**9-1-1 ARM-Rule Making Subcommittee Meeting**

 **Thursday, Feb. 22, 2018**

**Conference Call Minutes**

**Present**

Geoff Feiss, MTA, Subcommittee Chair

Steve Hadden, Jefferson Co.

Bill Nyby, Sheridan Co.

Denis Pitman, Yellowstone Co.

Jennie Stapp, MSL

**Absent:**

Adriane Beck, Missoula Co.

Liz Brooks, Flathead Co.

Kim Burdick, Chouteau Co.

**Staff**

Don Harris, DOA Quinn Ness, PSCB

Wing Spooner, PSCB Rhonda Sullivan, PSCB

**Guests**

Sandra Barrows, Barrows Consulting

Tim Nixdorf, Triangle Communications

**Call to Order**: Geoff Feiss called the meeting to order. A roll call was taken. A quorum was present.

**Adoption of Meeting Minutes:** This will be postponed until the next meeting.

**Review of DRAFT 9-1-1 Grant Program Guidelines**: Geoff asked if members could look at his most recent tracked changes draft along with the clean draft that Quinn sent out earlier. The goal is to publish these rules by July 1, 2018. If consensus can be reached today, the guidelines can be distributed to the 9-1-1 Advisory Council prior to its March 8, 2018 meeting. The 9-1-1 Advisory Council may be able to adopt the guidelines at its meeting and direct the department to move forward with the formal administrative rules process. The goal would be to adopt the rules by July 1, 2018 so the grant program can be implemented within the statutory deadline of july1, 2018.

Tracked changes in the latest draft showed the addition of page numbering and the global change of spelling from “telecommunication” to telecommunications.”

**B. PROGRAM GLOSSARY OF TERMS:**

* The definition of a “Certified Local Government” is still highlighted pending the final adoption of administrative rules so that a citation can be added.
* “Project Site” – This definition no longer needs to be included because text that used the term has been removed.
* “Resolution” – This definition also is no longer included because text that included it has been removed.
* “Start Date” – Once again, a definition for this term is no longer needed because the text that included it has been removed.

All remaining definitions are provided for in statute. Bill believes the simplification is an improvement.

**C. ELIGIBLE APPLICANTS**

Text that was not in statute has been deleted. Only text from the statute has been included in the current draft.

**D. ELIGIBLE USES OF FUNDS**

Geoff proposed the addition of this sentence: “A list of allowable uses of funds is adopted by reference at [www.doa.mt.gov] as a non-exclusive example specific types of allowable uses of funds.” Quinn clarified that the current list of allowable uses applies to funds for PSAPs that come from a different 9-1-1 account. Geoff indicated that a similar list exists for providers: the wireless cost recovery account list of allowable uses. Quinn pointed out that these are no longer relevant since that program will be abolished as of July 1, 2018. Geoff proposed simply re-using the list, but it is not clear if the subcommittee has the authority to adopt additional eligible uses other than those listed in MCA 10-4-306(2). Rule cannot supersede law.

Steve Hadden agreed because the wording simply says: “The type and uses of 9-1-1 grant funds. . . include:” It doesn’t say “including, but not limited to:” When Quinn recently re-read this list of allowable expenditures, he realized that the proposal to allow reimbursement of administrative costs had to be struck because those costs were not listed in statute. Steve read the statute and shared his opinion that the list is exhaustive. He does not read that the subcommittee can add to the list what is not specifically included by the legislature.

A clean-up bill could be considered in the next legislative session to include administrative costs and amend the list. The legislature would need to amend the statute. Sandra said the types of expenses on the current wireless cost recovery account list would fall under one of the four categories. She explained that the intent is not to expand the list beyond what is provided for in statute, it is just to provide some insight, clarification, and examples to show what would be included in those four bullets already.

The statute states what a 9-1-1 system is, which may or may not be inclusive. The 9-1-1 Advisory Council and the department will have to make that determination on an application-by-application basis. The proposed changes to Appendix A where the applicant is asked to explain in detail what eligible uses the requested 9-1-1 grant funding will be used for, make it contingent upon the applicant to propose how their use of grant funds fits the definition of a 9-1-1 system, which would be determined by the 9-1-1 Advisory Council and the department.

