

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 18. ENVIRONMENTAL QUALITY**  
**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA**

**PREAMBLE**

<b><u>1.</u></b>	<b><u>Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
	Article 1	Amend
	R18-15-101	Amend
	R18-15-102	Amend
	R18-15-103	Amend
	R18-15-104	Amend
	R18-15-105	Amend
	R18-15-107	Amend
	Article 4	Amend
	R18-15-401	Amend
	R18-15-402	Amend
	R18-15-403	Amend
	R18-15-404	Amend
	R18-15-405	Amend
	Article 9	New Article
	R18-15-901	New Section
	R18-15-902	New Section
	R18-15-903	New Section
	R18-15-904	New Section
	R18-15-905	New Section

R18-15-906	New Section
Article 10	New Article
R18-15-1001	New Section
R18-15-1002	New Section
R18-15-1003	New Section
R18-15-1004	New Section
R18-15-1005	New Section
R18-15-1006	New Section

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 49-1274(B)(2); 49-1308(B)(2); and 49-1333(B)(2)

Implementing statute: A.R.S. §§ 49-1270 through 49-1282; 49-1301 through 49-1313; and 49-1331 through 49-1335

**3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening:

**4. The agency’s contact person who can answer questions about the rulemaking:**

Name: Joe Citelli, General Counsel

Address: Water Infrastructure Finance Authority of Arizona  
100 N. 7<sup>th</sup> Avenue, Suite 130  
Phoenix, Arizona 85007

Telephone: (602) 364-1314

Email: [JCitelli@azwifa.gov](mailto:JCitelli@azwifa.gov)

**5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The purpose of this Water Infrastructure Finance Authority of Arizona (“WIFA”) rulemaking is to

amend A.A.C. Title 18, Chapter 15 by:

- Amending Article 1 – General Provisions;
- Amending Article 4 – Water Supply Development Revolving Fund;
- Adding Article 9 – Long-Term Water Augmentation Fund; and
- Adding Article 10 – Water Conservation Grant Fund.

On September 24, 2022, Arizona Senate Bill 1740 (Fifty-fifth Legislature, Second Regular Session (2022)) became effective, establishing WIFA as an independent state agency and transferring governance of WIFA from the Arizona Finance Authority Board of Directors to the WIFA Board of Directors. Among other changes, SB1740: (1) Significantly modified the WSDRF and expanded eligibility for water supply development loans and grants; (2) Established the LTWAF and permitting WIFA to provide financial assistance for water supply development projects inside or outside of Arizona; and (3) Established the WCGF provide grants for voluntary water conservation programs or projects expected to result in long-term sustainable reductions in water use and improvements in water use efficiency and reliability.

As part of its five-year review report approved by the Governor’s Regulatory Review Council on November 7, 2023, WIFA proposed submitting rules to comply with the statutory changes to the WSDRF and to govern the new LTWAF and WCGF programs. After receiving an exception according to A.R.S. § 41-1039(A), WIFA now submits those rules through expedited rulemaking. Expedited rulemaking is appropriate pursuant to A.R.S. § 41-1027(A)(7) because this rulemaking will implement without material change, a course of action that was proposed in WIFA’s five-year review report.

**A. Proposed Rules Amending Article 4 – Water Supply Development Revolving Fund**

Pursuant to A.R.S. § 49-1273(A), monies in the WSDRF may be used to make loans up to \$3,000,000 and/or provide grants or technical assistance up to \$2,000,000 to eligible entities for water supply development projects in Arizona. WIFA is authorized to prescribe rules governing the criteria by which assistance will be awarded. A.R.S. § 49-1274(B)(2).

The proposed rulemaking amends existing WSDRF rules to align with statutory changes enacted by SB1740. The proposed rules are primarily procedural in nature and are closely modeled after the successful Clean Water and Drinking Water State Revolving Fund programs. The proposed rules do not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights.

**B. Proposed Rules Adding Article 9 – Long-Term Water Augmentation Fund**

Pursuant to A.R.S. § 49-1303(A)(6), monies in the LTWAF may be used to provide financial assistance to eligible entities for the purposes of financing or refinancing water supply development projects in Arizona, including projects for conservation through reducing existing water use or more efficient uses of existing water supplies. WIFA is authorized to prescribe rules governing the criteria by which financial assistance will be awarded. A.R.S. § 49-1308(B).

