-term emergency loan agreements in accordance with A.R.S. § 49-1269; and

5. Providing linked deposit guarantees through third-party lenders as authorized by A.R.S. §§ 49-1223(A)(6), 49-1243(A)(6), and 49-1273(A)(6).

- C.** Technical assistance available from the Authority includes planning and design assistance, staff assistance, and professional assistance. Technical assistance may be offered at the Board’s discretion.

#### Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Former R18-15-102 renumbered to R18-15-103; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

#### R18-15-103. Application Process

- A.** An applicant requesting assistance shall apply to the Authority for the financial or technical assistance described in R18-15-102 on forms provided by the Authority.
- B.** An applicant seeking financial assistance through the Clean Water Revolving Fund shall apply for financial assistance according to Articles 1 and 2.
- C.** An applicant seeking financial assistance through the Drinking Water Revolving Fund shall apply for financial assistance according to Articles 1 and 3.
- D.** An applicant seeking financial assistance through the Water Supply Development Revolving Fund Program shall apply for financial assistance according to Articles 1 and 4.
- E.** An applicant seeking technical assistance available through the technical assistance programs shall apply for technical assistance according to Articles 1 and 5.
- F.** An applicant seeking financial assistance through the Long-Term Water Augmentation Fund shall apply for financial assistance according to Articles 1 and 9.
- G.** An applicant seeking a grant through the Water Conservation Grant Fund shall apply for financial assistance according to Articles 1 and 10.
- H.** An applicant shall mark any confidential information with the words “confidential information” on each page of the material containing such information. A claim of confidential information may be asserted for a trade secret or information that, upon disclosure, would harm a person’s competitive advantage. The Authority shall not disclose any information determined confidential. Upon receipt of a claim of confidential information, the Authority shall make one of the following written determinations:
1. The designated information is confidential and the Authority shall not disclose the information except to those individuals deemed by the Authority to have a legitimate interest.
  2. The designated information is not confidential.
  3. Additional information is required before a final confidentiality determination can be made.

#### Historical Note

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-103 renumbered from R18-15-102 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R.

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## CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-104. General Financial Assistance Application Requirements**

- A.** The applicant shall provide in the financial assistance application the information in subsections (B), (C), (D), and (E).
- B.** The applicant shall demonstrate the applicant is legally authorized to apply for long-term indebtedness, and is legally authorized to declare its intent to obligate a dedicated revenue source for repayment under subsection (C).
1. If the applicant is a political subdivision and the long-term indebtedness is authorized through an election, the applicant shall provide all of the following:
    - a. One copy of the sample election ballot and election pamphlet, if applicable;
    - b. One copy of the governing body resolution calling for the election; and
    - c. Official evidence of the election results following the election.
  2. If the applicant is a political subdivision and the long-term indebtedness is not required by law to be authorized through an election, the applicant shall provide one copy of the approved governing body resolution authorizing the application for long-term indebtedness and an identification of the dedicated revenue source.
  3. If the applicant is a political subdivision and the long-term indebtedness is authorized through a special taxing district creation process, the applicant shall provide one copy of the final documentation, notices, petitions, and related information authorizing the long-term indebtedness.
  4. If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide evidence that the Arizona Corporation Commission authorized the financing decision.
  5. All other applicants shall demonstrate that a majority of the beneficiaries consent to apply to the Authority for financial assistance. The Authority shall assist each applicant to devise a process by which this consent is documented.
- C.** The applicant shall identify a dedicated revenue source for repayment of the financial assistance and demonstrate that the dedicated revenue source is sufficient to repay the financial assistance.
1. The applicant shall provide the following information:
    - a. Amount of the financial assistance requested;
    - b. One copy of each financial statement, audit, or comprehensive financial statement from at least the previous five financial operating years (fiscal or calendar);
    - c. One copy of each budget, business plan, management plan, or financial plan from the current financial operating years (fiscal or calendar);
    - d. One copy of the proposed budget, business plan, management plan, or financial plan for the next financial operating year (fiscal or calendar);
    - e. Documentation of current rates and fees for drinking or wastewater services including, as applicable, any resolutions related to rates and fees passed by the governing body of a political subdivision; and
    - f. Copies of documentation relating to outstanding indebtedness pledged to the dedicated source for repayment, including official statements, financial assistance agreements, and amortization schedules.
  2. If any of the required information listed in subsection (C)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's financial capability.
  3. The Authority may ask for additional financial information as necessary to evaluate the applicant's financial capability.
- D.** The applicant shall demonstrate the applicant is technically capable to construct, operate, and maintain the proposed project.
1. The applicant shall provide the following information:
    - a. An estimate of the project costs in as much detail as possible, including an estimate of applicable planning, design, construction, and material costs;
    - b. The number of connections to be served by the proposed project;
    - c. The most recent version of the applicant's capital improvement plan or other plan explaining proposed infrastructure investments;
    - d. One copy of each feasibility study, engineering report, design memorandum, set of plans and specifications, and other technical documentation related to the proposed project and determined applicable by the Authority for the stage of project completion;
    - e. Biographies or related information of the certified operators, system employees, or contractors employed by the applicant to operate and maintain the existing facilities and the proposed project;
    - f. A description of the service area, including maps and system schematics; and
    - g. A description of the existing physical facilities.
  2. The Authority may ask for additional information as necessary to evaluate the applicant's technical capability. If any of the required information listed in subsection (D)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's technical capability.
- E.** The applicant shall demonstrate the applicant is capable of managing the system and the proposed project.
1. The applicant shall provide the following information:
    - a. Years of experience and related information regarding the owners, managers, chief elected officials, and governing body members of the applicant; and
    - b. A list of professional and outside services retained by the applicant.
  2. If any of the required information listed in subsection (E)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's managerial capability.
  3. The Authority may ask for additional information as necessary to evaluate the applicant's managerial capability.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-105. General Financial Assistance Conditions**



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- A. The Authority shall not execute a financial assistance agreement with an applicant until the applicant provides all documentation specified by the Authority.
- B. The documentation required prior to execution of the financial assistance agreement shall at a minimum include:
  1. If there is a governing body, one copy of the governing body resolution approving the execution of the financial assistance agreement;
  2. A project budget;
  3. An estimated disbursement schedule; and
  4. A legal opinion of the local borrower's counsel concurrent with closing date of the financial assistance agreement.
- C. The financial assistance agreement between the recipient and the Authority shall at a minimum specify:
  1. Rates of interest, fees, and any costs as determined by the Authority;
  2. Project details;
  3. The maximum amount of principal and interest due on any payment date;
  4. Debt service coverage requirements;
  5. Reporting requirements;
  6. Debt service reserve fund and repair and replacement reserve fund requirements;
  7. The dedicated source for repayment and pledge;
  8. The requirement that the recipient comply with applicable federal, state and local laws;
  9. A schedule for repayment; and
  10. Any other agreed-upon conditions.
- D. The Authority may require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.
- E. The recipient shall maintain the project account in accordance with generally accepted government accounting standards. After reasonable notice by the Authority, the recipient shall make available any project records reasonably required to determine compliance with the provisions of this Chapter and the financial assistance agreement. For purposes of this Section, "project account" means the account in which the financial assistance is held or maintained.
- F. The Authority shall release loan proceeds subject to a disbursement request if the request is consistent with the financial assistance agreement.
  1. The applicant shall submit each disbursement request on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
  2. The applicant shall include copies of invoices, or other documents that show proof of eligible costs incurred with each disbursement request.
- G. The recipient shall make repayments according to an agreed-upon schedule in the financial assistance agreement. The Authority may charge a late fee for any loan repayment not paid when due. The Authority may refer any loan repayment past due to the Office of the Attorney General for appropriate action.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018

(Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-106. Environmental Review**

- A. The Authority shall conduct an environmental review according to this Section for impacts of the design or construction of water infrastructure. As part of the application process, the Authority shall request information from the applicant to conduct an environmental review consistent with 40 CFR 35.3140 and 40 CFR 35.3580. The Authority shall determine whether the project meets the criteria for categorical exclusion under subsections (B) and (C), or whether the project requires the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) to identify and evaluate its environmental impacts.
  1. The Authority shall not execute a technical or financial assistance agreement with an applicant until the requirements of this Section are met. For projects that include an environmental information document or an environmental impact statement, the Authority may execute a technical or financial assistance agreement with an applicant prior to the completion of the conditions of this Section, provided that the applicant meets the requirements of this Section before proceeding with the design of the selected alternative.
  2. Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of this Section.
- B. A project may be categorically excluded from environmental review if the project fits within a category that is eligible for exclusion and the project does not involve any of the extraordinary circumstances listed in subsection (C). If, based on the application and other information submitted by the applicant, the Authority determines that a categorical exclusion from an environmental review is warranted, the project is exempt from the requirements of this Section, except for the public notice and participation requirements in subsection (J). The Authority may issue a categorical exclusion if information and documents demonstrate that the project qualifies under one or more of the following categories:
  1. Any project relating to existing infrastructure systems that involves minor upgrading, minor expansion of system capacity, rehabilitation (including functional replacement) of the existing system and system components, or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include projects that:
    - a. Involve new or relocated discharges to surface water or groundwater,
    - b. Will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water,
    - c. Will provide capacity to serve a population 30% greater than the existing population,
    - d. Are not supported by the state or other regional growth plan or strategy, or
    - e. Directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.
  2. Any clean water project in unsewered communities involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of



