NEW RULE I DEFINITIONS

(1) "Department's website" means the website address sitsd.mt.gov/publicsafetycommunications maintained by the department for the State Information Technology Services Division's Public Safety Communications Bureau.

(2) "Local government entity that hosts a certified public safety answering point" means a local government as defined in 7-11-1002(2) MCA, that hosts a public safety answering point certified by the Department pursuant to ARM 2.13.304.

(3) "Private telecommunications provider" means “provider” as defined in 10-4-101 MCA.

NEW RULE II ELIGIBILITY FOR GRANTS (1) The following are eligible to apply for grants as provided in New Rule IV:

(a) private telecommunications providers; and

(b) local government entities that host a certified public safety answering point.

(2) For grant awards made during State Fiscal Year 2019, expenditures incurred by a grant recipient between July 1, 2018 and the grant award date are eligible for reimbursement with 9-1-1 grant program funding.

NEW RULE III APPLICATION FOR GRANTS (1) An applicant for grant funds shall submit an application on a form approved by the department in consultation with the 9-1-1 Advisory Council and adopted by reference in this rule. Application forms may be found on the department's website. [SEE APPENDIX A, 3/8/18] The form shall require the applicant to provide such information as the department deems necessary to process the application, including but not limited to:

(a) acknowledgement of the applicant's eligibility, per the definitions in 10-4-101 and NEW RULE I and NEW RULE II;

(b) the amount of 9-1-1 grant funds requested;

(c) indication of the use(s) described in 10-4-306(2) for which the applicant is applying;

(d) the approximate dates on which the applicant anticipates it will begin using grant funds awarded and the approximate date when it anticipates it will complete the tasks for which the applicant has requested funds;

(e) an indication of whether the application is submitted by:

(i) a private telecommunications provider or a local government entity or entities by working with a private telecommunications provider; or

(ii) a local government entity

(f) in the case of an application submitted by a local government entity by working with a private telecommunications provider,

(i) the application must be signed by an official of each local government entity who is authorized to act on behalf of the local government entity participating in the application and must include an acknowledgement that the entities participating in the application have entered into a written agreement with the private telecommunications provider to submit the application jointly; and

(ii) the application must explain how the purpose(s) for which the application requests funds to be awarded is distinct from an application for procurement of services or products for which a local government entity acting separately under 10-4-306 (3)(b) would apply.

(g) acknowledgement that any funds received will be used in accordance with these rules and only for the purposes for which the applicant applied;

(h) acknowledgment that the information presented in the application is true, complete and accurately represents the proposed project; and

(i) acknowledgment that the applicant will fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders.

NEW RULE IV: APPLICATION PROCESS

(1) On or before September 30, the department will determine and provide public notice of the amount of funds available in the account established in 10-4-304(2)(b), MCA.

(2) Applications for grants must be received by the department annually within 60 days of posted notice that the department is accepting applications. Notice of the application deadline shall be posted on the department's website. After the application period ends, the department will review all submitted applications for completeness and eligibility.

(3) Within thirty days following the application deadline in (4), the department will post public notice of complete applications from eligible applicants and provide applicants whose applications are deemed deficient an explanation of specific reasons for its finding of deficiency.

(4) The department will provide thirty days for applicants to remedy any deficiencies and resubmit their application.

(5) Thirty days following the application re-submittal deadline in (4), the department will post public notice of all complete and eligible applications and distribute those applications to the 9-1-1 Advisory Council for review and consideration.

(6) In presenting all complete and eligible applications for consultation with the 9-1-1 Council, the department shall

(a) first present those applications submitted by private telecommunications providers or local government entities by working with private telecommunications providers in accordance with [NEW RULE III (1)(f)(ii)] for consideration by the 9-1-1 Council; and

(b) after the Council has reviewed and recommended for award those applications presented under [(a)], present those applications submitted by local government entities pursuant to 10-4-306 (3)(b) for consideration by the 9-1-1 Council.

(7) If the total amount of funds requested by all applications considered by the Council exceeds the amount of funds available in the account established in 10-4-304(2)(b), MCA, the department, in consultation with the 9-1-1 Advisory Council, shall award grants:

(a) first, to applications from private telecommunications providers or local government entities by working with private telecommunications providers, as provided in [NEW RULE III (1)(f)(ii); and

(b) second, to the extent that funds are available in the account established in 10-4-304(2)(b), MCA after awarding grands in (a), to applications submitted by local government entities.