The proposed rulemaking adds Article 9 – Long-Term Water Augmentation Fund to administer the new LTWAF program enacted by SB1740. The proposed rules are primarily procedural in nature and establish a framework for applicants to apply to WIFA for financial assistance from the LTWAF. The proposed rules do not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights.

**C. Proposed Rules Adding Article 10 – Water Conservation Grant Fund**

Pursuant to A.R.S. § 49-1331(A), monies in the WCGF may be used to facilitate voluntary water conservation programs or projects that are expected to result in long-term reductions in water use, improvements in water use efficiency, or improvements in water reliability. Through the WCGF, WIFA may provide grants to eligible applicants up to \$3,000,000 for a water conservation program, and up to \$250,000 for a water conservation project. A.R.S. § 49-1333(B)(4). WIFA is authorized to prescribe rules governing the criteria by which assistance will be awarded from the WCGF.

The proposed rulemaking adds Article 10 – Water Conservation Grant Fund to administer the new WCGF program enacted by SB1740. The proposed rules are primarily procedural in nature and establish a framework for applicants to apply to WIFA for financial assistance from the WCGF. The proposed rules do not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights.

**D. Proposed Rules Amending Article 1 – General Provisions**

The proposed rulemaking also updates several sections in Article 1 – General Provisions. The proposed updates are intended to increase the clarity and effectiveness of WIFA’s existing rules. Additionally, the proposed rulemaking updates citations contained in the definitions section to conform to statutory changes enacted by SB1740.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public**

**may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Authority did not review or rely on any study for this rulemaking.

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**8. The preliminary summary of the economic, small business, and consumer impact:**

Under A.R.S. § 41-1055(D)(2), the Authority is not required to provide an economic, small business, and consumer impact statement.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Joe Citelli, General Counsel

Address: Water Infrastructure Finance Authority of Arizona

100 N. 7<sup>th</sup> Avenue, Suite 130

Phoenix, Arizona 85007

Telephone: (602) 364-1314

Email: [JCitelli@azwifa.gov](mailto:JCitelli@azwifa.gov)

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written or emailed comments related to this proposed rulemaking may be submitted at any time during the public comment period to the person referenced in Item 4 Thanks! S above. Close of comment period will occur on the date of proceeding (listed below) at 4:00 p.m.

Additionally, the Authority has scheduled the following oral proceeding to receive oral comments on the proposed rules in accordance with A.R.S. § 41-1023; the date, time, location, and nature of the proceeding are listed below:

Date of proceeding: March 4, 2024, at 1:00 p.m.

Time: 1:00 p.m. MST.

Location: Virtual (Via Microsoft Teams)

<https://azcommerce.zoom.us/j/91752825332>

Webinar ID: 917 5282 5332

Telephone: +1 719 359 4580

Close of record: March 4, 2024, at 4:00 p.m.

Nature: Oral proceeding on the proposed rules, with opportunity for formal comments on the record.

The Authority will take reasonable measures to provide access to Authority services to individuals with limited ability to speak, write, or understand English and to those with disabilities. Requests for language interpretation, ASL interpretation, CART captioning services, or disability accommodations must be made at least 48 hours in advance by contacting the individual referenced in Item 4 above.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

There are no other matters prescribed by statutes applicable to the Authority or this specific rulemaking.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rules do not require the use of a permit. Therefore, a general permit is not applicable.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The rules do not require the use of a permit. Therefore, a general permit is not applicable.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No business competitiveness analysis was submitted to the Authority.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable.

