



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

A.A.C. Title 20, Chapter 8

February 2013

Overview

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

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

Rule Review

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

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

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

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

A. The authority shall:

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

All rules under 20 A.A.C. 8 stem from this statutory authority.

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

The rules effectively achieve their objectives.

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

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

This is a state program and is governed by state law.

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

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

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

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

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

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

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

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

There was no financial assistance offered in fiscal year 2012 due to external financial reasons. A financial assistance round has been opened this fiscal year for current borrowers solely to refund or purchase outstanding GADA bonds.

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

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

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

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

12. Determination that the Rule is not More Stringent than a Corresponding Federal Law Unless there is Statutory Authority to Exceed the Requirements of that Federal Law [A.R.S. 41 § 1056(A)(10)]

The rules are not more stringent than any corresponding federal law.

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

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

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

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

Analysis of Individual Articles

Article 1. Technical Assistance (A.A.C. R20-8-101 to 104)

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

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

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

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Definitions were updated and those which were repetitive of statute were removed.

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

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

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

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Clarifying changes were made, including allowing electronic notification of round openings, and adding examples of acceptable documentation.

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

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

The purpose of this rule is to set forth the eligibility criteria for receipt of technical assistance.

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Unnecessary words were removed and a section on the applicant's responsibility to cover costs incurred by the Authority was included.

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

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

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

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Ineffective criteria were removed and replaced with more effective measurements. The protest section was amended to match state law.

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

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

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

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

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Definitions were updated, new definitions were added and those which were repetitive of statute were removed.

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

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

This rule is intended to formalize the process of opening a new round of financial assistance. It also provides a list of items that the Authority may request as part of an application for financial assistance.

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Clarifying changes were made to simplify the application process, allow electronic notification of round openings and provide examples of acceptable documentation. Clarification regarding which applicants need a public vote was achieved by including a reference to A.R.S. §41-2257.

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

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

The objective of this rule is to set forth the eligibility criteria for the receipt of financial assistance.

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Unnecessary words were removed. Clarifying revisions were made, and subsection 8 was revised to be quantifiable and to require that the applicant will spend its loan proceeds in accordance with the timeline provided in its application.

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

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

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

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

The 2010 rulemaking addressed the course of action indicated in the 2008 five-year review report. Ineffective criteria were removed and replaced with more effective measurements. Points are included, enabling the prioritization of loan applications and breaking of ties. This has become increasingly necessary as the capacity of the program declines. Clarifying changes were made including allowing electronic notification. The protest section was amended to match state law.