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- pollutants from existing sources, or relocate an existing discharge.
- C. The Authority shall deny a categorical exclusion if any of the following extraordinary circumstances apply to the project:
1. The project is known or expected to have potentially significant adverse environmental impacts on the quality of the human environment either individually or cumulatively over time.
  2. The project is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.
  3. The project is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.
  4. The project is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archaeological, or cultural value, including but not limited to, property listed on or eligible for the Arizona or National Registers of Historic Places.
  5. The project is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.
  6. The project is known or expected to cause significant adverse air quality effects.
  7. The project is known or expected to have a significant effect on the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use or federal land management plans.
  8. The project is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.
  9. The project is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.
  10. The project is known or expected to conflict with federal, state, or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.
- D. If the Authority denies the categorical exclusion under subsection (C), the Authority shall conduct an EA according to subsection (E), unless the Authority decides to prepare an EIS according to subsections (F) and (G) without first undertaking an EA. If the Authority conducts an EA, the applicant shall:
1. Prepare an environmental information document (EID) in a format prescribed by the Authority. The EID shall be of sufficient scope to undertake an environmental review and to allow development of an EA under subsection (E); or
  2. Provide documentation, upon Authority approval, in another format if the documentation is of sufficient scope to allow the development of an EA under subsection (E).
- E. The Authority shall conduct the EA that includes:
1. A brief discussion of:
    - a. The need for the project;
    - b. The alternatives, including a no action alternative;
    - c. The affected environment, including baseline conditions that may be impacted by the project and alternatives;
    - d. The environmental impacts of the project and alternatives, including any unresolved conflicts concerning alternative uses of available resources; and
    - e. Other applicable environmental laws.
  2. A listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders;
  3. Identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the project will not have significant impacts; and
  4. Incorporation of documents by reference, if appropriate, including the EID.
- F. Upon completion of the EA required by subsection (E), the Authority shall determine whether an environmental impact statement (EIS) is necessary.
1. The Authority shall prepare or direct the applicant to prepare an EIS in the manner prescribed in subsection (G) if any of the following conditions exist.
    - a. The project would result in a discharge of treated effluent from a new or modified existing facility into a body of water and the discharge is likely to have a significant effect on the quality of the receiving water.
    - b. The project is likely to directly, or through induced development, have significant adverse effect upon local ambient air quality or local ambient noise levels.
    - c. The project is likely to have significant adverse effects on surface water reservoirs or navigation projects.
    - d. The project would be inconsistent with state or local government, or federally-recognized Indian tribe approved land use plans or regulations, or federal land management plans.
    - e. The project would be inconsistent with state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws and regulations for the protection of the environment.
    - f. The project is likely to significantly affect the environment through the release of radioactive, hazardous, or toxic substances, or biota.
    - g. The project involves uncertain environmental effects or highly unique environmental risks that are likely to be significant.
    - h. The project is likely to significantly affect national natural landmarks or any property on or eligible for the Arizona or National Registers of Historic Places.
    - i. The project is likely to significantly affect environmentally important natural resources such as wetlands, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.
    - j. The project in conjunction with related federal, state, or local government, or federally-recognized Indian tribe projects is likely to produce significant cumulative impacts.

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- k. The project is likely to significantly affect the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas.
  - l. The project is a new regional wastewater treatment facility or water supply system for a community with a population greater than 100,000.
  - m. The project is an expansion of an existing wastewater treatment facility that will increase existing discharge to an impaired water by more than 10 million gallons per day (mgd).
2. The Authority may issue a finding of no significant impact (FONSI) if the EA supports the finding that the project will not have a significant impact on the environment. The FONSI shall include the submitted EA and a brief description of the project, alternatives considered, and project impacts. The FONSI must also include any commitments to mitigation that are essential to render the impacts of the project not significant. The Authority shall issue the FONSI for public comment in accordance with subsection (J).
- G.** The Authority shall prepare or direct the applicant to prepare an EIS required by subsection (F)(1) when the project will significantly impact the environment, including any project for which the EA analysis demonstrates that significant impacts will occur and not be reduced or eliminated by changes to, or mitigation of, the project. The Authority shall perform the following actions:
- 1. As soon as practicable after its decision to prepare an EIS and before the scoping process, the Authority shall prepare a notice of intent. The notice of intent shall briefly describe the project and possible alternatives and the proposed scoping process. The Authority shall distribute the notice of intent to affected federal, state, and local agencies, any affected Indian tribe, the applicant, and other interested parties. The Authority shall issue the notice of intent for public comment in accordance with subsection (J)(3).
  - 2. As soon as possible after the distribution and publication of the notice of intent required by subsection (G)(1), the Authority shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the applicant, and other interested parties. At the meeting, the parties attending the meeting shall determine the scope of the EIS by considering a number of factors, including all of the following:
    - a. The significant issues to be analyzed in depth in the EIS,
    - b. The preliminary range of alternatives to be considered,
    - c. The potential cooperating agencies and information or analyses that may be needed from cooperating agencies or other parties, and
    - d. The method for EIS preparation and the public participation strategy.
  - 3. Upon completion of the process described in subsection (G)(2), the Authority shall identify and evaluate all potentially viable alternatives to adequately address the range of issues identified. Additional issues also may be addressed, or others eliminated, and the reasons documented as part of the EIS.
  - 4. After the analysis of issues is conducted according to subsection (G)(3), the Authority shall issue a draft EIS for public comment according to subsection (J)(4).
  - 5. Following public comment according to subsection (J), the Authority shall prepare a final EIS, consisting of all of the following:
    - a. The draft EIS;
    - b. An analysis of all reasonable alternatives and the no action alternative;
    - c. A summary of any coordination or consultation undertaken with any federal, state, or local government, or federally-recognized Indian tribe;
    - d. A summary of the public participation process;
    - e. Comments received on the draft EIS;
    - f. A list of persons commenting on the draft EIS;
    - g. The Authority's responses to significant comments received;
    - h. A determination of consistency with the Certified Water Quality Management Plan, if applicable;
    - i. The names and qualifications of the persons primarily responsible for preparing the EIS; and
    - j. Any other information added by the Authority.
  - 6. The Authority shall prepare or direct the applicant to prepare a supplemental EIS when appropriate, including when substantial changes are made to the project that are relevant to environmental concerns, or when there are significant new circumstances or information relevant to environmental concerns bearing on the project.
- H.** After issuance of a final EIS under subsection (G)(5), the Authority shall prepare and issue a record of decision (ROD) containing the Authority's decision whether to proceed or not proceed with a project. A ROD issued with a decision to proceed shall include a brief description of the project, alternatives considered, and project impacts. In addition, the ROD must include any commitments to mitigation, an explanation if the environmental preferred alternative was not selected, and any responses to substantive comments on the final EIS. A ROD issued with a decision not to proceed shall preclude the project from receiving financial assistance under this Article.
- I.** For all determinations (categorical exclusions, FONSI, or RODs) that are five years old or older and for which the project has not been implemented, the Authority shall re-evaluate the project, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the project and complete an appropriate environmental review document or reaffirm the Authority's original determination. The Authority shall provide public notice of the re-evaluation according to subsection (J)(5).
- J.** The Authority shall conduct public notice and participation under this Section as follows:
- 1. If a categorical exclusion is granted under subsection (B), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.
  - 2. If a FONSI is issued under subsection (F)(2), the Authority shall provide public notice that the FONSI is available for public review by publishing the notice as a legal notice at least once in one or more newspapers of general circulation in the county or counties concerned. The notice shall provide that comments on the FONSI may be submitted to the Authority for a period of 30 days from the date of publication of the notice. If no comments are received, the FONSI shall immediately become effective. The Authority may proceed with the project subject to any mitigation measures described in the FONSI after responding to any substantive comments received on the

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FONSI during the 30-day comment period, or 30 days after issuance of the FONSI if no substantive comments are received.

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

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section repealed; new R18-15-106 renumbered from R18-15-107 and amended at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-107. Disputes**

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

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

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former R18-15-107 renumbered to R18-15-106; new R18-15-107 renumbered from R18-15-112 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

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

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

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

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

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

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

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

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

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

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

Adopted effective September 18, 1997 (Supp. 97-3). Former Section R18-15-112 renumbered to R18-15-113; new Section R18-15-112 renumbered from R18-15-111 (Supp. 98-2). Former Section R18-15-112 renumbered to R18-15-111; new Section R18-15-112 renumbered from R18-15-113 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-112 renumbered to R18-15-107 by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3).