Geoff believes that we are actually expanding—not narrowing—the allowable types of uses of 9-1-1 grant funds because the statute is somewhat vague. He believes it is a more inclusive list. Quinn stated that he doesn’t know if it is possible to provide an exhaustive list of eligible uses. The list of eligible uses can’t be expanded but could be clarified with examples of items that fit this definition in statute. It just isn’t possible to develop a complete list, so determinations will need to be made on a case-by-case basis. Plus, a complete list could not include new technology that hasn’t yet been developed. Geoff made a comparison to Section 7, where a list of allowable uses for 9-1-1 funds is given. Quinn indicated that there is nothing in statute that defined allowable uses of 9-1-1 funds that are quarterly distributed to local governments that host certified PSAPs. The Department is directed in statute to “monitor the expenditure of program funds” so the department clarified in rule what expenditures would allowable when the department “monitors” the expenditure of these funds. The quarterly distribution of funding to local governments is a separate independent program from the grant program statutorily, so rules adopted for one program don’t apply to the other program.

Geoff proposed the following additional text: “1. The Department may request additional information from the applicant to clarify the uses to which the applicant proposes to apply funds.” Geoff’s suggestion was accepted and included in the form in Appendix A.

Geoff also proposed the following new paragraph: “Beginning in Fiscal Year 2020, and except for extenuating circumstances, the department will discourage applicants from seeking grant funds for expenses incurred by applicants prior to an award date. Such expenses may be segregated from the rest of the grant for additional review and approval.”

Quinn noted that the following clause,

“It is important that applicants not incur costs or obligate funds which are intended to be reimbursed by a 9-1-1 program grant prior to the date of award. Expenses incurred by applicants prior to an award date are expenses incurred at the applicant’s own risk.”

has been stricken from the most recent draft. So, Geoff’s proposed paragraph would need to be added to the current draft. The final decision on this type of expense would be up to the 9-1-1 Advisory Council and the Department.

Geoff also noted that he tried to remove the word “project” throughout the guidelines, because not all grants will necessarily be used for projects.

Geoff believes that the statute clearly gives the 9-1-1 Advisory Council the authority to write rules to implement the statute. He believes it is within the group’s authority to write rules to account for the transition from current law to future law if that transition requires a consideration of expenses incurred between the end of current law and the beginning of the grant period. There’s a period between which applicants will file for grant funding and the time when grants are provided. There is a gap for legitimately incurred expenses. It is within the subcommittee’s legal authority to try to provide funds that cover expenses that are incurred before the grant program begins. He limited the time frame to just fiscal year 2019 for the subcommittee to consider.

Quinn reiterated that in the clean copy the clause about not incurring costs or obligating funds prior to the date of award has been removed, so there is no restriction in the current draft.

The **Administrative Costs** section is not allowable by statute, so this was removed.

**E. PUBLIC’S RIGHT TO KNOW (Article II, Section 9 of the Montana Constitution):** In this section, staff did not want to provide a confidentiality agreement or affidavit form because then the department could be perceived as providing legal advice on the content of agreements. The latest draft of the guidelines includes language indicating that their application and any other documents produced with 9-1-1 money are considered public documents. The following note was added:

“If an applicant believes that any application document(s) and/or any document(s) produced with 9-1-1 grant program funding is confidential, the applicant must contact the Department prior to submitting any application document(s) to discuss a potential confidentiality agreement and affidavit.”

So, if a private telecommunications provider or a local government entity has concerns about the public’s right to know, then it should contact the department and potentially a confidentiality agreement could be created and executed as well as an affidavit.

If a potential applicant has concerns about something being confidential, it would work with the department’s legal staff to come up with an agreement. Steve asked Don Harris what his preference is concerning having the telecommunications company propose a confidentiality agreement rather than the department. Don’s preference is not to refer to a confidentiality agreement, but rather have the applicant indicate with an affidavit which items are confidential. Geoff said that’s how he does it with a protective order with the Public Service Commission that specifically identifies what the information is that is to be protected, and this process is okay.