**13. The full text of the rules follows:**

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

Section

- R18-15-101 Definitions
- R18-15-102 Types of Assistance Available
- R18-15-103 Application Process
- R18-15-104 General Financial Assistance Application Requirements
- R18-15-105 General Financial Assistance Conditions
- R18-15-107 Disputes

**ARTICLE 4. WATER SUPPLY DEVELOPMENT REVOLVING FUND**

Section

- R18-15-401 Water Supply Development Revolving Fund Financial Assistance Criteria
- R18-15-402 Water Supply Development Revolving Fund Project Priority List
- R18-15-403 Water Supply Development Revolving Fund ~~Project List Ranking~~ Order and Priority
- R18-15-404 Water Supply Development Revolving Fund Application for Financial Assistance
- R18-15-405 Water Supply Development Revolving Fund Application Review for Financial Assistance

**ARTICLE 9. LONG-TERM WATER AUGMENTATION FUND**

Section

- R18-15-901 Long-Term Water Augmentation Fund Financial Assistance Eligibility Criteria
- R18-15-902 Long-Term Water Augmentation Fund Request for Applications
- R18-15-903 Long-Term Water Augmentation Fund Order and Priority
- R18-15-904 Long-Term Water Augmentation Fund Application for Financial Assistance

R18-15-905    Long-Term Water Augmentation Fund Application Review for Financial Assistance

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

## **ARTICLE 10. WATER CONSERVATION GRANT FUND**

Section

R18-15-1001    Water Conservation Grant Fund Eligibility Criteria

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

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

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

R18-15-1005    Water Conservation Grant Fund Awards

R18-15-1006    Water Conservation Grant Fund Requirements

## **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:

~~“Advisory Board” has same meaning as prescribed in A.R.S. § 41-5356(A)(5).~~

“ADEQ” means the Arizona Department of Environmental Quality.

~~“Applicant” means a governmental unit, a non point source project sponsor, a drinking water facility, or a water provider 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 Board~~ Authority by an applicant.

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

~~“Board” means the board of directors of the Arizona finance authority established by A.R.S. Title 41, Chapter 53, Article 2~~ 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.

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

~~“Department” means the Arizona Department of Environmental Quality.~~

“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(5)~~ A.R.S. § 49-1201(6).

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

“EA” means an environmental assessment.

“EID” means an environmental information document.

“EIS” means an environmental impact statement.

“EPA” means the United States Environmental Protection Agency.

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

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

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

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

“FONSI” means a finding of no significant impact, 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 ~~the a project priority list~~ Project Priority List that demarcates the ranked projects which have been determined to be ready to proceed ~~and will be provided with a project finance application.~~

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

“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 of this Chapter.

"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 ~~that can be bid separately~~ and for which financial or technical assistance is being requested or provided.

"~~Project priority list~~ Priority List" means the document developed by the ~~Board~~ Authority according to R18-15-203 ~~or R18-15-303; or R-18-402~~ that ranks projects according to R18-15-204; ~~or R18-15-304; or R-18-15-403.~~

"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(12)~~ 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(13)~~ A.R.S. § 49-1201(20).

“Water supply development” has the same meaning as prescribed in ~~A.R.S. § 49-1201(14)~~ A.R.S. § 49-1201(22).

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

#### **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 ~~Program~~ and Clean Water Technical Assistance ~~Program~~;
2. Drinking Water Revolving Fund ~~Program~~ and Drinking Water Technical Assistance ~~Program~~;
3. Water Supply Development Revolving Fund ~~Program~~ and ~~Water Supply Development Technical Assistance Program~~, and;
4. Hardship Grant Fund ~~Program~~;
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 refinance 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.

#### **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 ~~Program~~ shall apply for financial assistance according to Articles 1 and 2 of this Chapter.

C. An applicant seeking financial assistance through the Drinking Water Revolving Fund ~~Program~~ shall apply for financial assistance according to Articles 1 and 3 of this Chapter.

- D.** An applicant seeking financial assistance through the Water Supply Development Revolving Fund Program shall apply for financial assistance according to Articles 1 and 4 of this Chapter.
- E.** An applicant seeking technical assistance available through the technical assistance programs shall apply for technical assistance according to Articles 1 and 5 of this Chapter.
- F.** An applicant 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.

**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 financial assistance from the Authority to the applicant is authorized by 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 ~~three~~ 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.

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

- A.** The Authority shall not execute a financial assistance agreement with an applicant until the applicant provides all documentation specified by the Authority.
- 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, ~~and~~;
  - 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 ~~and the disbursement schedule.~~
1. The applicant shall submit each disbursement request on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
  2. The applicant shall include copies of invoices, 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.