(8) To the extent there are insufficient funds in the account established in 10-4-304(2)(b), MCA, to fully fund applications from private telecommunications providers or local government entities by working with private telecommunications providers, as provided in [NEW RULE III (1)(f)(ii),

(a) the department, in consultation with the 9-1-1 Advisory Council, shall reduce the amount of the grant awarded to each applicant in [(8)] equally by a pro rata amount determined by multiplying the amount requested in the application by the ratio derived by dividing the total amount of funds requested by the applicants by the amount of funds available in the account established in 10-4-304(2)(b); and

(b) applications submitted by local government entities pursuant to 10-4-306(3)(b) shall not be funded.

(9) To the extent there are sufficient funds in the account established in 10-4-304(2)(b), MCA, to fully fund applications from private telecommunications providers or local government entities by working with private telecommunications providers, as provided in [NEW RULE III (1)(f)(ii), but there are insufficient funds to fully fund all applications submitted by local government entities pursuant to 10-4-306(3)(b), the department, in consultation with the 9-1-1 Council, shall:

(a) fully fund all applications submitted by private telecommunications providers or local government entities by working with private telecommunications providers, as provided in [NEW RULE III (1)(f)(ii) and

(b) reduce the amount of the grant awarded to each local government entity applying for grant funds pursuant to 10-4-306(3)(b) equally by a pro rata amount determined by multiplying the amount requested by all applicants by the ratio derived by dividing the total amount of funds requested by all applicants by the amount of funds available in the account established in 10-4-304(2)(b).

(10) The department will make final grant awards within 60 days of receiving the 9-1-1 Advisory Council's recommendations regarding application eligibility and funding prioritization.

(11) [CONCEPTUAL LANGUAGE, per recommendation from Jennie Stapp]. If an applicant declines a grant award, any unspent money shall be returned to the account established in 10-4-304(2) for allocation in the subsequent State fiscal year.

NEW RULE V REPORTING MONITORING AND RECORDKEEPING (1) The department may request periodic progress reports to be provided by grant award recipients but not more frequently than quarterly.

(2) The department may audit transactions involving funding received from the 9-1-1 grant account established in 10-4-304(2)(b) MCA, and may request information and records, necessary to determine whether an expenditure is in compliance with these rules. A grant award recipient may request protection from public disclosure of information subject to a trade secret confidentiality pursuant to Montana’s Trade Secrets Act (30-14-401, et seq., MCA).

(3) A grant award recipient shall keep and maintain records necessary to verify compliance with this rule.

(4) A grant award recipient shall maintain the records described in (3) for a period of five years following the award of a grant or expenditure. The department may determine if a grant award recipient is not in compliance with these rules if records are not kept and maintained as provided in this rule.

NEW RULE VI PROCEDURES FOR REPAYMENT OF FUNDS EXPENDED ON ACTIVITIES DETERMINED NOT TO MEET ELIGIBILITY REQUIREMENTS

(1)  The department may determine a grant recipient is not in compliance with these rules if the eligible entity:

(a) is not in compliance with any of the requirements of Title 10, chapter 4, MCA;

(b) uses or distributes funds for any purpose other than those identified in 10-4-306 (2)]; or

(c) has not timely provided information requested by the department.

(2) If the department determines a grant recipient is not in compliance with these rules, the department shall send the entity a deficiency letter identifying the rule or requirement that is not met and the action needed to correct the deficiency. The entity shall have 60 days from the date of the deficiency letter to correct all deficiencies and demonstrate compliance.

(3) A grant recipient that has received a deficiency letter may request an additional 30 days to correct deficiencies or demonstrate compliance with the rules. The deadline to file the request shall be the 30th day after the date of the deficiency letter referenced in (2).

(4) If a grant recipient disputes a department determination, the entity may ask the department to provide formal notice of denial and an opportunity for hearing.

(5) Except as provided in (3) or (4), if an eligible entity has not corrected all deficiencies and demonstrated compliance with these rules within 60 days of the deficiency letter, the department shall provide the entity notice and an opportunity for hearing under Title 2, chapter 4, part 6, MCA.

(6) The department may appoint a hearing examiner to conduct hearings under 2-4-611, MCA.

(7) The final determination in a contested case regarding a grant recipient’s compliance with these rules is made by the department director.

(8) When the department makes a final determination that a grant recipient is not in compliance with these rules, the department may:

(a) reduce or suspend payment to the entity or entities involved in the grant application; and/or

(b) require repayment of funds expended on activities determined not to meet the eligibility requirements.