After discussion, the subcommittee agreed to delete the words “to discuss a potential confidentiality agreement and affidavit” from the end of the “NOTE” section, so that is simply reads: “NOTE: If an applicant believes that any application document(s) and/or any document(s) produced with 9-1-1 grant program funding is confidential, the applicant must contact the Department prior to submitting any application document(s).”

Tim Nixdorf, Triangle Communications, was asked for his comments. Tim explained that anything his company does involves signing third-party confidentiality agreements, which limits what they can share. So, it would be nice to know up front how the department is going to handle this and what it expects so he can better understand what the next steps are. It would be helpful to have some sort of understanding or framework for how that’s going to happen.

Quinn referred Tim to Appendix A, Application Form, Section II. ASSISTED BUSINESS INFORMATION, which asks for very basic information. With a bit of discretion, the company would not have to submit anything that might be confidential. Tim indicated that if they are asked to provide additional detailed information, that might end up requiring a violation of their NDAs (Non-Disclosure Agreements). Quinn said that a subsequent section that said the department could ask for additional information has been eliminated. An applicant won’t be penalized for not providing sufficient information. There is no statutory guidance. Funding award decisions will have to be based on the information provided in the application.

Geoff wants to ponder these changes. He expressed concern that a provider asking for a confidentiality agreement could potentially be at a disadvantage because of doing so.

**F. APPLICATION REVIEW & GRANT AWARDS**:

Quinn brought to the attention of the subcommittee that the following text has been stricken from this section: “**Grant Awards and Funding Levels Will Be Determined by Factors Such As**:

a. The availability of funding;

b. Local participation and commitment documented with letters of support (letters of support should be addressed to the 9-1-1 Advisory Council);

c. The community and regional public safety need; and

d. Project readiness to proceed immediately upon notification of award.”

All this text has been deleted because there was no statutory basis for it and the language used was not definitive. The “Grant Award Preference” language is still in the draft document.

Quinn reviewed the proposed calendar year activity list. The proposal to accept applications during the period of June 1 to July 31 won’t work because of the overlap with the end of the state fiscal year. We won’t be able to determine the available fund balance in the account until all fiscal year-end transaction entries have been completed, which typically does not happen until September. The text was amended to read that applications will be accepted from July 1 to September 30. At that time, we will know what the available funds balance is, and that information can be provided to the Advisory Council. In SFY 2018 transactions in this account will be made in August 2018; so, we will not know the available fund balance until September 2018. Geoff clarified that his intention with his edits was to compress the application process time period.

Quinn indicated that other important dates, such as the 9-1-1 Advisory Council meetings, were not included in the grant application guidelines. The current quarterly meeting schedule is the second Thursday of the month. Quinn discussed the schedule and how it meshes with the 9‑1-1 Advisory Council meetings.

Geoff also had some questions about consistency in wording between “the Department” and “the Director.” Quinn reported that the third bullet was changed to read: “The 9-1-1 Advisory Council and the Department will make final grant awards. . .” Even though Quinn believes that the Department is authorized by the legislature in statute to make final grant awards, he changed the wording to reflect the intent that the Department would receive advice from the 9-1-1 Advisory Council. The 9-1-1 Advisory Council as a body is not authorized to make the awards; the Department is.

Under “Department Duties and Powers” in the MCA (10-4-107), subsection (2)(c) the Department has the authority to provide grants in accordance with 10-4-306. That gives the Department the direction and authorization to make the final awards. Geoff summarized that references to “Director” will be replaced with the “Department.”

Quinn stated that staff’s original intent was to provide an overview of the process in Section G: Follow-up and Section H: Other Considerations. That content seems to create confusion and since it was just procedural, there was really so no need to have it in the guidelines. Hence, those sections were removed.

Geoff asked, “Who is the Department?” Quinn indicated that the Department as identified in statute is the Department of Administration, provided for in Title 2, Chapter 15, Part 10. The Department has the authority to sign and execute contracts and to sign and approve expenditures. Typically, the Department’s Director or the Director’s delegate would be required to sign any grant contracts. The Director is authorized to delegate authority.

Steve stated that typically within any organization if you have an individual who is tasked by the Director to carry out a certain task and they have the authority to undertake that task, as long as the individual is acting within the scope of their duties under the Director of the Head of a Department, they are authorized to carry out those duties.

