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

**Thursday, Jan. 11, 2018**

**Conference Call Minutes**

**Present**

Adriane Beck, Missoula Co.

Liz Brooks, Flathead Co.

Kim Burdick, Chouteau Co.

Geoff Feiss, MTA, Subcommittee Chair

Bill Nyby, Sheridan Co.

Denis Pitman, Yellowstone Co.

Jennie Stapp, MSL

**Absent:**

Steve Hadden, Jefferson Co.

**Staff**

Don Harris, DOA Quinn Ness, PSCB

Wing Spooner, PSCB Rhonda Sullivan, PSCB

**Other**

Sandra Barrows, Barrows Consulting

**Call to Order**: Geoff Feiss called the meeting to order. Introductions were made.

**Action Item: Adoption of Meeting Minutes:**

Motion: Adriane Beck made a motion to approve the minutes from the Nov. 2 meeting. Denis Pitman seconded. The minutes were approved. Motion: Bill Nyby made a motion to approve the minutes from the Nov. 16 meeting. Liz Brooks seconded. The minutes were approved.

**MDOA/SITSD Organizational Changes and 9-1-1 Budget Reductions:** Quinn explained that the 9-1-1 Program is organizational part of the Public Safety Communications Bureau, which is part of the State Information Technology Services Division (SITSD), which is under the Department of Administration (DOA). There have been many organizational changes within the Division which have affected the 9-1-1 Program. Quinn reported thatRon Baldwin announced his retirement as the State Chief Information Officer (SCIO) effective January 19, 2018. In addition, the Deputy CIO, Lynne Pizzini, retired at the end of last year. Ron is also the chairman of the 9‑1-1 Advisory Council. Jennie Stapp has agreed to serve as the interim chair until a new appointment is made.

Quinn also explained that a couple of years ago, we had a half-time FTE, Carrie Castle, who provided administrative support to the 9-1-1 Advisory Council and subcommittees. A couple of years ago, all administrative support for SITSD Boards and Councils was consolidated within the SCIO Office, and Carrie subsequently retired and her position was eliminated. All Council administrative support was provided by the SCIO’s office. Both Wendy Jackson and Sarah Mitchell, CIO administrative support staff, have recently left their positions, and Quinn is not aware that those positions have been approved from the budget office to be re-filled. Jennifer Schofield, who was the office manager in the CIO’s office, was recently promoted to Bureau Chief of the Business Operations Bureau. The morale of this story is that the 9-1-1 program does not have the required resources to provide administrative support for the 9-1-1 Advisory Council and subcommittees. Wing Spooner has been volunteering to support these activities. She is still program manager of the Mutual Aid Frequency Program.

Quinn provided some history on the 9-1-1 budget. He clarified that 9-1-1 funding is statutory funding aka state special revenue funding. It is prescribed in statute that the department could bring down 2.74 percent of total amount of 9-1-1 fees collected, which equated to about $360,000. Starting in 2014, the legislature started reducing the amount of budget authority below the amount revenue we had available for the 9-1-1 Program. For the administration of the 9-1-1 Program, we need cash and we need the budget authority to spend the cash. We have adequate cash (approx. $360,000) but we don’t have the budget authority to spend it (approx. $231,000). The analogy is that we have money in our checking account, but we don’t any checks to spend it.

The 2017 legislature had reduced the 9-1-1 Program administrative budget authority to $273,000. So, we were about 80,000 below how much cash we could draw down in statute. After the special legislative session, they reduced the budget again to $231,000, or a reduction of about $42,000 or 15%. We are having to do some budget analyses. So, until we get a clear budget picture, we have to request that we have conference calls. If we do have a required face-to-face meeting, we graciously request that your organization cover your travel costs. If that is not possible, we certainly understand and will try to make accommodations for conference calls. We probably also need to reduce the frequency of the meetings. We have had an aggressive meeting schedule with practically a subcommittee or Council meeting every week. Staff has proposed having monthly subcommittee meetings and requesting that the 9-1-1 Advisory Council meet quarterly until we have a clearer budget picture and a determination on obtaining additional resources. Geoff Feiss thanked Wing Spooner for her assistance.

Geoff asked what sort of time requirements are there for getting the rules for Section 8, Grant Program, out the door? Quinn explained that the Section 7 rules have been issued and there is a public hearing tomorrow, Jan. 12 at 11:00 at the Mitchell Building, Room 7. Interested parties do not have to appear in person to comment; written comments may be submitted until Jan. 19. The department will prepare responses and will engage the 9-1-1 Advisory Council during its Tuesday, Jan. 23 meeting to review comments and responses. Then we will move forward with the adoption notice.

Section 8 rules will follow the same process. Draft guidelines have been distributed to subcommittee members. This rule will look a little different because rules from HB 61 will be “incorporated by reference.” This is a fairly common practice in state government for adoption of rules relative to a grant program. The grant guidelines will be incorporated into rules by this reference. The timeline is such that by end of the month, we could receive written comments on the guidelines and all changes could be consolidated into one document. A follow-up conference call could be held in February to finalize the document. Then it can be presented to the 9-1-1 Advisory Council in March with a recommendation for adoption. The formal rule process would then begin.