**R18-15-107. Disputes**

- A.** Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under this Chapter, excluding actions taken under R18-15-503, R18-15-504, and R18-15-505, may file a formal letter of dispute with the ~~executive director~~ Director according to subsections (B), (C), (D), and (E). Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under R18-15-503, R18-15-504 or R18-15-505 shall proceed under R18-15-503(H), R18-15-504(H) or R18-15-505(H), as applicable.

- B. The interested party shall file the formal letter of dispute with the ~~executive director~~ 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 ~~executive director~~ 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.

**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 ~~a water provider as defined by A.R.S. § 49-1201(13)~~ 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); the water provider meets the requirements of A.R.S. § 49-1273(C); and the proposed project appears on the Water Supply Development Revolving Fund ~~project list~~ 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.

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

- A. The Authority annually shall prepare a Water Supply Development Revolving Fund ~~project list~~ Project Priority List. The Authority is not required to prepare a Water Supply Development Revolving Fund ~~project list~~ 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 list~~ Project Priority List. The applicant may request that multiple projects be placed on the Water Supply Development Revolving Fund ~~project list~~ Project Priority List. An applicant shall make a request for placement of a project on the Water Supply Development Revolving Fund ~~project list~~

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 list~~ 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 list~~ Project Priority List, the Authority shall consider all ~~project list~~ 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 list~~ Project Priority List shall identify:
1. The applicant;
  2. Project title;
  3. A project description;
  4. Population of the water provider's ~~service~~ area served;
  5. The amount requested for financial assistance; and
  - ~~5-6.~~ 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 list~~ 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 list~~ Project Priority List and then adopt the Water Supply Development Revolving Fund ~~project list~~ Project Priority List at a public meeting.
- E. After adoption of the annual ~~project list~~ Project Priority List, the ~~Board~~ Authority may allow:
1. Updates and corrections to the adopted Water Supply Development Revolving Fund ~~project list~~ Project Priority List, if the updates and corrections are adopted by the ~~Board~~ Authority after an opportunity for public notice; or
  2. Additions to the Water Supply Development Revolving Fund ~~project list~~ Project Priority List, if the additions are adopted by the ~~Board~~ Authority after an opportunity for public notice.
- F. After an opportunity for public notice, the ~~Board~~ Authority may remove a project from the Water Supply Development Revolving Fund ~~project list~~ 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; ~~or~~

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

**R18-15-403. Water Supply Development Revolving Fund ~~Project List Ranking Order and~~ Priority**

- A. The Authority shall consider the ~~following categories~~ 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 list~~ Project Priority List.
  1. ~~The Authority shall evaluate the existing, near term, and long term water demands of the water provider as compared to the existing water supplies of the water provider.~~
  2. ~~The Authority shall evaluate the existing and planned conservation and water management programs of the water provider.~~
  3. ~~The Authority shall evaluate the current conditions of the water provider's facilities and the water provider's water supply needs, and evaluate how effectively the project will benefit the infrastructure or water supply needs.~~
  4. ~~The Authority shall evaluate the sustainability of the water supply to be developed through the project.~~
  5. ~~The Authority shall evaluate the applicant's need for financial assistance.~~
- 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 Authority shall give priority to the project with the highest water demand score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest conservation and water management score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (5), sequentially. If projects continue to remain tied, the Board shall determine the priority of the tied projects.~~

**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 list~~ 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 list~~ Project Priority List.
- B. The Authority shall not ~~forward~~ present an application for financial assistance to the Board for consideration until all the following conditions are met:
  1. ~~The water supply development project has been prioritized~~ 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.

**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 ~~three~~-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; ~~and~~
  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.
- BC.** 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.

**CE.** 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 list~~ 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 by the Authority. The Board shall consider each application in the order the project appears on the current Water Supply Development Revolving Fund ~~project list~~ Project Priority List. The Board shall make a determination as described in subsection (**BC**) on each application until the available funds are committed.

**DE.** 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.

#### **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).

##### **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.

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

**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.

**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.

**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 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.

**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.

**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.

**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 Conversation Grant Fund shall submit applications in a form acceptable to the Authority.

**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.

**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.

**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.

**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.