

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

(Authority: A.R.S. § 41-2252)

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ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definitions

In addition to the definitions prescribed in A.R.S. § 41-2251, the following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in the opening paragraph was updated. Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).

R20-8-102. Application Process

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

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

Historical Note

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

R20-8-103. Eligibility Criteria

Applicants for the Project Assistance Account must satisfy all of the requirements in A.R.S. § 41-2256 in addition to the items below. To be eligible to receive technical assistance, an applicant shall satisfy all of the following criteria:

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

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 5 A.A.R. 1312, effective April 15, 1999 (Supp. 99-2). Amended by final rulemaking at 6 A.A.R. 1317, effective March 14, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in the opening paragraph was updated. Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).

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

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

- G.** The Authority shall bypass a project within a technical assistance round and offer funding to the next highest ranking project if the project is not ready to proceed within six months after the award date.
- H.** An applicant whose project for technical assistance is disapproved or determined to be ineligible may appeal. The Authority shall use the Uniform Administrative Hearing Procedures of A.R.S. Title 41, Chapter 6, Article 10, to govern the initiation and conduct of formal adjudicative proceedings before the Authority.

Historical Note

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

Table A. Repealed

Historical Note

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

Table B. Repealed

Historical Note

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

ARTICLE 2. FINANCIAL ASSISTANCE

R20-8-201. Definitions

In addition to the definitions prescribed in A.R.S. § 41-2251, the following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Staff” means the Executive Director and other employees of the Water Infrastructure Finance Authority.

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

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in the opening paragraph was updated; due to a reassignment of duties, the reference to the Department of Commerce was removed in the definition of “staff.” Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).

R20-8-202. Application Process

- A.** The Board shall annually establish due dates by which applications for financial assistance shall be submitted.
- B.** The Authority shall notify in writing by electronic or other means potential applicants of the due date for applications and of any limitation of the amount of funding available at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a notification list to be utilized by the Authority.
- C.** An applicant shall provide to the Authority by the established due date for applications on a form provided by the Authority the following information:

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1. Contact information for the applicant, including name, address, and telephone number;
 2. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the applicant's current fiscal year;
 3. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the previous five fiscal years;
 4. The proposed or estimated financial statement or budget, and business plan or management plan for the current and next fiscal years;
 5. A fee schedule for the applicable enterprise funds for the current and past five fiscal years if not included in response to subsections (C)(2), (3), and (4);
 6. The source of pledged revenues or dedicated revenue source to be used to repay the requested financial assistance;
 7. The amount of pledged revenues or money collected through the dedicated revenue source for each of the previous five fiscal years;
 8. An estimate of the amount of pledged revenues or money that will be collected through the dedicated revenue source for the current fiscal year;
 9. A projection of the amount of pledged revenues or money that will be collected through the dedicated revenue source for each of the next five fiscal years;
 10. A list of professional and outside service providers, including their professional qualifications, that are working or have worked on the project;
 11. An estimate of the project costs, including applicable planning, design, and construction costs, as well as estimated annual operation, maintenance, and replacement costs;
 12. An estimated schedule of required disbursements of the financial assistance; and
 13. Any information that may have a negative effect on the applicant's application, or on its financial condition, including material information relating to other projects undertaken by the applicant, pending lawsuits, and current investigations by state or federal authorities.
- D.** In addition to the application and documentation required in subsection (C), an applicant shall provide to the Authority by the established due date for applications the following information:
1. Copies of documentation relating to outstanding indebtedness, including official statements, financial assistance agreements, and amortization schedules;
 2. A detailed description of the project, with an explanation of how the project complements the overall development of the community, including the following, if available and applicable:
 - a. Copies of project feasibility studies, engineering reports, project designs, rate studies, and related material;
 - b. A detailed timeline for the project; and
 - c. A planning document specific to the locality of the project for which the financial assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document;
 3. A resolution of the governing body of the applicant stating the following:
 - a. The project is in the best interests of its residents;
 - b. The commitment of local funds, if applicable; and
 - c. If a political subdivision, then confirmation of the pledge of the state-shared revenues;
 4. For a political subdivision, a written commitment by its governing body to complete all applicable reviews and approvals and to secure all required permits in a timely manner;
 5. To the extent required under A.R.S. § 41-2257, for a political subdivision, evidence of voter approval to incur debt in connection with the project:
 - a. If the election for voter authorization has been held, a copy of the ballot evidencing voter authorization for the debt in connection with the project and official action canvassing the results of the election;
 - b. If the election for voter authorization is scheduled to be held after the application date, sample ballot language and evidence of a plan to obtain voter authorization for the debt to be incurred in connection with the project;
 6. For a political subdivision, if voter approval has been obtained for substantially the same project but with a different funding source, evidence of that approval in lieu of that required by subsection (D)(5); and
 7. For an Indian tribe, evidence of the current or proposed establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity subject to suit by the Attorney General, or evidence that additional funds or revenue streams that are subject to execution by the Attorney General without the waiver of any claim of sovereign immunity by the Tribe have been designated as additional security.
- E.** Staff shall analyze each application received on or prior to the due date for applications for financial assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-203. Applications for financial assistance that are determined to be both administratively complete and eligible for financial assistance under R20-8-203 shall be submitted to the Board for prioritization and possible funding. Applications that are either not administratively complete or do not meet the criteria in R20-8-203 shall not be submitted to the Board.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1).
 Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (D)(5) was updated. Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).