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

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

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

To receive financial assistance from the Clean Water Revolving Fund, the applicant shall demonstrate the applicant is eligible under A.R.S. § 49-1224(A) to request financial assistance for a purpose as defined in A.R.S. § 49-1223(A); the proposed project is to design, construct, acquire, improve, or refinance a publicly owned wastewater treatment facility, or for any other purpose permitted by the Clean Water Act including nonpoint source projects; and the proposed project appears on the Clean Water Revolving Fund Project Priority List developed under R18-15-203.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

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

**Historical Note**

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

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

- A.** The Authority annually shall prepare a Clean Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-202. The Board may waive the requirement to develop a Clean Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.
- B.** An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Clean Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Clean Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Clean Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-204(A), by which the project will be evaluated and the relative importance of each of the criterion.
- C.** In preparing the Clean Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B). The Authority shall evaluate the merits of each project with respect to water quality issues and determine the total points of each project according to R18-15-204. At a minimum, the Clean Water Revolving Fund Project Priority List shall identify:
1. The applicant,
  2. Project title,
  3. Type of project,
  4. The amount requested for financial assistance,
  5. The subsidy according to R18-15-204(C),
  6. Whether the project is within the fundable range according to R18-15-205, and
  7. The rank of each project by its total points, determined according to R18-15-204.
- D.** After adoption of the annual Intended Use Plan and project priority list according to R18-15-202, the Board may allow:
1. Updates and corrections to the adopted Clean Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after public notice; or
  2. Additions to the Clean Water Revolving Fund Project Priority List, if the additions are adopted by the Board after public notice.
- E.** After public notice, the Board may remove a project from the Clean Water Revolving Fund Project Priority List under one or more of the following circumstances:
1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
  2. The project was financed from another source;
  3. The project is no longer an eligible project;
  4. The applicant requests removal;
  5. The applicant is no longer an eligible applicant; or

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6. The applicant did not update, modify, correct or resubmit a project from the project priority list developed for the previous funding cycle.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-203 renumbered to R18-15-202; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A.** The Authority shall rank each project on the Clean Water Revolving Fund Project Priority List based on the total points of each project. The Authority shall consider the following categories to determine the total points of each project:
1. The Authority shall evaluate the current conditions of the project, including existing environmental, structural, and regulatory integrity and the degree to which the project is consistent with the Clean Water Act, 33 U.S.C. 1251 to 1387.
  2. The Authority shall evaluate the degree to which the project improves or protects water quality.
  3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
  4. The Authority shall evaluate the degree to which the project promotes any of the following:
    - a. Consolidation of facilities, operations, and ownership;
    - b. Extending service to existing areas currently served by another facility; or
    - c. A regional approach to operations, management, or new facilities.
  5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
  6. The Authority shall evaluate the applicant's local fiscal capacity.
- B.** Two or more projects may receive the same total points. If sufficient clean water revolving loan funds are not available to fund the projects, the Authority shall give priority to the project with the highest current condition score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water quality improvement score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same total points, the Board shall determine the priority of the tied projects.
- C.** The Authority shall determine the subsidy for each project on the Clean Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity score under subsection (A)(6) and the total points of the project. The Authority shall incorporate the subsidy in the financial assistance agreement.

**Historical Note**

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

- 3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A.** Prior to adoption by the Board of the Clean Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B.** In determining the fundable range, the Authority shall evaluate each project for evidence of debt authorization according to R18-15-104(B).

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Section repealed; new Section R18-15-205 renumbered from R18-15-206 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

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

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-206 renumbered to R18-15-205; new Section R18-15-206 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

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- A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. The analysis shall at a minimum include:
1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant's technical capability including its ability to construct, operate, and maintain the proposed project;
  4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant's financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three financial operating years (fiscal or calendar),
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current financial operating year (fiscal or calendar), and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five financial operating years (fiscal or calendar);
  6. The applicant's history of compliance with, as applicable, the Clean Water Act, 33 U.S.C. 1251 to 1387, related Arizona statutes, and related rules, regulations, and policies; and
  7. A summary of any previous assistance provided by the Authority to the applicant.
- B. After an opportunity for public comment, the Board shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:
1. The proposed project,
  2. The applicant's legal structure and organization,
  3. The dedicated revenue source for repayment, or
  4. The structure of the financial assistance request.
- C. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Clean Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Clean Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D. Upon Board approval of the applicant's request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-208. Clean Water Revolving Fund Requirements**

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

**Historical Note**

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

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

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

**Historical Note**

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

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

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

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

**Historical Note**

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

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

- A.** The Authority annually shall prepare a Drinking Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-302. The Board may waive the requirement to develop an annual Drinking Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.
- B.** An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Drinking Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Drinking Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Drinking Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-304(A) by which the project will be evaluated and the relative importance of each of the criterion.
- C.** In preparing the Drinking Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B). The Authority shall evaluate the merits of each project with respect to water quality issues and determine the total points of each project according to R18-15-304. At a minimum, the Drinking Water Revolving Fund Project Priority List shall identify:
1. The applicant;
  2. Project title;
  3. Type of project;
  4. Population of service area;
  5. The amount requested for financial assistance;
  6. The subsidy according to R18-15-304(C);
  7. Whether the project is within the fundable range according to R18-15-305; and
  8. The rank of each project by its total points, determined according to R18-15-304.
- D.** After adoption of the annual Intended Use Plan and project priority list according to R18-15-302, the Board may allow:
1. Updates and corrections to the adopted Drinking Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after public notice; or
  2. Additions to the Drinking Water Revolving Fund Project Priority List, if the additions are adopted by the Board after public notice.

- E.** After public notice, the Board may remove a project from the Drinking Water Revolving Fund Project Priority List under one or more of the following circumstances:

1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
2. The project was financed from another source;
3. The project is no longer an eligible project;
4. The applicant requests removal;
5. The applicant is no longer an eligible applicant; or
6. The applicant did not update, modify, correct or resubmit a project from the project priority list developed for the previous funding cycle.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Former R18-15-303 renumbered to R18-15-302; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A.** The Authority shall rank each project listed on the Drinking Water Revolving Fund Project Priority List based on the total points of each project. The Authority shall consider the following categories to determine the total points of each project:
1. The Authority shall evaluate the current conditions of the system through the system's scores on the Department's master priority list.
  2. The Authority shall evaluate the degree to which the project will result in improvement to the water system.
  3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
  4. The Authority shall evaluate the degree to which the project promotes any of the following:
    - a. Consolidation of facilities, operations, and ownership;
    - b. Extending service to existing areas currently served by another facility; or
    - c. A regional approach to operations, management, or new facilities.
  5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
  6. The Authority shall evaluate the applicant's local fiscal capacity.
- B.** Two or more projects may receive the same total points. If sufficient clean water revolving loan funds are not available to fund the projects, the Authority shall give priority to the project with the highest current condition score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water system improvement score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same total points, the Board shall determine the priority of the tied projects.
- C.** The Authority shall determine the subsidy for each project on the Drinking Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity score and the total



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points of the project. The Authority shall incorporate the subsidy in the financial assistance agreement.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A. Prior to adoption by the Board of the Drinking Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B. In determining the fundable range the Authority shall evaluate each project for evidence of debt authorization according to R18-15-104(B).

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-305 repealed; new Section R18-15-305 renumbered from R18-15-306 and amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Drinking Water Revolving Fund Project Priority List and is determined to be within the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Drinking Water Revolving Fund Project Priority List.
- B. The Authority shall not present an application to the Board for consideration until all the following conditions are met:
  - 1. The project is on the Drinking Water Revolving Fund Project Priority List, including the Project Priority List to be adopted at the Board meeting;
  - 2. The applicant has provided supporting documentation according to R18-15-305(B); and
  - 3. The applicant has demonstrated legal capability, financial capability, technical capability and managerial capability as described in R18-15-104.
- C. The application criteria required under subsections (A) and (B) shall not apply to financial assistance requests for short-term emergency loans under A.R.S. § 49-1269.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Former Section R18-15-306 renumbered to R18-15-305; new Section R18-15-306 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. At a minimum, the analysis shall include:
  - 1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  - 2. A summary of the applicant's legal capability, including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  - 3. A summary of the applicant's technical capability, including its ability to construct, operate, and maintain the proposed project;
  - 4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  - 5. A summary of the applicant's financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three financial operating years (fiscal or calendar),
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current financial operating year (fiscal or calendar), and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five financial operating years (fiscal or calendar);
  - 6. The applicant's history of compliance with, as applicable, the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26, related Arizona statutes, and related rules, regulations and policies; and
  - 7. A summary of any previous assistance provided by the Authority to the applicant.
- B. After an opportunity for public comment, the Board shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:
  - 1. The proposed project,
  - 2. The applicant's legal structure and organization,
  - 3. The dedicated revenue source for repayment, or
  - 4. The structure of the financial assistance request.
- C. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Drinking Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Drinking Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.

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

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-308. Drinking Water Revolving Fund Requirements**

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

**Historical Note**

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

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

- A. To be eligible to receive financial assistance from the Water Supply Development Revolving Fund, the applicant shall demonstrate the applicant is an eligible entity as defined by A.R.S. § 49-1270(1); is requesting financial assistance for a purpose as defined in A.R.S. § 49-1273(A); and the proposed project appears on the Water Supply Development Revolving Fund Project Priority List developed under R18-15-402.
- B. Financial assistance from the Water Supply Development Revolving Fund may include loans, grants, other financial assistance, or a combination of any thereof.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-402. Water Supply Development Revolving Fund Project Priority List**

- A. The Authority annually shall prepare a Water Supply Development Revolving Fund Project Priority List. The Authority is not required to prepare a Water Supply Development Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.
- B. An applicant pursuing financial assistance from the Authority for a water supply development project shall request to have the project included on the Water Supply Development

Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Water Supply Development Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Water Supply Development Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the Project Priority List application form the criteria under each ranking category in R18-15-403(A) by which the project will be evaluated and the relative importance of each of the criterion.