Don shared that opinion. In terms of past practice, the Department and the Director have historically deferred to the 9-1-1 Program and he would expect that to continue. Quinn said it is our intent to always go to the 9-11 Advisory Council to request guidance and advice. Bill asked Quinn if the 9-1-1 Advisory Council makes a recommendation and the Department disagrees with that recommendation, then does the Department has the final say? Yes. The 9-1-1 Advisory Council is not authorized to enter into contracts or to expend funds. The legislature has authorized the Department to engage in contracts and expend funds. The 9-1-1 Advisory Council advises the Department, and that is what is in statute, and we fully support that practice. We are directed in statute that the 9-1-1 Advisory Council is authorized to provide recommendations to the Department and the Department is authorized to make the final decision.

Don concurred. He referenced MCA 10-4-106, subsection (2) and 10-4-107, subsection (2)(c), which make it clear that the Department executes the grants and that the 9-1-1 Advisory Council provides recommendations. Geoff reiterated that he was just wondering who the Department is, and it seems to be whomever the Director has specifically delegated.

Quinn stated that the Director of the Department, as a political appointee, is also provided for in statute. In doing his duty to protect the Director, he would not be comfortable with changing any text that specifically made the Director specifically responsible for a particular decision. The Director needs to be given the opportunity to delegate, and he is provided this delegation authority in law.

**Grant Award Preference (10-4-306(3) MCA):** There were no changes made to this text.

As stated previously, the text under the heading “**Grant Awards and Funding Levels Will Be Determined by Factors Such As:**” was deleted. Geoff also proposed striking the note that said, “the 9-1-1 Advisory Council and the Department reserve the right to request additional information. . .” Staff concurred, and this text was removed.

**Application Submittal and Deadlines:** As stated previously, the text has been amended to read that all applications are accepted on an annual basis between July 1 and September 30. Geoff suggested that the wording be changed from “postmarked by” to “received by,” and this change was accepted. The time of 5:00 MST was added to the deadline date.

**G. DEPARTMENT FOLLOW-UP:** All text in this section was removed. It was all procedural and created confusion. Procedures will be explained when a grant award is made.

Geoff expressed a concern about making sure that contracts with terms and conditions reflect a two-way street. In other words, the agreement between the Department and the applicant to perform whatever functions that are agreed to are indeed agreed to as a result of a discussion between the Department and the applicant. Geoff also added a section on Appeals to make it clear what recourse applicants have if an application is denied. Quinn believes that the 9-1-1 Advisory Council will need to weigh in. Since we removed the criteria for prioritization and approval of grant applications, he doesn’t know how relevant this issue is. It goes without saying that any contract process is a negotiation between the Department and the Contractor. If the 9-1-1 Advisory Council determines that the application is for an allowable use and it is from an eligible applicant, then there shouldn’t be an issue.

The language on contracts was deleted because it is outside the grant application guidelines. The contract process comes after a grant award is made. The applicant proposes a use and an amount of funds and if the 9-1-1 Advisory Council approves it, then those are the core terms of the contract. Other standard language will be used that is in every state contract that is probably guided by statute.

Geoff asked if the application is for $50,000, and the Advisory Council believes it can be done for $40,000, is there a process by which the conflict can be remedied?

Quinn noted that we took out the language that allowed the Department and Council to request additional information, so the basis of funding decisions will be on what is provided in the application. Geoff expressed concern that the Department might deny an application because it does not contain sufficient information. However, it appears that an application that is justified and meets the eligibility rules for a 9‑1‑1 system will be approved.

Does the 9-1-1 Advisory Council want to create some guidance for itself to use for determining how applications are going to be ranked and prioritized? If the 9-1-1 Advisory Council recommends to the Department to adopt additional rules about how they are going to review, score, prioritize, or determine funding levels, then a discussion will need to occur on what that criteria and process should be.

There are issues with confidentiality agreements and affidavits for confidential information and there is concern over the clause that would allow additional information to be requested. If the information is deemed confidential, it will be very difficult for the Advisory Council to review that. The Advisory Council statutorily includes 17-public members that is required to have open public meetings to discuss the applications. If they are going to take any action on an application, that information must be posted publicly to the website as well as be available to the public. If the Council requires information that is a trade secret, how can they receive it and review it and how can it be shared at a public meeting?

