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

**Thursday, April 26, 2018**

**Conference Call Minutes**

**Present**

Geoff Feiss, MTA, Subcommittee Chair Denis Pitman, Yellowstone Co.

Adriane Beck, Missoula Co. Bill Nyby, Sheridan Co.

Liz Brooks, Flathead 9-1-1

**Absent**

Kim Burdick, Chouteau Co. Jennie Stapp, MSL

Steve Hadden, Jefferson Co.

**Staff**

Don Harris, DOA Quinn Ness, PSCB

Wing Spooner, PSCB Rhonda Sullivan, PSCB

**Guests**

Sandra Barrows, Barrows Consulting Shantil Siaperas, MACo

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

**Adoption of Meeting Minutes:**

**Motion**: Bill Nyby made a motion to approve the minutes from the March 22, 2018 meeting. Adriane Beck seconded. The motion carried.

**Motion**: Adriane made a motion to adopt the minutes from the April 5, 2018 meeting. Bill seconded. The motion carried.

Wing was thanked for her work on the minutes. There is no legal requirement for minutes to be as detailed as they have been, but the detail has been helpful. In the future, summary minutes can be produced.

**Draft Administrative Rules: 9-1-1 Grant Program:**

**NEW RULE I** – No further discussion

**NEW RULE II** – No further discussion

**NEW RULE III** – Geoff suggested changing (4) from 90 days to 45 days. Geoff asked why such a long period was needed. As discussed previously, the director’s office needs to be given adequate time to review applications and issue award letters. The text does read “within 90 days.” Geoff’s change was not accepted.

**NEW RULE IV - APPLICANT PREFERENCE AND CRITERIA FOR AWARDING GRANTS -**  Geoff proposed changing the word “Preference” to “Priority.” Both words are used in the statute. Either word is acceptable. The word “Preference” will be changed to “Priority.” Geoff also suggested changing the word “score” to “evaluate” in sub-section (2): “The department, in consultation with the 9-1-1 advisory council, shall ~~score~~ **evaluate** all eligible applications using the following criteria.” This change was accepted.

Members discussed scoring applications using criteria and averaging those scores to end up with a ranked order versus providing an overall, comprehensive ranking where applications are compared with other submitted applications to obtain a numbered, rank-ordered list. Once a ranked list is provided, the Council can see how much funding is available and can potentially recommend partial awards. Liz said that a recipe is needed for how to assign value to an application. If every application is assessed in the same way, the Council and department are more likely to be perceived as being transparent and fair. It’s not possible to remove subjectivity; however, consistency can be achieved.

Geoff proposed the following wording for (ii) “The extent to which the application is for the implementation, operation or maintenance of improving 9-1-1 systems or 9-1-1 services, or both.” Don Harris noted that this sentence does not capture two other uses for grant funds as described in statute: emergency telecommunications systems plans and project feasibility studies or project plans. The word “planning” was added. Everyone also agreed to replace the words “is for” with “supports.” The final version reads: “(ii) The extent to which the application supports the planning, implementation, operation or maintenance of 9‑1‑1 systems, 9-1-1 services or both.” Scoring for this item was changed to 50 points maximum. The maximum score for the completeness and effectiveness of the application criterion was changed to 20 points.

Here is the final revision of **NEW RULE IV - APPLICANT PRIORITY AND CRITERIA FOR AWARDING GRANTS**

(1) The department, in consultation with the 9-1-1 advisory council, shall apply the applicant priority provided in 10-4-306(3).

(2) The department, in consultation with the 9-1-1 advisory council, shall evaluate all eligible applications using the following criteria:

(i) Completeness and effectiveness of the application: (20 points maximum)

The application must be complete and fully address what is required in the application instructions and clearly describe the fulfillment of each grant award criteria.

(ii) The extent to which the application supports the planning, implementation, operation or maintenance of 9‑1‑1 systems, 9-1-1 services or both: (50 points maximum);

(iii) Support for the project that is demonstrated with letters of support from private telecommunications providers, local governments, public safety answering points and emergency services agencies: (30 points maximum).

(iv) The 9-1-1 advisory council shall provide grant award recommendations to the department utilizing the criteria provided in (2).

(v) The department, in consultation with the 9-1-1 advisory council, may make conditional or partial grant awards.

(3) The department will post on the department's website the 9-1-1 advisory council’s grant award recommendations and the department’s final grant awards.

**Motion**: Denis Pitman moved to adopt NEW RULE IV as revised. Bill Nyby seconded. The motion carried.

**NEW RULE V - GRANT REPORTING, MONITORING AND RECORDKEEPING:** Members reviewed and agreed to proposed changes to the latest draft of this rule, as follows:

(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.

(3) A grant award recipient shall keep and maintain records regarding all transactions for which the recipient(s) received grant funding, including, at a minimum, supporting documentation (i.e., invoices) for each expenditure that verifies that an expenditure is allowable under the terms of the grant award and 10-4-306, MCA.

(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.

(5) A grant award recipient may request protection from public disclosure of information subject to trade secret confidentiality pursuant to Montana’s Trade Secrets Act by submitting a trade secret confidentiality affidavit in the form found on the department's website.

**Motion:** Bill Nyby moved to adopt NEW RULE V as revised. Denis Pitman seconded. The motion carried.

**NEW RULE VI - PROCEDURES FOR REPAYMENT OF GRANT FUNDS EXPENDED:** Quinn noted that the title of this rule was shortened. He also supported Geoff’s suggestions of replacing the “eligible recipient/entity/ entities involved with the grant application” with “grant recipient.” In addition, Quinn said a change was made in (1)(b) to replace a reference to NEW RULE III with a reference to the statute. Here is the final agreed-upon wording of NEW RULE VI:

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

(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 the awarded grant application and 10-4-306, MCA; 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 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 grant recipient; and/or

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

**Motion:** Denis Pitman moved to adopt NEW RULE VI as revised. Adriane Beck seconded. The motion carried.

**Application Form:** Now that the review criteria have been established, Don Harris and staff will be working on the Application Form, making sure it reflects what is in the rules and statute. The subcommittee does not need to meet again to approve the form, but it will be presented to the 9-1-1 Advisory Council for review and approval.

**Decision to Move the Rules to the 9-1-1 Advisory Council:** Quinn indicated that a final motion should be made to move the 9-1-1 grant program rules as approved to the 9-1-1 Advisory Council for its review and approval.

**Motion:** Denis moved to approve the 9-1-1 Grant Program rules and submit them to the 9-1-1 Advisory Council. Bill seconded. The motion carried.

Geoff remined everyone that they will have another opportunity to comment on the rules when the rules are posted in the *Montana Administrative Register* for public comment.

**Public Comment:** None

**Meeting Schedule:** The next subcommittee meeting is scheduled for Thursday, May 24 from 1:00 to 3:00 pm. It was agreed to cancel this meeting since the subcommittee’s work is completed. Everyone was thanked for their work.

The next 9-1-1 Advisory Council meeting is scheduled for June 14. The sooner the Council can review and approve the grant program rules, the sooner the public notice can be sent out for public comment. Don is not optimistic that the July 1, 2018 deadline will be met; however, moving the meeting up on the calendar will help. Geoff suggested an email vote, but Don said a noticed public meeting is needed to approve the rules. The Council can meet by conference call. It was proposed that a 9-1-1 Advisory Council conference call be scheduled on the subcommittee’s pre-scheduled date of May 24 from 1:00 to 3:30 for the Council to discuss the approved grant program rules and application form. The Council will be notified.

**Adjournment**:

**Motion:** Denis Pitman moved to adjourn. Bill Nyby seconded. The meeting was adjourned at 11:07 am.