- C. In preparing the Water Supply Development Revolving Fund Project Priority List, the Authority shall consider all Project Priority List applications submitted under subsection (B). The Authority shall evaluate the merits of each project with respect to water supply development issues and determine the order and priority of each project according to R18-15-403. At a minimum, the Water Supply Development Revolving Fund Project Priority List shall identify:
1. The applicant;
  2. Project title;
  3. A project description;
  4. Population of the water provider's area served;
  5. The amount requested for financial assistance; and
  6. The order and priority of each project, determined according to R18-15-403.
- D. The Authority shall provide for a public comment period of the draft Water Supply Development Revolving Fund Project Priority List for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Board review. After review of the summary, the Board shall make any appropriate changes to the Project Priority List and then adopt the Water Supply Development Revolving Fund Project Priority List at a public meeting.
- E. After adoption of the annual Project Priority List, the Authority may allow:
1. Updates and corrections to the adopted Water Supply Development Revolving Fund Project Priority List, if the updates and corrections are adopted by the Authority after an opportunity for public notice; or
  2. Additions to the Water Supply Development Revolving Fund Project Priority List, if the additions are adopted by the Authority after an opportunity for public notice.
- F. After an opportunity for public notice, the Authority may remove a project from the Water Supply Development Revolving Fund Project Priority List under one or more of the following circumstances:
1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
  2. The project was financed from another source;
  3. The project is no longer an eligible project;
  4. The applicant requests removal; or
  5. The applicant is no longer an eligible applicant.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Section repealed; new Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-402 repealed; new Section R18-15-402 renumbered from R18-15-403 and amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at

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30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-403. Water Supply Development Revolving Fund Order and Priority**

- A.** The Authority shall consider the evaluative criteria listed in A.R.S. § 49-1274(B)(3) to determine the order and priority of each project on the Water Supply Development Revolving Fund Project Priority List.
- B.** Two or more projects may receive the same total points. If sufficient water supply development revolving loan funds are not available to fund the tied projects, the Board shall determine the priority of the tied projects.

**Historical Note**

Adopted effective September 18, 1997 (Supp. 97-3). Amended effective June 4, 1998 (Supp. 98-2). Section repealed by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-403 renumbered to R18-15-402; new Section R18-15-403 renumbered from R18-15-404 and amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-404. Water Supply Development Revolving Fund Application for Financial Assistance**

- A.** The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Water Supply Development Revolving Fund Project Priority List. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Water Supply Development Revolving Fund Project Priority List.
- B.** The Authority shall not present an application for consideration until all the following conditions are met:
1. The project is on the Water Supply Development Revolving Fund Project Priority List;
  2. The applicant has provided supporting documentation according to R18-15-104;
  3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability under R18-15-104; and
  4. The applicant has demonstrated the ability to meet any applicable environmental requirements imposed by federal, state, or local agencies.

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-404 renumbered to R18-15-403; new Section R18-15-404 renumbered from R18-15-406 and amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-405. Water Supply Development Revolving Fund Application Review for Financial Assistance**

- A.** The Authority shall evaluate and summarize each application for financial assistance received and develop an analysis that provides recommendations to the Board. The analysis shall include:

1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant's technical capability, including its ability to construct, operate and maintain the proposed project;
  4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant's financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous five financial operating years (fiscal or calendar);
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current financial operating year (fiscal or calendar); and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five financial operating years (fiscal or calendar);
  6. A summary of any previous assistance provided by the Authority to the applicant;
  7. A summary of the applicant's ability to meet any applicable permitting and environmental requirements imposed by federal, state, or local agencies;
  8. A recommendation of what type and amount of financial assistance to provide; and
  9. Any other information deemed necessary by the Authority.
- B.** If any of the required information listed in subsection (A)(5) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's financial capability.
- C.** The Board shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:
1. The scope of the proposed project;
  2. The applicant's legal structure and organization;
  3. The dedicated revenue source for repayment; or
  4. The structure of the financial assistance request.
- D.** The Authority shall provide an opportunity for public comment prior to the Board's determination regarding the applicant's request for financial assistance. The opportunity for public comment does not need to occur at the same meeting in which the Board makes its determination regarding the applicant's request for financial assistance.
- E.** If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Water Supply Development Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any,

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to provide financial assistance for the applications by the Authority. The Board shall consider each application in the order the project appears on the current Water Supply Development Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (C) on each application until the available funds are committed.

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

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-405 repealed; new Section R18-15-405 renumbered from R18-15-407 and amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-406. Water Supply Development Revolving Fund Requirements**

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

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-406 renumbered to R18-15-404; new Section R18-15-406 renumbered from R18-15-408 and amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-407. Renumbered****Historical Note**

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-407 renumbered to R18-15-405 by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-408. Renumbered****Historical Note**

New Section made by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section R18-15-408 renumbered to R18-15-406 by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

The Authority may provide Clean Water technical assistance, Drinking Water technical assistance, and Water Supply Development technical assistance. The Authority shall provide technical assistance in compliance with A.R.S. § 49-1203(B)(16) and (17).

**Historical Note**

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

A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-502. Technical Assistance Intended Use Plan**

- A. The Authority annually shall develop and publish one or more Technical Assistance Intended Use Plans that identify intended uses of funds available for Clean Water technical assistance and Drinking Water technical assistance. The Intended Use Plan shall identify whether funds are available and the amount of funds available for planning and design assistance, staff assistance, and professional assistance for Clean Water and Drinking Water. The Authority may develop Technical Assistance Intended Use Plans separately for Clean Water and Drinking Water or as parts of the Intended Use Plans required under R18-15-202 and R18-15-302. If the Technical Assistance Intended Use Plan is to be submitted as a document required to obtain a federal capitalization grant, the Technical Assistance Intended Use Plan shall include any additional information required by federal law.
- B. The Authority shall provide for a public review and written comment period of any draft Technical Assistance Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments received and prepare responses. The Authority shall provide a summary of the written comments and the Authority's responses regarding the Clean Water and Drinking Water Technical Assistance Intended Use Plans to the Board. After review of the comments and the Authority's responses to comments received during the public review and written comment period, the Board, as applicable, shall adopt the applicable Technical Assistance Intended Use Plan or Plans at a public meeting with any changes made in response to public comments or comments by members of the Board.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Section repealed; new R18-15-502 renumbered from R18-15-501 and amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

- A. Planning and design assistance to a specific wastewater treatment facility shall assist that system to achieve or enhance its legal, financial, technical, or managerial capability to facilitate the design, construction, acquisition, improvement, or consolidation of the wastewater treatment facility. Projects for any other purpose permitted by the Clean Water Act including nonpoint source projects are also eligible. The Board shall approve funds available for planning and design assistance in the annual Clean Water Technical Assistance Intended Use Plan. The Board may determine that no assistance will be offered for the annual funding cycle.
- B. To be eligible to receive planning and design assistance under the Clean Water Technical Assistance Program, the applicant shall demonstrate the applicant is eligible under R18-15-201. An eligible applicant shall apply for planning and design assistance on or before a date specified by the Authority and on an application form specified by the Authority.
- C. An applicant shall commit to a matching contribution toward the total project cost as specified in the Request for Applications. The matching contribution may include cash contribu-

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tions or in-kind contributions. The Board may waive or modify the applicant's match requirement according to criteria established in the Request for Applications.

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

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

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

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

**Historical Note**

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

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amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

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

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

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

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Former Section R18-15-505 renumbered to R18-15-504; new Section R18-15-505 made by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-506. Repealed****Historical Note**

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

**R18-15-507. Repealed****Historical Note**

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

**R18-15-508. Repealed****Historical Note**

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

**R18-15-509. Repealed****Historical Note**

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

**R18-15-510. Repealed****Historical Note**

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

**R18-15-511. Repealed****Historical Note**

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

**ARTICLE 6. HARDSHIP GRANT FUND PROGRAM****R18-15-601. Hardship Grant Fund Administration**

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- A. The Authority shall establish a separate account or accounts for the Hardship Grant Fund Program from any monies received according to A.R.S. § 49-1267(A). The Authority shall only use the monies from the Hardship Grant Fund Program for:
1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities; and
  2. Providing training and technical assistance related to operation and maintenance of wastewater treatment facilities.
- B. The Authority shall identify any funding available for financial assistance under the Hardship Grant Fund Program in the annual Clean Water Revolving Fund Intended Use Plan described in R18-15-202 and any funding available for technical assistance in the Clean Water Technical Assistance Intended Use Plan described in R18-15-502. If the Board determines no funding is available for the Hardship Grant Fund Program, the Authority shall not evaluate any applications for financial assistance or grant applications for technical assistance for funding from the Hardship Grant Fund Program.

**Historical Note**

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

**R18-15-602. Hardship Grant Fund Financial Assistance**

- A. If funding is available in the Hardship Grant Fund Program, the Authority shall determine if any of the applicants requesting placement on the Clean Water Revolving Fund Project Priority List meet the requirements according to A.R.S. § 49-1268(A)(2). Criteria by which assistance will be awarded shall be based on criteria established in the capitalization grant providing the funding.
- B. The Authority shall make the determination of applicant's eligibility for the Hardship Grant Fund Program during the ranking of the project under R18-15-204. Of the applicants eligible to receive financial assistance from the Hardship Grant Fund Program, the Authority shall award the hardship grant monies based on an applicant's financial capability and ability to generate sufficient revenues to pay for debt service.
- C. The Authority shall proceed according to Article 2 of this Chapter for any applicant meeting the eligibility requirements for the Hardship Grant Fund Program. In addition to proceeding under R18-15-207, the Authority shall identify any applicant that qualifies for Hardship Grant Fund Program financial assistance and shall make a recommendation to the Board regarding the amount of funding to provide the applicant from the Hardship Grant Fund Program.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**R18-15-603. Hardship Grant Fund Technical Assistance**

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

**Historical Note**

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

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

- A. The Authority shall prescribe the rate of interest, including interest rates as low as 0% on Authority loans, bond purchase agreements, and linked deposit guarantees based on the applicant's local fiscal capacity under R18-15-204(A)(6) or R18-15-304(A)(6), or financial need under R18-15-404(A)(5), and an applicant's ability to generate sufficient revenues to pay debt service.
- B. The Authority may forgive principal on Clean Water and Drinking Water loans, bond purchase agreements, and linked deposit guarantees based on:
1. The applicant's local fiscal capacity under R18-15-204(A)(6) and R18-15-304(A)(6),
  2. Whether the applicant cannot otherwise afford the project,
  3. Whether the project qualifies for the Green Project Reserve as defined by EPA, and
  4. Whether the project mitigates stormwater runoff.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 2116, effective May 16, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5956, effective December 4, 2001 (Supp. 01-4). Amended by final rulemaking at 16 A.A.R. 1709, effective October 9, 2010 (Supp. 10-3). Section amended by final rulemaking at 24 A.A.R. 239, effective March 11, 2018 (Supp. 18-1).