Geoff said the information can be filed with the department under a Protective Order, which would prevent it from being shared with the Council. Quinn noted that that would put the Department in the position of making decisions based on information the Council was not privy to and could potentially be contrary to an Advisory Council recommendation.

If an applicant cannot or does not submit information that you believe the Council might need to make a grant decision, then the grant may not be awarded. This is precisely the situation that Geoff wanted to avoid. The purpose of the law is to enable providers to be eligible for cost recovery for 9-1-1 systems. But the Catch-22 situation of “if you have information that you cannot disclose, you’re not going to get the grant” must be avoided.

Quinn clarified that the statute authorizes a grant; it does not authorize cost recovery. The reason the application form was amended and shortened, especially in the project description, was because we shouldn’t ask for any information that the Council wouldn’t use to make a funding award decision. Why would we ask for financial information? About month ago, the subcommittee discussed whether the Council would be asked to decide about the financial viability of a telecommunications provider, and the answer was no. We do not want to request financial information or projections that would most certainly be deemed as confidential. In addition, if this information were requested, then we would need a subject-matter expert to review that information and provide an opinion.

Geoff clarified that the Department should not ask for information that it wouldn’t use to make an award decision. He just doesn’t want the lack of information to be used against providers in getting their grant applications approved.

Quinn believes this should be a discussion for the Advisory Council to decide if they want to identify a process and criteria to review and prioritize the grants. If they do, we will continue with this process with them to determine what that criteria might be. Geoff clarified that this would be subject to rule making in keeping with the goal of removing departmental discretion.

By removing clauses such as “the Department reserves the right to request additional information,” then we are taking away Departmental discretion. The Advisory Council is charged with making recommendations to the Department, so Quinn thinks that we should engage them in this discussion and determine if they want to develop and adopt in rule a process for making those recommendations.

Geoff believes this process should be incorporated in the rules: If an application comes in and it is from an eligible recipient for an eligible expense, then the Council shall approve it. Geoff feels he is getting mixed messages because the Council might have some discretion because they don’t like the information that they may or may not have.

Quinn believes the legislature gave that discretion to the Council when they directed them in statute to provide recommendations to the Department in determining grants awarded. With this, the 9-1-1 Advisory Council can make a recommendation to approve a grant application or it can make a recommendation to not approve an application.

Quinn directed members to return to **Section F: Application Review and Grant Awards**. The subsection that was eliminated, was:

“Grant Awards and Funding Levels Will Be Determined by Factors Such As:

a. The availability of funding;

b. Local participation and commitment documented with letters of support (letters of support should be addressed to the 9-1-1 Advisory Council);

c. The community and regional public safety need; and

d. Project readiness to proceed immediately upon notification of award.”

All the criteria would apply to local governments. Availability of funding would be the only criteria that would apply to providers. Quinn reads that as saying if an eligible private telecommunications provider applies for an allowable use and funding is available, then it would probably be funded. That is what Geoff is proposing. So, if this language is to be included, it needs to be refined slightly to make it more exclusive. It should say the Department and the 9-1-1 Advisory Council shall consider the availability of funding. Geoff was comfortable with this.

The suggestion is to either include or remove this text and move the discussion up to the Advisory Council for final discussion. Here is the suggested new text:

Part I: In awarding grants to private telecommunications providers, the department and the 9-1-1 Advisory Council shall consider the availability of funding;

Part II: In awarding grants to certified local government entities, the department and the 9-1-1 Advisory Council shall consider:

a. The availability of funding;

b. Local participation and commitment documented with letters of support (letters of support should be addressed to the 9-1-1 Advisory Council);

c. The community and regional public safety need; and

d. Project readiness to proceed immediately upon notification of award.

Quinn asked Geoff if a vote could be taken by subcommittee members to accept this change. Geoff noted that he has not heard any pushback and there appeared to be consensus.

Quinn asked for procedural direction. He asked if Geoff would like staff to accept changes discussed today and redistribute the guidelines for final consideration and adoption. Geoff said a clean copy is needed after today’s discussion to see if everything is in order.

