

**NOTICE OF RULE MAKING**

**Arizona Commerce Authority Rule Notice of Rule Making No. 23-02**

**1. Rule(s):**

Water Infrastructure and Commerce Grant Fund

**2. Preamble.**

A. A.R.S. § 41-1510

B. The proposed Rules will govern the Water Infrastructure and Commerce Grant Fund. The Rules are necessary to implement the program, created by the Legislature in 2022.

**3. The exact wording of the rule.**

See attached.

**4. The name and contact information of agency personnel with whom persons may communicate regarding the rule.**

Angie Valenzuela  
Director, Financial Incentive Programs  
100 North 7<sup>th</sup> Avenue, Suite 400  
Phoenix, AZ 85007  
Phone: 602-806-1783  
Fax: 602-845-1201  
Email: [angiev@azcommerce.com](mailto:angiev@azcommerce.com)

**5. Where written submissions on the proposed rule may be inspected (by appointment only).**

Arizona Commerce Authority  
100 North 7<sup>th</sup> Avenue, Suite 400  
Phoenix, Arizona 85007

**6. The time during which written submissions may be made and the time and place, if scheduled, where oral comments may be made.**

Written submissions may be made within thirty (30) days after the date of posting of the Notice of Rule Making. Written submissions should be directed to:

Attention: Water Infrastructure and Commerce Grant Fund  
Arizona Commerce Authority  
100 North 7<sup>th</sup> Avenue, Suite 400  
Phoenix, Arizona 85007



Submissions also may be transmitted electronically within the same time period by directing the submission to:

Attention: Water Infrastructure and Commerce Grant Fund  
[angiev@azcommerce.com](mailto:angiev@azcommerce.com)

No hearing to receive oral comments has been scheduled at this time.

**7. Any known timetable for agency decisions or other action in the proceeding.**

None at this time.

**8. The date of posting the Notice of Rule Making.**

March 7, 2023

**9. The deadline for the Authority to file a notice of adoption of the rule.**

No later than 180 days from March 7, 2023



## WATER INFRASTRUCTURE AND COMMERCE GRANT FUND

### I. Overview

The Water Infrastructure and Commerce Grant Fund established under [A.R.S. § 41-1510](#) provides grants for eligible entities contracting for the design and construction of Water Infrastructure at an eligible entity's location in the state of Arizona.

The Arizona Commerce Authority (the "Authority") may award grants for Arizona water infrastructure projects that begin after January 1, 2022.

### II. Source of Funding

The Water Infrastructure and Commerce Grant Fund is funded by legislative appropriations, federal monies, and private donations. Monies in the fund are continuously appropriated and are exempt from the provisions of [A.R.S. § 35-190](#) relating to lapsing of appropriations.

The Authority may distribute allocated grant funds not to exceed \$15,000,000 through December 31, 2024.

### III. Eligible Applicants

The following entities are eligible to apply for and receive grant monies:

- An employer with more than two hundred fifty (250) employees that is located in an Arizona county with a population of more than four hundred thousand (400,000) persons and less than one million (1,000,000) persons; and/or
- A Public Service Corporation that provides water service pursuant to a Certificate of Convenience and Necessity ("CC&N") issued by the Arizona Corporation Commission and that is acting on behalf of an employer with more than two hundred fifty (250) employees that is located in an Arizona county with a population of more than four hundred thousand (400,000) persons and less than one million (1,000,000) persons.

### IV. How to Apply

The Water Infrastructure and Commerce Grant may be applied for by completing and submitting, via email, an application. An Application Form will be provided by the Authority, upon request.