**ARTICLE 8. LONG-TERM WATER AUGMENTATION FUND PROCUREMENT****R18-15-801. Definitions**

The terms of this Article, unless otherwise specified, have the following meanings:

"Award" means a determination by the Authority that it is entering into a Contract with one or more Offerors.



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“Board” has the same meaning as prescribed in A.R.S. § 49-1201(2).

“Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or other private legal entity.

“Competitive Range” is a range of scores used by the Authority to determine whether an Offer will be considered for further evaluation after an initial susceptibility determination and the scoring of Offers received in the Solicitation process. The Authority may conduct multiple reviews and narrow or expand the Competitive Range throughout the procurement process. Those Offers that have no reasonable chance for Award when compared on a relative basis with more highly ranked Offers will not be in the Competitive Range. Offers to be considered within the Competitive Range must, at a minimum, demonstrate the following:

Affirmative compliance with mandatory requirements designated in the Solicitation.

An ability to deliver goods or services on terms advantageous to the Authority sufficient to be entitled to continue in the competition.

That the Offer as submitted is technically acceptable under the criteria set forth in the Solicitation.

“Construction” has the same meaning as prescribed in A.R.S. § 41-2503(4).

“Contract” means all types of agreements, regardless of what they may be called, for any Procurement related to a Water-Related Facilities project or Water Supply Development project.

“Contractor” means any Person who has a Contract with the Authority.

“Data” means documented information, regardless of form or characteristic.

“Day” means a calendar day and time is computed under A.R.S. § 1-243, unless otherwise specified in the Solicitation or Contract.

“Director” means the Director of the Water Infrastructure Finance Authority of Arizona.

“Interested Party” means an Offeror or prospective Offeror whose economic interest is affected substantially and directly by issuance of a Solicitation, an Award or loss of an Award. Whether an Offeror or prospective Offeror has an economic interest depends upon the circumstances of each case.

“May” means something is permissive.

“Negotiation” means an exchange or series of exchanges between the Authority and an Offeror or Contractor that allows the Authority or the Offeror or Contractor to revise an Offer or Contract.

“Offer” means a response to a Solicitation.

“Offeror” means a Person who responds to a Solicitation.

“Person” means any corporation, Business, individual, union, committee, club, other organization, or group of individuals.

“Procurement”

Means buying, purchasing, renting, leasing or otherwise acquiring any materials, property, services, or construc-

tion, in connection with a Water-Related Facilities project or a Water Supply Development project.

Includes all functions that pertain to obtaining any materials, services, or construction, including description of requirements, selection and Solicitation of sources, preparation and Award of Contract, and all phases of Contract administration.

Does not include providing financial assistance in the form of loans or grants.

“Procurement File” means the official records file of the Authority. The Procurement File shall include (electronic or paper) the following:

List of notified vendors;  
Final Solicitation;  
Solicitation amendments;  
Bids and Offers;  
Offer revisions;  
Best and final Offers;  
Negotiations;  
Clarifications;  
Final evaluation reports; and  
Additional information, if requested by the Authority.

“Shall” means something is mandatory.

“Solicitation” means any Solicitation method authorized under A.R.S. § 49-1212, issued by the Authority to invite a Person to submit an Offer.

“Subcontractor” means a Person who contracts to perform work or render service to a Contractor or to another Subcontractor as a part of a Contract with the Authority.

“Trade Secret” means information, including a formula, pattern, device, compilation, program, method, technique, or process, that is the subject of reasonable efforts to maintain its secrecy and that derives independent economic value, actual or potential, as a result of not being generally known to and not being readily ascertainable by legal means.

“Water-Related Facilities” has the same meaning as prescribed in A.R.S. § 49-1201(21).

“Water Supply Development” has the same meaning as prescribed in A.R.S. § 49-1201(22).

#### Historical Note

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

#### R18-15-802. Solicitations

- A. A Procurement for a Water-Related Facilities project or a Water Supply Development project shall commence by issuing a Solicitation. The Solicitation shall be developed in consultation with the Arizona Department of Administration.
- B. The Authority shall issue a Solicitation at least 14 days before the Offer due date and time, unless the Authority determines a shorter time is necessary for a particular Procurement. The Solicitation shall be posted at a designated site on a worldwide public network of interconnected computers and may also be distributed in any other manner deemed appropriate by the Authority. If a shorter time is necessary, the Authority shall document the specific reasons in the Procurement File.
- C. Offers shall be opened on the date and time designated in the Solicitation. The name of each Offeror shall be recorded in

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accordance with procedures adopted by the Authority. All other information contained in the Offers shall be confidential to avoid disclosure of contents prejudicial to competing Offerors during the process of Negotiation. The Authority has determined that the only way to ensure best value is through a competitive Procurement process in which Offers are kept confidential during the Procurement process as described herein. This confidential Negotiation process allows the Authority to get the best possible value in each of its separate Negotiations with Offerors. The Offers shall be open for public inspection after Contract Award. To the extent the Offeror designates, and the Authority concurs, Trade Secrets or other proprietary Data contained in the Offer documents shall remain confidential in accordance with procedures adopted by the Authority.

- D. The Solicitation shall state the relative importance of price and other evaluation factors. Specific numerical weighting is not required.
- E. The Authority may require the submission of security to guarantee faithful bid and Contract performance. The amount and type of security required for each Contract shall be in the sole discretion of the Authority. The requirement for security shall be included in the Solicitation.
- F. The Authority shall include the following in the Solicitation:
  1. Instructions to Offerors, including:
    - a. Instructions and information to Offerors concerning the Offer submission requirements, Offer due date and time, the location where Offers will be received, and the Offer acceptance period;
    - b. The deadline date for requesting a substitution or exception to the Solicitation;
    - c. The manner by which the Offeror is required to acknowledge amendments;
    - d. The minimum information required in the Offer;
    - e. The specific requirements for designating Trade Secrets and other proprietary information as confidential;
    - f. Any specific responsibility or susceptibility criteria;
    - g. Whether the Offeror is required to submit samples, descriptive literature, and technical Data with the Offer;
    - h. Evaluation factors and the relative order of importance;
    - i. A statement of where documents incorporated by reference are available for inspection and copying;
    - j. A statement that the Authority may cancel the Solicitation or reject an Offer in whole or in part;
    - k. Certification by the Offeror that submission of the Offer did not include collusion or other anticompetitive practices;
    - l. That the Offeror is required to declare whether the Offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public Procurement activity, including, but not limited to, being disapproved as a Subcontractor of any public Procurement unit or other governmental body;
    - m. Any Offer security required;
    - n. The means required for submission of Offer. The Solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
    - o. Any cost or pricing Data required;
    - p. The type of Contract to be used;

- q. A statement that Negotiations may be conducted with Offerors reasonably susceptible of being selected for Award and that fall within the Competitive Range; and
  - r. Any other Offer requirements specific to the Solicitation.
2. Specifications, including:
    - a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
    - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The Solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
    - c. Any other specification requirements specific to the Solicitation.
  3. Terms and Conditions, including:
    - a. Whether the Contract is to include an extension option; and
    - b. Any other Contract terms and conditions.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-803. Solicitation Amendment**

- A. The Authority may issue a Solicitation amendment to do any or all of the following:
  1. Make changes in the Solicitation;
  2. Correct defects or ambiguities;
  3. Provide additional information or instructions; or
  4. Extend the Offer due date and time if the Authority determines that an extension is in the best interest of the Authority.
- B. If a Solicitation is changed by a written Solicitation amendment, the amendment shall be distributed in the same manner as the Solicitation.
- C. It is the responsibility of the Offeror to obtain any Solicitation amendments. An Offeror shall acknowledge receipt of an amendment in a manner specified in the Solicitation amendment on or before the Offer due date and time.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-804. Cancellation of Solicitation Before Offer Due Date and Time**

- A. A Solicitation may be cancelled, or any or all Offers may be rejected in whole or in part, as may be specified in the Solicitation if it is in the best interests of the Authority. The reasons for the cancellation or rejection shall be made part of the Procurement file.
- B. The Authority shall notify Offerors who submitted an Offer.
- C. The Authority shall not open Offers after cancellation. The Authority may discard the Offer after 30 days from notice of Solicitation cancellation unless the Offeror requests the Offer be returned.