R20-8-203. Eligibility Criteria

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

1. The applicant is a political subdivision, special district, or Indian tribe;
2. The financial assistance requested is for an infrastructure project;
3. The application is administratively complete;
4. The applicant demonstrates that the financial assistance can be repaid and the level of security pledged to the loan is consistent with A.R.S. §§ 41-2257(D)(4) through (6);
5. The applicant demonstrates that the project is ready for construction and the applicant is ready to proceed;
6. The applicant provides evidence that the project has public support;

7. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document;
 8. The applicant demonstrates that the loan proceeds will be managed and expended in accordance with the timetable set forth in the application;
 9. The minimum number of points required to be eligible for consideration for funding by the Board shall be 70 percent or 70 points; and
 10. Applicants are responsible for the payment of all administrative fees and penalties associated with financial assistance. Administrative fees shall be paid on or before 90 days from the date on the Authority's invoice. Administrative fees remaining unpaid after 90 days from the date on the Authority's invoice shall be subject to penalties of five percent per annum. Applicants with outstanding administrative fees or penalties are not eligible for financial or technical assistance.
- c. Two or more alternative funding sources - 5 points, or
 - d. No alternative funding sources researched - 0 points.
3. There is evidence of the project's public support based on the adopted planning document specific to the locality or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant - Up to 15 points,
 4. The purpose of the project is the following:
 - a. Public infrastructure or economic development - Up to 10 points, or
 - b. Refinancing of public infrastructure debt - Up to 5 points.
- C. The Board shall approve or disapprove each application for financial assistance based upon the priority list and available funding for financial assistance. The Board may fund all or a portion of a financial assistance request. Disbursement of funds to an approved applicant shall only occur upon the applicant's agreement with the terms and conditions established by the Board in accordance with A.R.S. § 41-2257. The prioritization using points assigned under subsection (B) is as follows:

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 7 A.A.R. 2042, effective April 10, 2001 (Supp. 01-2). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (4) was updated. Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).

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

- A. The Board shall not review an application for financial assistance that does not meet the eligibility criteria in R20-8-203.
 - B. During each financial assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for financial assistance has been received. Application scores shall be prioritized based on a percentage of the points received to total points possible. The minimum number of points required to be eligible for consideration for funding by the Board is 70 percent or 70 points. Applicants scoring less than 70 percent will be notified in writing by electronic or other means. A score of 70 percent does not guarantee funding. Applications for financial assistance shall be assigned points under the following categories in descending order of importance:
 1. The applicant demonstrates strong credit worthiness and ability to repay the obligation based on the source of the repayment pledge - Up to 50 points,
 - a. Category I, A, and general obligation pledges - Up to 50 points; or
 - b. Category II, Baa, BBB, and previously unrated pledges with coverage ratios of 1.50 or higher - Up to 45 points; or
 - c. Previously unrated pledges with coverage ratios less than 1.50 - Up to 35 points.
 2. The applicant demonstrates that it has little or no access to alternative funding sources that provide the same or lower access to capital as that provided by the Authority - Up to 25 points,
 - a. No access to alternative funding sources - 25 points, or
 - b. One alternative funding source - 15 points, or
- D. The Authority shall notify in writing by electronic or other means each applicant of the Board's determination within 90 days after the date that all applications for financial assistance were due.
 - E. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide financial assistance expires. The Authority shall not provide financial assistance for an approved project if the applicant does not complete all agreements with the Authority on or before that date.
 - F. An applicant whose project for financial assistance is disapproved or determined to be ineligible may appeal. The Authority shall use the Uniform Administrative Hearings Procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern the initiation and conduct of formal adjudicative proceedings before the Authority.

Historical Note

Adopted effective February 3, 1998 (Supp. 98-1). Amended by final rulemaking at 16 A.A.R. 190, effective March 6, 2010 (Supp. 10-1). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2011, Second Special Session, Ch. 1, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed February 12, 2013, Office File No. R13-179 (Supp. 13-1).