NEW RULE I DEFINITIONS (1) "9-1-1 system" means telecommunications facilities, circuits, equipment, device, software, and associated contracted services for the transmission of emergency communications. A 9-1-1 system includes the transmission of emergency communications:

(a) from persons requesting emergency services to a primary public safety answering point and communications systems for the direct dispatch, relay, and transfer of emergency communications; and

(b) to or from a public safety answering point to or from emergency service units.

(2) "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.

(3) "Joint applicant" means a grant applicant comprised of a local government entity that hosts a certified public safety answering point and a private telecommunications provider that have jointly submitted an application for funding.

(4) "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.

(5) "Private telecommunications provider" means a wireline provider that is a public utility, a cooperative telephone company, or any other entity that provides telephone exchange access services in Montana or a wireless provider that is an entity, as defined in 35-1-113, MCA, that is authorized by the Federal Communications Commission to provide facilities-based commercial mobile radio service within Montana.

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) joint applicants.

NEW RULE III GRANT FUNDING CRITERIA AND ALLOWABLE USES (1) 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.

(2) Funds awarded to an eligible entity may be used by the eligible entity for purposes set forth in 10-4-306(2), MCA, and for such allowable uses, adopted by reference in this rule, and effective July 1, 2018. [TO BE SUBMITTED SEPARATELY] The list of allowable uses is available on the department's website.

NEW RULE IV APPLICATION FOR GRANTS (1) An applicant for grant funds shall submit an application on a form approved by the department in conjunction 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) a description of the applicant's eligibility, per the definitions in NEW RULE I;

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

(c) indication of the allowable uses described in NEW RULE III to which grant funds will be applied;

(d) the applicant's preliminary indication of priority, using the criteria in NEW RULE V(3);

(e) 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;

(f)(i) indication of whether the grant is submitted by a private telecommunications provider or a joint applicant; and

(ii) in the case of an application submitted by a joint applicant, 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 joint application and must include an acknowledgement that the entities participating in a joint application have entered into a written agreement to submit the application jointly;

(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 .

(3) 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.

(4) 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.

(5) 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.

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

(7) Thirty days following the application re-submittal deadline in (6), 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.

(8) If the amount available in the account established in 10-4-304(2)(b), MCA, is insufficient to fully fund all of the eligible applications, the department, in conjunction with the 9-1-1 Advisory Council, shall prioritize all of the eligible applications as provided in NEW RULE V.

(9) 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.

NEW RULE V PARTIAL FUNDING AND PRIORITIZATION OF GRANT AWARDS (1) The priorities set forth in this rule will not be applied when the amount of funds available in the account established in 10-4-304(2)(b), MCA, exceeds the total amount of funds requested by all applicants eligible under NEW RULE II.

(2) If the total amount of funds requested for all eligible applications exceeds the amount of funds available in the account established in 10-4-304(2)(b), MCA, the department, in conjunction with the 9-1-1 Advisory Council, shall make partial funding awards as provided in this rule.

(3) The department, in conjunction with the 9-1-1 Advisory Council, shall prioritize the following categories of funding requests in the order listed below:

(a) requests for implementation, operation, maintenance and purchase of circuits, services, software and hardware that support 9-1-1 systems, equipment, devices and data for the initiation and delivery of 9-1-1 emergency communications to a certified public safety answering point;

(b) requests for emergency telecommunications systems plans;

(c) requests for project feasibility studies or project plans; and

(d) requests for the purchase of services that support 9-1-1 emergency communications to or from a certified public safety answering point to or from emergency service units.

(4) The department shall apply the priorities listed in (3) to determine which applications and parts of applications to fund first. After all requests in the highest priority category have been funded, the department will consider requests for funding in the next highest category.

(5) If the total amount of funds requested for all eligible applications for funding within a specific category exceeds the amount of funds available, the department, in conjunction with the 9-1-1 Advisory Council, shall make partial awards for all funding requests in the category based on a percentage of each applicant's request. The partial award percentage is determined by dividing the total remaining amount of funds available by the total amount of funding requests made by eligible applicants in that category.

NEW RULE VI 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 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 [NEW RULE III].

(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 VII PROCEDURES FOR REPAYMENT OF FUNDS EXPENDED ON ACTIVITIES DETERMINED NOT TO MEET ELIGIBILITY REQUIREMENTS

(1)  The department may determine an eligible 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 the awarded grant application and [NEW RULE III]; 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.