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**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-805. Pre-offer Conferences**

- A. The Authority may conduct one or more Pre-offer Conferences or site visits. Pre-offer Conferences must be open to the public. If a Pre-offer Conference is conducted, it shall be not less than seven days before the Offer due date and time, unless the Authority makes a written determination that the specific needs of the Procurement justify a shorter time. Statements made during a Pre-offer Conference are not amendments to the Solicitation.
- B. Notice of a Pre-offer Conference shall be posted at a designated site on a worldwide public network of interconnected computers, no less than seven days prior to the Pre-offer Conference, as part of the Solicitation materials.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-806. Modification or Withdrawal of Offer Before Offer Due Date and Time**

- A. An Offeror may modify or withdraw their Offer at any time, in writing, before the Offer due date and time.
- B. The Authority shall place the document submitted in the Procurement File as a record of the modification or withdrawal.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-807. Confidential Information**

- A. If a Person wants to assert that a Person's Offer, specification, or protest contains a Trade Secret or other proprietary information, a Person shall include with the submission a statement supporting this assertion. A Person shall clearly designate any Trade Secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a final determination is made under subsection (C), the Authority shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by the Authority to have a legitimate state interest.
- C. Upon receipt of a submission, the Authority shall make one of the following written determinations:
  1. The designated information is confidential, and the Authority shall not disclose the information except to those individuals deemed by the Authority to have a legitimate state interest;
  2. The designated information is not confidential; or
  3. Additional information is required before a final confidentiality determination can be made.
- D. If the Authority determines that information submitted is not confidential, a Person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the Authority.
- E. The Authority may release information designated as confidential under subsection (A) if:
  1. A request for review is not received by the Authority within the time period specified in the notice; or

2. The Authority, after review, makes a written determination that the designated information is not confidential.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-808. Receipt, Opening, and Recording of Offers**

- A. The Authority shall maintain a record of Offers received for each Solicitation and shall record the time and date when an Offer is received. The Authority shall store each unopened Offer in a secure place until the Offer due date and time.
- B. The Authority may open an Offer to identify the Offeror. If this occurs, the Authority shall record the reason for opening the Offer, the date and time the Offer was opened, and the Solicitation number. The Authority shall secure the Offer and retain it for opening.
- C. The Authority shall open Offers at or after the Offer due date and time. The Authority shall record the name of each Offeror and any other relevant information as determined by the Authority. The Authority shall make the record of Offers available for public viewing.
- D. Except for the information identified in subsection (C) and the information deemed confidential under R18-15-807, the Authority shall ensure that information contained in the Offer remains confidential until Contract Award and is shown only to those Persons assisting in the evaluation process.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-809. Late Offers, Modifications, and Withdrawals Before Offer Due Date and Time**

- A. If an Offer, modification, or withdrawal is not received by the Offer due date and time, at the location designated in the Solicitation, the Authority shall determine the Offer, modification, or withdrawal as late. This Section does not apply to revision or withdrawal of Offers as described in R18-15-816.
- B. The Authority shall reject a late Offer, modification, or withdrawal unless:
  1. The document is received before Contract Award at the location designated in the Solicitation; and
  2. The document would have been received by the Offer due date and time, but for the action or inaction of personnel directly serving the Authority.
- C. Upon receiving a late Offer, modification, or withdrawal, the Authority shall:
  1. If the document is hand delivered, refuse to accept the delivery; or
  2. If the document is not hand delivered, record the time and date of receipt and promptly send written notice of late receipt to the Offeror. The Authority may discard the document within 30 days after the date on the notice unless the Offeror requests the document be returned.
- D. The Authority shall document a refusal under (C)(1) and place the document or a copy of the notice required in (C)(2) in the Procurement File.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-810. Only One Offer Received**

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If only one Offer is received in response to a Solicitation, the Authority shall review the Offer and either:

1. Award the Contract to the Offeror and prepare a written determination that:
  - a. The price submitted is fair and reasonable; and
  - b. The Offeror is responsive; and
  - c. The Offeror is responsible; or
2. Reject the Offer and:
  - a. Resolicit for new Offers; or
  - b. Cancel the Procurement.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-811. Extension of Offer Acceptance Period**

- A. To extend the Offer acceptance period, the Authority shall notify Offerors in writing of an extension and request written concurrence from all Offerors.
- B. To be eligible for a Contract Award, an Offeror shall submit written concurrence to the extension. The Authority shall not consider the Offer from an Offeror who fails to respond to the notice of extension.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-812. Cancellation of Solicitation After Offer Opening and Before Award**

- A. Based on the best interest of the Authority, the Authority may cancel a Solicitation after Offer due date and time. The Authority shall prepare a written justification for cancellation and place it in the Procurement File.
- B. The Authority shall notify Offerors of the cancellation in writing.
- C. The Authority shall retain Offers received under the canceled Solicitation in the Procurement File. If the Authority intends to issue another Solicitation within six months after cancellation of the Procurement, the Authority may withhold the Offers from public inspection. After Award of a Contract under the subsequent Solicitation, the Authority shall make Offers submitted in response to the cancelled Solicitation open for public inspection except for information determined to be confidential.
- D. In the event of cancellation, the Authority shall promptly return any Offer security provided by an Offeror.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-813. Clarification of Offers**

- A. The purpose for clarifications is to provide for a greater mutual understanding of the Offer. Clarifications are not Negotiations and material changes to the Solicitation or Offer shall not be made by clarification.
- B. The Authority may request clarifications from Offerors at any time after receipt of Offers. Clarifications may be requested orally or in writing. If clarifications are requested orally, the Offeror shall confirm the request in writing. A request for clarification shall not be considered a determination that the Offeror is susceptible for Award.

- C. The Authority may request an interview or demonstration with a reasonably susceptible Offeror for the purpose of clarifying an Offer.
- D. The Authority shall retain any clarifications in the Procurement File.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-814. Responsibility of Offerors**

- A. The Authority shall determine, at any time during the evaluation period and before Award, whether an Offeror is responsible or nonresponsible. A finding of nonresponsibility shall not be construed as a violation of the rights of any Person.
- B. The unreasonable failure of an Offeror to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with respect to the Offeror.
- C. Information furnished by an Offeror pursuant to this Section shall not be disclosed outside of the Authority without prior written consent by the Offeror except to law enforcement agencies.
- D. The Authority may consider the following factors before determining that an Offeror is responsible or nonresponsible:
  1. The Offeror's financial, Business, personnel, or other resources, including Subcontractors;
  2. The Offeror's record of performance and integrity;
  3. Whether the Offeror has been debarred or suspended;
  4. Whether the Offeror is legally qualified to contract with the Authority;
  5. Whether the Offeror promptly supplied all requested information concerning its responsibility; and
  6. Whether the Offeror meets any responsibility criteria specified in the Solicitation.
- E. The Authority shall promptly notify the Offeror in writing of the final determination that the Offer is nonresponsible unless the Authority determines notification to the Offeror would compromise the Authority's ability to negotiate with other Offerors. The Authority shall file a copy of the determination in the Procurement File.
- F. For the Offeror awarded a Contract, the Authority's signature on the Contract constitutes a determination that the Offeror is responsible.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-815. Negotiations with Responsible Offerors and Revisions of Offers**

- A. Negotiations may be conducted with responsible Offerors who submit Offers determined to be reasonably susceptible to being selected for Award for the purpose of clarification to ensure full understanding of the Solicitation requirements and to permit revision of Offers. The Authority shall ensure there is no disclosure of one Offeror's price, or any information derived from competing Offers to another Offeror. The Authority shall establish procedures and schedules for conducting Negotiations.
- B. Negotiations may be conducted orally or in writing. If oral Negotiations are conducted, the Authority shall confirm the Negotiations in writing and provide a copy to the Offeror.

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- C. If Negotiations are conducted, Negotiations shall be conducted with all Offerors determined to be in the Competitive Range or reasonably susceptible for Award. Offerors may revise Offers based on Negotiations provided that any revision is confirmed in writing.
- D. The Authority may conduct Negotiations with responsible Offerors to improve Offers in such areas as cost, price, specifications, performance, or terms, to achieve best value for the Authority based on the requirements and the evaluation factors set forth in the Solicitation.
- E. Responsible Offerors determined to be susceptible for Award and within the Competitive Range with which Negotiations have been held, may revise their Offer in writing during Negotiations.
- F. An Offeror may withdraw an Offer at any time before the final Offer revision due date and time by submitting a written request to the Authority.
  1. The date, time, and place for submission of the best and final Offer; and
  2. A statement that if Offerors do not submit a written best and final Offer, their immediate previous written Offer will be accepted as their best and final Offer.
- C. If an apparent mistake, relevant to the Award determination, is discovered after opening of best and final Offers, the Authority shall contact the Offeror for written confirmation. The Authority shall designate a timeframe within which the Offeror shall either:
  1. Confirm that no mistake was made and assert that the Offer stands as submitted; or
  2. Acknowledge that a mistake was made, and include the following in a written response:
    - a. Explanation of the mistake and any other relevant information;
    - b. A request for correction including the corrected Offer or a request for withdrawal; and
    - c. The reasons why correction or withdrawal are consistent with fair competition and in the best interest of the Authority.
- D. An Offeror who discovers a mistake in their best and final Offer may request withdrawal or correction in writing, and shall include the following in the written request:
  1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected Offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal are consistent with fair competition and in the best interest of the Authority.
- E. In response to a request made under subsections (C) or (D), the Authority shall make a written determination of whether correction or withdrawal will be allowed based on whether the action is consistent with fair competition and in the best interest of the Authority. If an Offeror does not provide written confirmation of the best and final Offer, the Authority shall make a written determination that the most recent written Offer submitted is the best and final Offer.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-816. Determination of Not Susceptible for Award**