Applications shall be submitted to the Authority, in writing, to [WICG@azcommerce.com](mailto:WICG@azcommerce.com)

The Application Form shall at a minimum include:

1. Applicant's name, address, tax identification number



2. Name and contact information of an individual who may be contacted with regard to the Application
3. If the applicant is a Public Service Corporation, the following shall also be included:
  - a. Name of the employer the Public Service Corporation is applying on behalf of
  - b. Address and tax identification number of the employer acting on behalf of
  - c. Name and contact information of an individual employed by the employer who may be contacted with regard to the Application
  - d. Documentation evidencing Public Service Corporation's authority to act on behalf of an eligible employer
  - e. Copy of CC&N, if applicable
4. Address and name of the owner of the property in Arizona that the new Water Infrastructure project will be located on
5. Number of employees employed by the employer as of the date of application
6. Estimated number of New Jobs to be created in the state as a result of the project
7. Date the project began or estimated date the project will begin
8. Date of project completion or estimated date of project completion
9. Amount of grant award request
10. Description of the overall project and water services requested, including:
  - a. Why the project and water services are needed
  - b. How the project will provide a direct economic impact in the best interest of the State of Arizona
  - c. Estimated project budget
11. If applicable, a description of any cooperative efforts and collaborations with other members and/or entities in the community
12. An affidavit that the applicant (employer and/or Public Service Corporation) meets all eligibility requirements to receive grant monies
13. An affidavit that all grant monies will be used in compliance with [A.R.S. § 41-1510\(B\)](#), the Authority's requirements and otherwise applicable law
14. Proof of employer's registration with the E-Verify Program. ([A.R.S. § 23-214\(B\)](#) requires an employer that seeks government incentives or contracts to participate in the E-Verify Program.)
15. Any other information the Authority requests in order to facilitate the review of the Application

During the review of a complete Application Form, the Authority may request additional information, conduct a site visit, or discuss the Application with the applicant to make a final determination.

The Authority will attempt to make a determination regarding the Application within 60 calendar days after receipt of any or all information requested by the Authority in order for the Application to be rendered complete or, in the absence of a request for additional information, within 60 calendar days of the Application's submission.



**V. Grant Award Process**

The Authority shall award grants based on the multiple factors, including direct economic impact to Arizona. Higher priority will be given to grant Applications that include collaboration and cooperation with other members and entities in the community.

The Authority may only award grants for projects that meet the following requirements and criteria:

- New water infrastructure projects of an eligible applicant that are located at the eligible applicant's property in an Arizona county with a population of more than four hundred thousand (400,000) persons and less than one million (1,000,000) persons
- Projects that create New Jobs
- Projects that begin after January 1, 2022 but not allocated or distributed later than December 31, 2024.

The award amount for successful grant Applications that qualify for a Water Infrastructure and Commerce Grant for which funding is available, will be determined by the Authority.

The ACA shall distribute grant award within a reasonable time after the approval of a successful Application.

**VI. Reporting Requirements**

Annual Reporting – Any award recipient shall submit an expenditure and project performance report to the Authority on or before December 1<sup>st</sup> of each year. Such report shall be on a form provided by the ACA and shall include, but is not limited to, information that reflects the water infrastructure Project expenditures and performance of the direct economic impact of the grant to the Award Recipient and the state as a whole, including the number of New Jobs created.

**VII. Definition of Terms**

“New Job” means a full-time employment position created for the project, that is paid at least equal to the county median wage, where the project is located.

“Public Service Corporation” shall have the same meaning as in Arizona Constitution Art. XV § 2: All corporations other than municipal engaged in furnishing gas, oil, or electricity for light, fuel, or power; or in furnishing water for irrigation, fire protection, or other public purposes; or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes; or engaged in collecting, transporting, treating, purifying and disposing of sewage through a system, for profit; or in transmitting messages or furnishing public telegraph or telephone service, and all corporations other than municipal, operating as common carriers, shall be deemed public service corporations.

“Water Infrastructure” means any infrastructure that is, or is to be, used for:

- the collection or storage of water, including from a dam or reservoir or a water production plant; or
- the treatment of water; or
- the conveyance or reticulation of water and includes the connection point; or
- any other infrastructure used in connection with water and declared to be water infrastructure by the governing water infrastructure authority, but does not include:



- pipe, fitting or apparatus that is situated downstream of a customer's connection point to a water main; or
- any pipe, fitting or apparatus that is situated upstream of a customer's connection point to a stormwater drain; or
- infrastructure situated entirely within the one landholding and not connected to any other infrastructure situated within another landholding; or
- any other infrastructure used in connection with water that is declared not to be water infrastructure by the governing water infrastructure authority.