Geoff asked for clarification of the “Rules by Reference” process. Quinn explained that in addition to the guidelines that were sent out, another document was attached to the email: Incorporation by Reference of Rules Governing Submission and Review of Applications. Basically, it states that the department adopts and incorporates by reference the 2018-2019 9-1-1 Grant Program application guidelines, with the most current guidelines being posted on the 9-1-1 website as rules governing the submission and review of applications under the program. By doing this, we have application guidelines that are written in plain English and are in a more readable format.

Don Harris clarified that the document that is being incorporated by reference will also need to be approved because it will have the same effect as other rules. Instead of listing all the guidelines separately in the rules, they can be listed in a separate document and referenced. The same is true for the list of allowable uses in Section 7. The document must first be approved, but it is not binding until it is formally adopted in the Administrative Rules.

The Department rule reviewers recommended that the list of allowable uses in New Rule 7 be listed in a separate document and then that document will be incorporated by reference into the rules. The list of allowable uses that was approved by the subcommittee is the same as the list that is being incorporated by reference. Don also stressed that anytime something is to be added or subtracted from the list of allowable uses or grant program guidelines, it still must go through the rule-making process. The subcommittee or staff can’t arbitrarily decide to make changes to the documents that are incorporated by reference.

A time period of 2018-2019 Biennium was placed on these application guidelines, so we will need to adopt new guidelines by June 30, 2019 for the subsequent Biennium. This process ensures continual stakeholder engagement. Adriane expressed concern about having enough time to go through the rule-making process if the guidelines need to be changed every two years Once the program is established, it is anticipated that the guidelines will not need significant changes. Quinn clarified that there can’t be anything in the guidelines that would supersede rule or statute. Anytime a change is needed in the guidelines, we would have to enter the formal rule process.

Geoff asked if the subcommittee needed to approve the list of allowable uses as incorporated by reference. Since Section 7 of the proposed rules is currently in the formal rule-making process, the subcommittee can’t make any changes. However, individuals may make public comments. In fact, MACO has already submitted comments. Section 8 process of grant guidelines is separate, so the subcommittee needs to review and approve application guidelines first, then they need to be approved by the 9-1-1 Advisory Council.

Don Harris explained how public comments will be reviewed. He intends to take oral and written comments received prior to the deadline and produce an organized summary according to sub-sections in the draft rules. The 9-1-1 Advisory Council will see the summary and written comments. It will make recommendations to the department based on the summaries and comments. Don will assemble this material for the 9-1-1 Advisory Council meeting on Jan. 23.

The subcommittee will have two weeks to review the grant guidelines, use track changes to input comments and edits, and send their copies of the guidelines back to Quinn by Jan. 25. Then staff will have two weeks to consolidate all comments and return a draft to subcommittee members for their review by Feb. 1, which gives subcommittee members a week to review the revised grant guidelines before the Feb. 8 conference call.

If successful at approving a final document, the subcommittee could pass a motion to recommend that the 9-1-1 Advisory Council adopt the guidelines. If needed, an additional conference call could be set up for the subcommittee on Feb. 22 for further discussion. It was decided to present a draft of the grant guidelines to the Council at its March 8 meeting. If the Council passes a recommendation to move forward with the formal rules process, that would start after March 8. Two subcommittee conference calls will be scheduled: one on Feb. 8 and one on Feb 22. The times will be from 1:00 to 3:00 PM.

Quinn alerted members that a number of meeting cancellations will be sent soon so as to release rooms associated with upcoming meetings that are being changed to conference calls.

**Statutory Deadlines for Section VIII:** Geoff asked if the subcommittee needs to consider any statutory deadlines associated with HB 61 and the grant program implementation. Quinn noted some definite requirements in HB 61, but said they could be reviewed and come back to the question. Don concurred.