- A. The Authority may determine at any time during the evaluation period and before Award that an Offer is not susceptible for Award or not within the Competitive Range. The Authority shall place a written determination, based on one or more of the following, in the Procurement File:
  1. The Offer fails to substantially meet one or more of the mandatory requirements of the Solicitation;
  2. The Offer fails to comply with any susceptibility criteria identified in the Solicitation; or
  3. The Offer is not susceptible for Award or is not within the Competitive Range in comparison to other Offers based on the criteria set forth in the Solicitation. When there is doubt as to whether an Offer is susceptible for Award or is in the Competitive Range, the Offer should be included for further consideration.
- B. The Authority shall promptly notify the Offeror in writing of the final determination that the Offer is not susceptible for Award or not within the Competitive Range, unless the Authority determines notification to the Offeror would compromise the Authority's ability to negotiate with other Offerors.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-817. Offer Revisions and Best and Final Offers**

- A. The Authority may request one or more written revisions to an Offer. The Authority shall include in the written request:
  1. The date, time, and place for submission of Offer revisions; and
  2. A statement that if Offerors do not submit a written notice of withdrawal or a written Offer revision, their immediate previous written Offer revision will be accepted as their final Offer.
- B. The Authority shall request best and final Offers from any Offeror with whom Negotiations have been conducted, unless the Offeror has been determined to be nonresponsible under R18-15-814, or not within the Competitive Range or not susceptible for Award under R18-15-816. The Authority shall include in the written request:

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-818. Evaluation of Offers**

The Authority shall evaluate best and final Offers based on the evaluation criteria contained in the Solicitation. The Authority shall not modify evaluation criteria or their relative order of importance after Offer due date and time.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-819. Contract Award**

- A. The Authority shall Award the Contract to the responsible Offeror whose Offer is determined to be most advantageous to the Authority based on the evaluation factors set forth in the Solicitation. The Authority shall make a written determination explaining the basis for the Award and place the determination, including any evaluation report or other supporting documentation, in the Procurement File. This subsection shall not apply to any Solicitation cancelled by the Authority prior to an Award.

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- B. The Authority shall notify all Offerors of an Award.
- C. After Contract Award, the Authority shall return any Offer security provided by the Offeror as part of the Offer submission.
- D. Within 30 days after Contract Award the Authority shall make the Procurement File, including all Offers, available for public inspection, redacting information that is confidential under R15-18-807. A copy of the non-redacted information, if pertinent to the functioning of the Contract, shall be retained for reference in the Contract file, but marked confidential and not made available for public review.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-820. Mistakes Discovered After Award**

- A. If a mistake in the Offer is discovered after the Award, the Offeror may request correction or withdrawal in writing, and shall include all of the following in their written request:
  1. Explanation of the mistake and any other relevant information;
  2. A request for correction including the corrected Offer or a request for withdrawal; and
  3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Authority.
- B. Based on the considerations of fair competition and the best interest of the Authority, the Authority may:
  1. Allow correction of the mistake;
  2. Cancel all or part of the Award; or
  3. Deny correction or withdrawal.
- C. After cancellation of all or part of an Award, if the Offer acceptance period has not expired, the Authority may Award all or part of the Contract to the next responsible Offeror whose Offer is determined to be the next most advantageous to the Authority according to the evaluation factors contained in the Solicitation.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-821. Protest of Solicitations and Contract Awards**

- A. Any Interested Party may protest a Solicitation, a determination of not susceptible for Award, the Award of a Contract.
- B. The Interested Party shall file the protest in writing with the Authority and shall include the following information:
  1. The name, address, and telephone number of the Interested Party;
  2. The signature of the Interested Party or the Interested Party's representative;
  3. Identification of the Solicitation or Contract number;
  4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
  5. The form of relief requested.
- C. If the protest is based upon alleged improprieties in a Solicitation that are apparent before the Offer due date and time, the Interested Party shall file the protest before the Offer due date and time.
- D. In cases other than those covered in subsection (C), the Interested Party shall file the protest within 10 days after the Authority makes the Procurement File available for public inspection.

- E. The Interested Party may submit a written request to the Director for an extension of the time limit for protest filing set forth in subsection (D). The written request shall be submitted before the expiration of the time limit set forth in subsection (D) and shall set forth good cause as to the specific action or inaction of the Authority that resulted in the Interested Party being unable to submit the protest within the 10 days. The Director shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.
- F. If the Interested Party shows good cause, the Director may consider a protest that is not timely filed.
- G. The Director shall, upon request, furnish copies of the protest to all Offerors subject to the provisions of R18-15-807.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-822. Stay of Procurements During the Protest**

- A. If a protest is filed before the Solicitation due date, before the Award of a Contract, or before performance of a Contract has begun, the Authority shall make a written determination to either:
  1. Proceed with the Award or Contract performance, or
  2. Stay all or part of the Procurement if there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Authority.
- B. The Authority shall provide the Interested Party and all Offerors with a copy of the written determination.
- C. The Director may stay all or part of the Procurement if it is determined that there is a reasonable probability the protest will be upheld or that a stay is in the best interest of the Authority. Determination of the stay decision shall be issued no later than the time of issuance of the Authority's decision in accordance with R18-15-824.
- D. The Director may consider any protest that is not filed timely if:
  1. The Interested Party shows good cause; or
  2. The Director finds there is good cause.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-823. Protest Dismissal**

- A. The Director shall dismiss, upon written determination, a protest in whole or in part before scheduling a hearing if:
  1. The protest does not state a valid basis for protest; or
  2. The protest is untimely as prescribed under R18-15-821.
- B. The Director shall notify the Interested Party, the Authority, and the Board in writing of a determination to dismiss a protest.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-824. Resolution of Solicitation and Contract Award Protests**

- A. The Director has the authority to resolve a protest. The Director shall issue a written recommended decision within 21 days after a protest has been filed under R18-15-821. The recommended decision contain:

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1. The protest;
  2. The Offer submitted by the Interested Party;
  3. The Offer of the firm that is being considered for Award;
  4. The Solicitation, including the specifications or portions relevant to the appeal;
  5. The abstract of Offers or relevant portions;
  6. Any other documents that are relevant to the protest; and
  7. The basis for the decision.
- B.** The Director shall furnish the recommended decision to the Board, with a copy to the Interested Party, by any method that provides evidence of receipt.
- C.** Within 30 days after the date the Director issues the written recommended decision, the Board shall review the recommended decision and accept, reject, or modify it. If the Board rejects or modifies the recommended decision, the Authority shall issue the rejection or modification and a written justification setting forth the reasons for the rejection or modification to the Interested Party. The decision of the Board is a final administrative decision.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-825. Remedies by the Authority**

- A.** If the Authority sustains a protest in whole or part and determines that a Solicitation, a determination of not susceptible for Award, or Contract Award does not comply with the Procurement statutes and regulations, the Authority shall implement an appropriate remedy.
- B.** In determining an appropriate remedy, the Authority shall consider all the circumstances surrounding the Procurement or proposed Procurement including:
1. The seriousness of the Procurement deficiency;
  2. The degree of prejudice to other interested parties or to the integrity of the Procurement system;
  3. The good faith of the parties;
  4. The extent of performance;
  5. The costs to the Authority;
  6. The urgency of the Procurement;
  7. The impact on the agency's mission; and
  8. Other relevant issues.
- C.** The Authority may implement any of the following appropriate remedies:
1. Decline to exercise an option to renew under the Contract;
  2. Terminate the Contract;
  3. Amend the Solicitation;
  4. Issue a new Solicitation;
  5. Award a Contract consistent with this Article; or
  6. Render such other relief as determined necessary to ensure compliance with this Article.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**R18-15-826. Provisions for Construction Contracts**

- A.** Any Contract for Construction of a Water-Related Facility procured through the provisions of this Article, shall contain the following:
1. Requirement for performance and payment bonds or other security in a manner similar to those required under A.R.S. § 41-2574. The Authority may require perfor-

2. Requirement for retention of payments by the Authority as insurance for the proper performance of the Contract in a manner similar to that required by A.R.S. § 41-2576. The Authority may require retention in amounts greater than those required by A.R.S. § 41-2576.
  3. Requirement for progress payments made by the Authority to the Contractor in a manner similar to that required under A.R.S. § 41-2577. The Authority may specify a progress payment schedule that differs from that required by A.R.S. § 41-2577.
  4. Provisions similar to those required under A.R.S. § 41-2580. The Authority may specify additional requirements.
- B.** Pursuant to A.R.S. § 41-2501(C), the Authority adopts A.R.S. § 41-2583 for any Contract for Construction of a Water-Related Facility procured through the provisions of this Article.
- C.** The Authority may require that any Construction of a Water-Related Facility be subject to oversight by State of Arizona personnel.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 806 (April 26, 2024), with an immediate effective date of April 3, 2024 (Supp. 24-2).

**ARTICLE 9. LONG-TERM WATER AUGMENTATION FUND****R18-15-901. Long-Term Water Augmentation Fund Financial Assistance Eligibility Criteria**

To be eligible to receive financial assistance from the Long-Term Water Augmentation Fund, the applicant shall demonstrate the applicant is an eligible entity as defined by A.R.S. § 49-1301(1), and is requesting financial assistance for a purpose as defined in A.R.S. § 49-1303(A)(6) or (7).