Before changing this section, Quinn wanted input on the question, “Why would the factors be different for PSAPs versus private telecommunications providers?” Geoff believed that the list requires some things that don’t apply to private telecommunications providers, such as local participation and documented commitment. He would be in favor of deleting the entire section and simply stating that in awarding grants, the 9-1-1 Advisory Council and the Department shall consider the availability of funding.

If factors b, c, and d above will be used as criteria for local governments, this information needs to be requested in the application.

**H. OTHER CONSIDERATIONS:** This section and Section G were deleted because they were not relevant to application guidelines. Geoff asked about language that the State Legislative Audit Division may require records, and Quinn clarified that language to that effect will be included in the contract, which is a requirement that he believes is in state law. It doesn’t have to be included and adopted it these rules. Sections G and H were just procedural and provided information on what the process would be after a grant award is made. Those sections were removed because they were creating more confusion than clarification.

**APPENDIX A – APPLICATION FORM,** **II. ASSISTED BUSINESS INFORMATION:** The wording“County where project is located in” was changed to “Project Location.”

**APPENDIX A - APPLICATION FORM, IV. PROJECT DESCRIPTION:** The wording, “Please describe, in detail, the Assisted Business (services, service area, market, competition, etc.):” was eliminated. It was no longer necessary because the criteria for the Advisory Council to review or make a recommendation based on service area or market competition was removed.

Geoff suggested adding the sentence: “Please provide in detail how the proposed use of grant funds meets the eligible uses of funds under 10‑4‑306, MCA”, which was accepted, but re-worded as follows:

“Please explain, in detail, what eligible use(s) (See Section D. ELIGIBLE USES OF FUNDS (10-4-306(2) MCA)) the requested 9-1-1 grant funding will be used for.”

This text: “Please explain, in detail, what the 9-1-1 Grant will be used for (ex: PSAP equipment purchase):” was also deleted. It is covered in the text above.

“If the applicant is a PSAP, please explain your community’s need for 9-1-1 grant program financial assistance and how receiving a grant will improve public safety response and/or benefit your PSAP and its agencies.” This text was removed because it is not part of the criteria.

The provision of project milestones can take place after the grant is awarded, so this wording was deleted.

**V. ATTACHMENTS**: The request for a copy of a “Government Resolution” was removed because it is no longer required.

**Vendor Budgetary Pricing or Quotes**: It was suggested that this information request be retained on the Application Form because it will be helpful to support the grant award to ensure that funds are not over-obligated. Geoff believes this information should be optional or subject to protective order because it might affect NDAs. He doesn’t think that providers will deliberately not provide the government with information it needs, but providers may not want to disclose confidential information.

Quinn reminded members that this information is being sought as part of the application process, and it provides additional information to justify the grant award amount. If the applicant hasn’t done any due diligence on what the project or equipment they are going to purchase is going to cost, the applicant could make a request for more grants funds than what is needed. Hence, available funds would be obligated so they could not be awarded to another grant application. In the grant management process, what would typically happen is the grant recipient would submit documentation on their costs, and at the end of the contract term, there would be an ending balance. So, grant funding that could be used for another project would be obligated or unavailable during the duration of the contract. Quinn understands concerns about confidentiality. The information being requested is not a requirement, but it would be helpful for grant management. Any remaining balance after a contract is closed-out is released and put back into the available funding balance.

Geoff asked how the grant process works, i.e. how does the money leave the department and enter the applicant’s account? Quinn used the following example: An application for $100,000 is approved. A grant award is made for $100,000, which creates a commitment. Funds in that account are earmarked or committed to a grant award. Once a grant contract is executed, then that becomes an obligation, a payable. So, those funds are then earmarked as an obligation. The grant recipient purchases the equipment and submits the documentation, which typically includes an invoice. Then the department releases that $100,000 and makes a payment to the grant recipient. The grant recipient then pays the vendor. The terms and conditions of the contract are fulfilled other than the reporting requirements. Then the contract is closed out. The payable is dissolved. This is the normal process in grants management.

An invoice could be issued before the grant recipient actually pays the invoice. Equipment can be purchased and then it will be billed. Funds are transferred electronically to the grant recipient. Then, when the grant recipient receives those funds, they pay the invoice.