* Sandra Barrows said certain funds are set to transfer, so they wouldn’t be available to carriers.
* Quinn believes that the temporary account that includes the $5 million for the statewide network/emergency services internet would not fall under the grant program.
* The wireless provider cost recovery account expires on July 1, 2018. Once transferred to the grant program, funds from this account will not be available to wireless providers until the grant program is up and running.
* Quinn said it is in everyone’s best interests to try to get the grant program up and running as soon as possible, potentially as soon as July 1, 2018. There is an application cycle within the guidelines that he recommended subcommittee members review. The program is directed to make annual awards. There is a proposed schedule of how the funding notice will be issued and how applications will be accepted, reviewed by the 9-1-1 Advisory Council and funds awarded. For example, draft Section G states that applications will be accepted between June 1 and September 30. The 9-1-1 Advisory Council will review applications and make funding recommendations to the Dept. by December 31, and final grant awards will be made by March 31. The next grant cycle would begin again on June 1.
  + Sandra noted that there will be about a year’s time without any payments to carriers.
  + Providers who incur expenses from Jan. to March, can submit those in April. The department will process those with funds from the wireless provider cost recovery account and reimbursement will be sent to carriers in May.
  + Provider expenses incurred from March through June, may not be reimbursed because funds from the wireless provider cost recovery account will have already been transferred to the new grant account?
  + Sandra believes that when these issues were first being discussed, the idea was that expenses incurred during the last quarter of fiscal year 2018, from March through June, would be paid—anything approved but not yet paid. She also reiterated concern about the hardship caused by taking almost an entire year off of reimbursing wireless providers.
  + Geoff asked if the proposed grant application and funding cycle is in HB 61.
  + Quinn said HB 61 states that grants are annual.
  + Everything is subject to rule making, which is why the grant cycle is being proposed in the draft guidelines.
  + Another internal review can be conducted with the help of Don Harris. Quinn indicated that statutorily, all funds transfer to the new account on July 1, 2018, which puts those funds under the grant portion of the statute.
  + Rhonda has notes from the discussion she and Quinn had with the accounting department on all the fund transfers. All the cost recovery funds go into the new grant fund, which includes NG911 planning. State Library gets its own money. This all took place on July 1, 2017.
  + The cost-recovery account is not frozen until July 1, but it’s all in the scheduling. Expenses incurred from March through June, but not submitted for reimbursement until July might not be available to be paid.
  + Geoff believes we could add a simple fix into the rules to address the three-month gap. It should not be ignored. Geoff believes there ought to be some sort of bookkeeping process that could be used to reimburse carriers.
  + Because the money is transitioning from a cost-recovery program to a grant program, it doesn’t seem appropriate to make a grant award for a cost-recovery item for which no application was received. Quinn was reviewing the draft guidelines to see when expenditures can be incurred.
  + Sandra noted that Section 9 in HB 61 makes specific reference as follows: (1) After the department makes distributions for the final quarter of the 2017 fiscal year from the wireless enhanced 9-1-1 established in 10-4-301(1)(c), the department shall transfer:

(a) $5 million into the next-generation 9-1-1 infrastructure account established in accordance with [section 10];

(b) $80,000 into the 9-1-1 GIS mapping account established in accordance with [section 12]; and

(c) $350,000 into the statewide 9-1-1 planning account established in accordance with [section 13].

Sandra stated that the money is not transferred until the payments are made for the final quarter.

* Another issue of concern expressed by Sandra is the nine-month period that is being projected where there will be no opportunity for any type of payment to carriers. Geoff indicated that the schedule proposed in the draft guidelines can be discussed in more detail when the subcommittee addresses this area.
* Quinn believes more review is needed. From an accounting perspective, we need to be on the same page as far as when those funds will be transferred. He also encouraged review of the draft guidelines with suggestions for improving relevant sections.
* Quinn reiterated that expenditures incurred before a grant program begins are typically ineligible. The question that needs to be resolved pertains to whether a telecommunications provider can apply for a grant to cover expenditures that were incurred before the grant was awarded.
* This issue will be flagged. If there is relevant statutory language, it will be followed. It was suggested that Quinn, Don and Rhonda outline what they think the law requires, so the subcommittee can work through this document at the next meeting. In particular, Section 9 and Section 25, the repeal section, need to be reviewed. HB 61 was a very complex bill. Don will review it internally. All members were asked to do the same.
* There appears to be a July 1, 2018 statutory deadline before funds move over to the grant account, which could be a target for the subcommittee to work back from so that rules are in place.

**DRAFT 9-1-1 Grant Program Guidelines**: Members will put their comments on the document using the “track changes” feature and send them to Quinn by January 25, who will have a week to turn them around. The next call is on February 8 to review comments that everyone submits.

**Additional Comments:** Jennie asked Quinn to explain highlighted areas of the 911 Grant Program Guideline 12.20.2017 draft document.

1. **B. PROGRAM GLOSSARY OF TERMS**: “Certified Local Government Entity” – Staff didn’t want to provide a definition until Section 7 rules are adopted. Once those rules are finalized, then the definition can be drafted.
2. **D. ELIGIBLE USES OF FUNDS**: “**Equipment Standards: All equipment, hardware and software purchased with 9-1-1 grant program funding must meet the equipment standards established in the 2018 Statewide 9-1-1 Plan.**” - There is a conflict here because the Statewide 9‑1‑1 Plan won’t be completed by July 1, 2018. So, the subcommittee needs to consider the possibility of waiting until those standards are established.
3. **D. ELIGIBLE USES OF FUNDS: Administrative Costs:** “NOTE: Applications which support a critical activity to move forward with a 9-1-1 system(s) project that is supported by the Statewide 9-1-1 Plan are the highest priority of the Department.” The legislative intent was that the Statewide 9‑1-1 Plan would help guide grant awards. Since the Plan is not yet completed, does the subcommittee want to delay adoption of the guidelines or does it want to add this criteria in the next biennium?

The connection between the grant guideline rules and the Statewide 9‑1-1 plan needs to be resolved.

**Public Comment:** None

**Meeting Schedule:** Thursday February 8, 2018: 1:00 – 3:00 PM

**Adjournment**: The meeting was adjourned at 2:20 PM.