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-902. Long-Term Water Augmentation Fund Request for Applications**

- A.** The Authority shall commence a funding cycle for financial assistance from the Long-Term Water Augmentation Fund by issuing a Request for Applications.
- B.** Adequate public notice of the request for applications shall be given at least thirty days before the due date for the submittal of applications.
- C.** A Request for Applications shall include at least the following information:
1. A description of the Water Supply Development Projects eligible to apply;
  2. The total amount of available funds;
  3. Whether a single award or multiple awards may be made;
  4. Any additional information required by the applications;
  5. The criteria or factors under which applications will be evaluated for award and the relative importance of each criteria or factor; and
  6. The due date for submittal of applications and the anticipated time the awards may be made.
- D.** The Authority may hold a preapplication conference before the due date for submittal of applications to explain the application requirements. Preapplication Conferences shall be open to the public.



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- E. Applicants to the Long-Term Water Augmentation Fund shall submit applications in a form acceptable to the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-903. Long-Term Water Augmentation Fund Order and Priority**

- A. The Authority shall determine the Order and Priority of applications by applying the evaluative criteria listed in:
1. A.R.S. § 49-1304(A); and
  2. The Request for Applications.
- B. For each funding cycle, the Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Long-Term Water Augmentation Committee. The analysis shall include, as applicable:
1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant's technical capability, including its ability to construct, operate and maintain the proposed project;
  4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant's financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous five financial operating years (fiscal or calendar);
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current financial operating year (fiscal or calendar); and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five financial operating years (fiscal or calendar);
  6. A summary of any previous assistance provided by the Authority to the applicant;
  7. A summary of the applicant's ability to meet any applicable permitting and environmental requirements imposed by federal, state, or local agencies; and
  8. Any other information deemed necessary by the Authority.
- C. If any of the required information listed in subsection (B)(5) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's financial capability.
- D. The Long-Term Water Augmentation Committee shall review all eligible applications received during a given funding cycle and provide recommendations to the Board regarding the order and priority of the applications. Specific numeric ranking is not required.
- E. The Long-Term Water Augmentation Committee may recommend the adjustment of the budgets of the applications received individually or collectively.

- F. The Long-Term Water Augmentation Committee may require an Applicant to provide additional information before making a recommendation to the Board.
- G. The Authority may remove an application from consideration under a given funding cycle under one or more of the following circumstances:
1. The project was financed from another source;
  2. The proposed project is no longer an eligible project;
  3. The applicant requests removal;
  4. The applicant is no longer an eligible applicant; or
  5. The applicant did not update, modify, correct or resubmit an Application Form in Response to a Request from the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-904. Long-Term Water Augmentation Fund Application for Financial Assistance**

The Authority shall not present an application for consideration unless all of the following conditions are met:

1. The Application meets all requirements listed in the Request for Applications; and
2. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability under R18-15-104.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-905. Long-Term Water Augmentation Fund Application Review For Financial Assistance**

- A. After an opportunity for public comment, the Board shall consider the Long-Term Water Augmentation Committee's recommendations and make a determination regarding applications for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, analysis prepared by the Authority, recommendation of the Long-Term Water Augmentation Committee; and any other information provided at the public meeting. The Authority shall inform the applicant of the Board's determination, which may include recommended modifications to any of the following:
1. The scope of the proposed project;
  2. The applicant's legal structure and organization;
  3. The dedicated revenue source for repayment; or
  4. The structure of the financial assistance request.
- B. The opportunity for public comment required under subsection (A) does not need to be at the same meeting in which the Board makes its determination regarding the applicant's request for financial assistance.
- C. The Board may require an Applicant to provide additional information before making a determination regarding a request for financial assistance.
- D. The Board may award financial assistance to an application regardless of the recommended order and priority of applications, provided the Board documents the specific justifications for the action taken during a public meeting.
- E. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants with pending applications. The Board shall determine the amount of funding

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available, if any, to make available for the remaining applications received under a given funding cycle. The Board shall make a determination as described in subsection (C) on each application until the available funds are committed.

- F. Upon approval of an application, the Authority shall prepare an agreement for execution by the applicant and the Authority. The terms of the agreement shall be determined by the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-906. Long-Term Water Augmentation Fund Requirements**

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

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**ARTICLE 10. WATER CONSERVATION GRANT FUND****R18-15-1001. Water Conservation Grant Fund Eligibility Criteria**

- A. To be eligible to receive financial assistance from the Water Conservation Grant Fund, the applicant shall demonstrate the applicant is an eligible entity as defined by A.R.S. § 49-1301 or has partnered with an eligible entity as defined in A.R.S. § 49-1301 pursuant to A.R.S. § 49-1333(A), and is requesting a grant for a purpose as defined in A.R.S. § 49-1332(B).
- B. An applicant shall commit to a matching contribution toward the total program or project cost as specified in A.R.S. § 49-1333(B)(4). The matching contribution may include cash contributions or in-kind contributions. The matching contribution may not include any monies provided by the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-1002. Water Conservation Grant Fund Request for Grant Applications**

- A. The Authority shall commence a funding cycle for financial assistance from the Water Conservation Grant Fund by issuing a Request for Grant Applications.
- B. Adequate public notice of the Request for Grant Applications shall be given at least thirty days before the due date for the submittal of applications.
- C. A Request for Grant Applications shall include at least the following information:
1. A description of the nature of the grant project, including the scope of the work to be performed by an awardee;
  2. An identification of the funding source and the total amount of available funds;
  3. Whether a single award or multiple awards may be made;
  4. Encouragement of collaboration by entities for community partnerships, if appropriate;
  5. Any additional information required by the applications;

6. The criteria or factors under which applications will be evaluated for award and the relative importance of each criteria or factor; and
7. The due date for submittal of applications.

- D. The Authority may hold a preapplication conference before the due date for submittal of applications to explain the grant application requirements. Preapplication Conferences shall be open to the public.
- E. Applicants to the Water Conservation Grant Fund shall submit applications in a form acceptable to the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-1003. Water Conservation Grant Fund Order and Priority**

- A. The Authority shall determine the Order and Priority of applications by applying the evaluative criteria listed in:
1. A.R.S. § 49-1334; and
  2. The Request for Grant Applications.
- B. For each funding cycle, the Authority shall evaluate and summarize each Grant application received and develop an analysis that provides recommendations to the Water Conservation Grant Committee. The analysis shall include, as applicable:
1. The scope, size, and budget of the proposed Program or project, including as much cost detail as possible;
  2. The estimated water savings of the Proposed Program or Project;
  3. A summary of any previous assistance provided by the Authority to the applicant; and
  4. Any other information deemed necessary by the Authority.
- C. In evaluating applications to the Water Conservation Grant Fund, the Authority shall apply following definitions:
1. "Program" means activities that occur in multiple phases over an established timeframe, and that may result in multiple deliverables.
  2. "Project" means activities that are confined to a particular time and place, and that result in a single deliverable.
- D. The Water Conservation Grant Committee shall review all eligible Grant applications received during a given funding cycle and provide recommendations to the Board regarding the order and priority of the Grant applications. Specific numeric ranking is not required.
- E. The Water Conservation Grant Committee shall provide an opportunity for public comment on the applications during a public meeting.
- F. The Water Conservation Grant Committee may recommend the adjustment of the budgets of the applications received individually or collectively.
- G. The Water Conservation Grant Committee may require an Applicant to provide additional information before making a recommendation to the Board.
- H. The Authority may remove an application from consideration under a given funding cycle under one or more of the following circumstances:
1. The project was financed from another source;
  2. The proposed project is no longer an eligible project;
  3. The applicant requests removal;
  4. The applicant is no longer an eligible applicant; or
  5. The applicant did not update, modify, correct, or resubmit an Application Form in Response to a Request from the Authority.

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**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-1004. Water Conservation Grant Fund Application for Financial Assistance**

The Authority shall not present an application for consideration unless all the following conditions are met:

- 1. The application meets all requirements listed in the Request for Grant Applications; and
- 2. The applicant has demonstrated to the satisfaction of the Authority, an ability to timely perform the program or project.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-1005. Water Conservation Grant Fund Awards**

- A. After an opportunity for public comment, the Board shall consider the Water Conservation Grant Committee’s recommendations and shall determine grant awards during a public meeting.
- B. The Board may make modifications to recommendations from the Water Conservation Grant Committee including:
  - 1. Adjustment of an application’s budget by an amount or percentage;
  - 2. Adjustment of the order and priority of an individual application or a collective group of applications; or
  - 3. Any other modifications deemed necessary by the Board.

- C. If the Board does not affirm the recommendations of the Water Conservation Grant Fund, the Board shall document the specific justifications for the action taken during a public meeting.
- D. The opportunity for public comment required under subsection (A) does not need to be at the same meeting in which the Board makes its determination regarding grant awards.
- E. The Board may require an Applicant to provide additional information before making a determination regarding a grant award.
- F. After Board approval of a grant application, the Authority shall enter into a grant agreement with the grant recipient. The terms of the grant agreement shall be determined by the Authority.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).

**R18-15-1006. Water Conservation Grant Fund Requirements**

The duly authorized agent, principal or officer of the applicant shall certify the applicant has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with the submission of a grant application to the Water Conservation Grant Fund.

**Historical Note**

New Section made by final expedited rulemaking at 30 A.A.R. 1982 (May 31, 2024), with an immediate effective date of May 7, 2024 (Supp. 24-2).