A lot of contracts are net 30 or 60 days. Grant recipient can receive funds from the department before they actually make payment. Grant recipients cannot request funds for an invoice, receive the money and then, not pay the invoice. Also, grant funds may not be placed in an investment vehicle. These are basic terms and conditions of a contract which help to prevent the misuse of funds. The Federal government has the same set of requirements.

Asking for a vendor quote will prevent a scenario where the applicant requests $200,000 for a piece of equipment and a contract is executed for that amount. But the equipment only cost $100,000. That means an additional $100,000 was obligated in the grant account that didn’t need to be. After the recipient sends in an invoice for $100,000 and receives the requested funds, the remaining $100,000 would be released back to the grant account. This process could take a year or more depending on the complexity of purchasing the equipment. Geoff asked if the process of reverting unused funds back to the 9-1-1 grant account should be in the rules; however, this process is not part of the application process. This procedure will be outlined in the terms and conditions of the contract.

Geoff asked if there is a master contract and if there will be the ability to negotiate the terms. Typically, the Department will propose a contract and those terms and conditions will be reviewed by the grant recipient’s legal counsel. Desired changes will be submitted, which will be reviewed by the department’s legal counsel. Terms and conditions usually consist of boilerplate language with references back to state statute. There is publicly available boilerplate contract language in the State Contracts that are available on the State Procurement website. Quinn doesn’t expect that a grant recipient would have issues with the contract terms and conditions. The only language that would be filled in on a contract template would be the applicant name, address, tax ID number, amount of grant award, and what it will be used for.

Members were asked if changes are needed in the V. ATTACHMENTS section? Geoff said that it simply is a list of attachments and applicants check whether something is attached or not. If something is not attached, it doesn’t carry any prejudice or bias one way or the other.

**VI. APPLICATION CERTIFICATION**: A few changes were made in this section.

***(Insert Legal Name of Applicant)*** will accept responsibility for management of ~~the project,~~ 9-1-1 grant program funding received and compliance with 9-1-1 grant program regulations.

The text, 9-1-1 grant program funding was substituted for the word “project.”

Rather than the text suggested by Geoff, the following previously agreed-upon text from Section E. PUBLIC’S RIGHT TO KNOW will appear as follows:

***If an applicant believes that any application document(s) and/or any document(s) produced with 9-1-1 grant program funding is confidential, the applicant must contact the Department prior to submitting any application document(s).***

Geoff believes that more information and guidance is needed to assure private telecommunications providers that there is a process by which a protective order will be granted.

The suggested text at the bottom of the page was accepted. Steve noted that the time used in the deadline should state “5:00 PM MOUNTAIN TIME”. The word “STANDARD” needs to be deleted because we will still be under Daylight Savings Time.

Quinn expressed the fact that are in a little bit of a quandary in terms of timing. We need to give 9-1-1 Advisory Council members adequate time to review and consider the Application Guidelines in preparation for the March 8, 2018 meeting and to properly meet public meeting requirements. Plus, a lot of 9-1-1 Advisory Council members like to get feedback from their members and boards. Members discussed various options for possibly reviewing another clean version of the Guidelines before voting, adopting the Guidelines as amended today, having another conference call or even holding an electronic vote, which Don Harris advised was not allowed. Voting must take place during an open meeting.

**Motion:** Dennis made a motion to approve these guidelines as amended and to pass the clean version on to the 9-1-1 Advisory Council. Bill seconded. Items that need additional discussion can be discussed at the 9‑1-1 Advisory Council meeting. The motion carried.

Staff will complete the document and distribute the amended guidelines to the 9-1-1 Advisory Council for its consideration. At the end of the day, we have a very good product. Quin emphasized that there will be additional opportunities for all parties to continue to comment and participate. He hopes there will be a lively discussion at the next 9-1-1 Advisory Council meeting. Geoff thanked everyone for their work on the subcommittee.

**Public Comment:** None

**Meeting Schedule:** Thursday, March 8: 1:00 - 3:30 PM - 9-1-1 Advisory Council meeting

 Thursday, March 22: 1:00 - 3:00 PM – Next subcommittee meeting.

**Adjournment**: The meeting was adjourned at 3:25 PM.