

# Bylaws and Policies



ARIZONA  
COMMERCE  
AUTHORITY

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# ACA Bylaws and Policies

## Bylaws and Policies – Overview

- **Bylaws** – inherently appropriate for Board approval
- **Policies** – HB 2001 requires the policies and requires Board approval of them; two general types:
  - Conduct:
    - **(1) Conflicts of Interest, (2) Gifts, (3) Ethics**
    - Statutes govern
  - Operations
    - **(4) Accounting, (5) Procurement & Grants, (6) Travel & Entertainment, (7) Employment Terms & Conditions**
    - Statutory Exemptions

# ACA Bylaws and Policies

## Bylaws and Policies – Process

- Began in March, 2011 following passage of HB 2001 in February
- Bylaws and policies were drafted by the Arizona Department of Administration (Procurement & Grants), ACA accountants (Accounting), and ACA attorneys (all others)
- Bylaws and policies were reviewed by ADOA, ACA attorneys, Governor's office and ACA staff
- Approval by ACA Board



# ACA Bylaws and Policies

## Bylaws – Summary

- Control ACA structure and operations, including Board composition, open meetings, quorum, and committees
- These issues are almost entirely governed by statute – the primary purpose of the bylaws is to provide a single point of reference

# ACA Bylaws and Policies

## Policies – Conduct – Overview

- No statutory exemptions – Arizona law provides a baseline of standards
- Policies (i) restate or reference statutes, (ii) create supplemental (heightened) standards and (iii) create procedures for monitoring, reporting and investigating possible infractions
- Apply to “Stakeholders,” which includes all ACA Board members, Officers and Staff

# ACA Bylaws and Policies

## Policies – Conduct – Overview

- **Objectives:**
  - Ensure that ACA decisions are made in the best interests of the ACA
  - Preserve the ACA's reputation

# ACA Bylaws and Policies

## Policies – Conduct – Conflict of Interest

- Includes statutory definition of COI: “a Substantial Interest in any contract, sale, purchase or service to the ACA, or in any decision of the ACA” (transactional)
- Adds two additional definitions, to cover personal interests that: (i) are “fundamentally at odds with the best interests of ACA or the impartial, objective and effective performance of the Stakeholder’s duties to ACA” (inherent); or (ii) “otherwise materially conflict with the best interests of the ACA” (catch-all)

# ACA Bylaws and Policies

## Policies – Conduct – Conflict of Interest

- When conflicts or potential conflicts arise, (i) disclosure and (ii) disqualification from related ACA decision-making processes are both mandatory
- Management must evaluate whether additional steps are needed to mitigate the conflict
- Provisions for disclosure, staff consultation, investigation, and reporting to the Board



# ACA Bylaws and Policies

## **Policies – Conduct – Gifts and Ethics**

- Reference or restate statutory baselines
- Address giving and receiving gifts, honesty, fair dealing, discrimination, confidentiality
- Provisions for disclosure, staff consultation, investigation, and reporting to the Board

# ACA Bylaws and Policies

## Policies – Conduct – Ethics Compliance

- Policies are only one piece of the ethics puzzle; other pieces include:
  - Creating a culture of compliance – Staff education, leading by example
  - Vigilance in monitoring – Regular review of expenditures, Board oversight

# ACA Bylaws and Policies

## Policies – Operations – Overview

- Statutory exemptions in each area, but policies must be “similar” to ADOA policies
- Effect: Very similar rules; main difference is that ADOA does not administer ACA operations functionally, which creates some dexterity in a competitive environment
- More detailed procedures will be drafted based on policies

# ACA Bylaws and Policies

## Policies – Operations – Overview

- **Objectives**
  - Ensure consistency
  - Reduce staff time in administration
  - Promote accountability
  - Support ACA staff in advancing Arizona's economy

# ACA Bylaws and Policies

## Policies – Operations – Accounting

- Based on widely accepted standards and practices
- Different from the state's policy generally only where a different accounting standard applies due to the size or nature of the ACA
- Will result in greater controls:
  - Materiality
  - CFO review

# ACA Bylaws and Policies

## Policies – Operations – Travel & Entertainment and Procurement & Grants

- Distilled from ADOA policies
- Same competition thresholds for procurement, including publicly-noticed solicitations for procurements in excess of \$50,000
- Same standards for travel accommodations
- Better controls in both cases since tied to ACA's internal, full cycle accounting

## ACA Bylaws and Policies

### **Policies – Operations – Employment Terms and Conditions**

- Compensation, holidays, leave and insurance,
- Each term is less generous than corresponding state term, e.g.:
  - 10 fewer PTO days for starting employees
  - Approximately 20% less in health insurance
  - More than 50% less in retirement benefits

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