

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING ON
2.13.407, pertaining to applicant priority) PROPOSED AMENDMENT
and criteria for awarding 9-1-1 grants)

TO: All Concerned Persons

1. On December 23, 2019, at 11:30 a.m., the Department of Administration will hold a public hearing in Room 7 of the Mitchell Building, at 125 N. Roberts St., Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on December 9, 2019, to advise us of the nature of the accommodation that you need. Please contact Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; Montana Relay Service 711; or e-mail rsullivan@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.13.407 APPLICANT PRIORITY AND CRITERIA FOR AWARDING GRANTS (1) remains the same.

(2) The ~~When evaluating eligible applications for grant funding, after applying the preference in 10-4-306(3), MCA, the~~ department, in consultation with the 9-1-1 Advisory Council, ~~shall evaluate all eligible applications using the following criteria may consider:~~

(a) ~~completeness and effectiveness of the application (20 points maximum).~~ The application must be complete and fully address the requirements in the application form and clearly describe the fulfillment of grant award criteria;

(b) the extent to which the application supports planning, implementation, operation, or maintenance of 9-1-1 systems, 9-1-1 services, or both as provided by 10-4-306(2), MCA, ~~(50 points maximum); and~~

(c) support for the project demonstrated by letters of support from private telecommunications providers, local governments, public safety answering points, and emergency services agencies ~~(30 points maximum);~~

(d) project duration. The department may prioritize projects that require two years or less to complete;

(e) number of applications submitted. The department may prioritize applicants that submit one application over applicants that submit multiple applications in a single grant application cycle;

(f) cost estimate detail. The department may prioritize applications that include a detailed cost estimate, with supporting documentation, that provide a clear justification for the grant funds requested;

(g) equipment and system life cycle. The department may prioritize applications to replace equipment and systems that are at or near end of life or support;

(h) proportion of grant funding requested. The department may prioritize applications that request less than 33% of the total amount of grant funding available during the grant cycle; and

(i) support in the statewide 9-1-1 plan. The department may prioritize applications that address needs identified in the statewide 9-1-1 plan.

(3) The 9-1-1 Advisory Council shall provide grant award recommendations to the department utilizing the criteria provided listed in (2). All grant determinations are made in the department's discretion, in consultation with the 9-1-1 Advisory Council, subject to the statutory preference in 10-4-306(3), MCA. A grant award may be made even if the applicant does not meet all of the criteria listed in (2).

(4) and (5) remain the same.

AUTH: 10-4-108, MCA

IMP: 10-4-106, 10-4-306, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes amending this rule based on input received from the 9-1-1 Advisory Council and stakeholders after completion of the first annual grant cycle implementing the 9-1-1 grant program. During the first grant cycle, the department and 9-1-1 Advisory Council found it challenging to distinguish between applications using the current criteria. It was difficult to identify substantive reasons for reducing an applicant's point total based on the criteria; therefore, many applications received the same number of points. The department and the 9-1-1 Advisory Council also observed that some projects, which may have been more effective in terms of meeting local and statewide 9-1-1 needs, received fewer points than other projects that happened to better fit the current application criteria. This led to concern that the existing criteria did not adequately address the legislative goal to use the grants to improve emergency telecommunications throughout the state.

The department earlier proposed amending ARM 2.13.407 to address these concerns in MAR Notice No. 2-13-592. Due to objections from the State Administration and Veterans' Affairs Interim Committee, the department decided not to proceed with that proposal and to replace it with this rulemaking.

It is necessary to amend the rule to ensure grant criteria are not overly rigid, which could lead to arbitrary decisions and reduce the effectiveness of the grant program. Therefore, the department proposes to remove the numerical point system from the current rule. The department is adding criteria in (2) based on factors the 9-1-1 Advisory Council determined significant after reviewing grant applications during the first grant cycle. The 9-1-1 Advisory Council recommended that these factors be considered in future grant cycles. The department agrees with the 9-1-1 Advisory Council.

The criteria may or may not apply to all applications. An applicant may be awarded a grant even if all the criteria are not met. This flexibility is necessary to allow the 9-1-1 Advisory Council and the department to exercise discretion in awarding grants to achieve the grant program objectives in 10-4-306, MCA. For example, assume a case where the department is reviewing two applications for the last \$10,000 in funding. One applicant meets all criteria while the second satisfies five, but the council believes a greater need would be met for a community or the state if the second applicant received the grant award. The department has proposed the flexibility to address a situation like this.

In addition, the department proposes to add flexibility by amending (3) to allow the department to make an award to a project that will have a significant impact although the project may not meet all criteria adopted in rule. For example, if a major infrastructure improvement project would greatly enhance the 9-1-1 system but required more time than allowed by the criteria, the department could approve the application because it met other criteria and advanced the legislative goal of improving emergency telecommunications. This flexibility will allow the department and 9-1-1 Advisory Council to direct limited grant funds to areas and projects where the grants will have the greatest impact.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rhonda Sullivan, Department of Administration, 1400 8th Ave., P.O. Box 200113, Helena, Montana 59620; telephone (406) 444-2420; fax (406) 444-2701; or e-mail rsullivan@mt.gov, and must be received no later than 5:00 p.m., December 23, 2019.

5. Don Harris, Department of Administration, has been designated to preside over and conduct this hearing.

6. The division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding Public Safety Communications Bureau rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person listed in paragraph 4 or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's website at doa.mt.gov/administrativerules. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The department has determined that under 2-4-111, MCA, the proposed amendment of ARM 2.13.407 will not significantly and directly affect small businesses.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 12, 2019.