

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS

ORDER OF THE ADJUTANT GENERAL ADOPTING PERMANENT RULES

The scope statement, SS 085-20, was approved by the Governor on June 11, 2020, published in Register No. 774B on June 29, 2020, and approved by Major General Paul E. Knapp, The Adjutant General, Department of Military Affairs, on July 10, 2020.

The Adjutant General hereby adopts an order to create Chapter DMA 2, relating to eligibility criteria and appropriate purposes for competitive grants to public safety answering points.

Analysis Prepared by the Department of Military Affairs

1. Statutes Interpreted:

Sections 256.35 (3s) (bm) and (d) 4., Stats.

2. Statutory Authority:

Section 256.35 (3s) (bm), Stats.

3. Explanation of Agency Authority:

Section 256.35 (3s) (bm), Stats., provides that the department shall promulgate rules that identify appropriate grant purposes and eligibility criteria for grants to public safety answering points based on recommendations of the 911 subcommittee under Section 256.35 (3s) (d) 4, Stats.

Section 256.35 (3s) (bm) 2, Stats., provides that grant purposes may include advanced training of telecommunicators, equipment or software expenses, and incentives to consolidate some or all of the functions of 2 or more public safety answering points. The grant purposes are restricted from including general public safety answering point overhead costs or staffing costs or costs for providing emergency services or emergency services equipment.

Section 256.35 (3s) (d) 4, Stats., requires that the 911 subcommittee's recommended eligibility criteria include basic training and service standards that grant applicants must satisfy.

4. Related Statutes or Rules: Not applicable.

5. Plain Language Analysis:

The department is required under s. 256.35 (3s) (bm), Stats., to establish rules that identify appropriate grant purposes and eligibility criteria for grants to public safety answering points based on recommendations of the 911 subcommittee under Section 256.35 (3s) (d) 4, Stats.

Section 256.35 (3s) (bm) 1, Stats., requires the department to award grants to public safety answering points for purposes and criteria identified in the proposed rules.

Section 256.35 (3s) (bm) 2, Stats., provides that grant purposes may include advanced training of telecommunicators, equipment or software expenses, and incentives to consolidate some or all of the functions of 2 or more public safety answering points. The grant purposes are restricted from including general public safety answering point overhead costs or staffing costs or costs for providing emergency services or emergency services equipment.

Section 256.35 (3s) (bm) 4, Stats., specifies that the department may not award a grant to more than one PSAP per county.

Section 256.35 (3s) (d) 4, Stats., requires that the 911 subcommittee's recommended eligibility criteria include basic training and service standards that grant applicants must satisfy.

The department proposed rules will be used by the department to administer grants and for PSAPs to apply for grants. Specifically, the rules outline the process for identifying one PSAP per county that would be eligible to apply for grant funds, minimum eligibility criteria to apply for grants, including basic level of telecommunicator training and PSAP service standards, eligible and ineligible uses of grant funds, and a process for reconsideration of grant funding decisions made by the department.

In order to be eligible for grant funding under the proposed rule, a PSAP must be designated as the single PSAP to receive grants in a given county for the life of the grant program. This designation is made through a county board resolution, except in first class cities where the determination is made by a majority vote of an intergovernmental cooperation council established under s. 66.0301, Stats.

A PSAP must also have established a basic training program that meets the requirements outlined in the proposed s. DMA 2.04. The basic training program may be developed in-house or through a commercially available training program. Newly hired telecommunicators must have started the training prior to the submission of an application and be trained within 12 months of hiring in order to maintain eligibility.

In addition, the following service standards must be met in order to maintain eligibility:

- The PSAP answers both wireline and wireless 911 calls.
- The PSAP operates 24/7 and has a minimum of two telecommunicators on duty and available to receive requests for emergency assistance.
- The PSAP has established, implemented, and provide annual training on a continuity of operations plan (COOP).
- The PSAP answers 90% of requests for emergency assistance within 10 seconds and 95% of requests for emergency assistance within 20 seconds.
- Within three years of their first grant application, a PSAP must provide emergency medical dispatching (EMD) with pre-arrival instruction either by transferring the call to another PSAP or third party that provides EMD, or by certifying in-house telecommunicators in EMD.

Under the proposed rule, grants may be awarded for the following purposes:

- Advanced telecommunicator training.
- PSAP equipment and software for enabling Next Generation 911 services.
- Activities to consolidate some or all functions of 2 or more PSAPs.
- Enhanced continuity of operations planning and equipment.

Grants are strictly prohibited from being used on:

- General PSAP overhead and staffing costs.

- Costs for providing emergency services or emergency services equipment.
- Costs related to facility construction.

When awarding grants, the department will work in consultation with the 911 subcommittee under s. 256.35 (3s) (d) 4, Stats., to determine the percentage of local funds required to supplement the grant award amount and to set the maximum award amount under each grant period. For activities related to PSAP consolidation, the department may reduce or waive local match and maximum award amount requirements as an incentive for consolidation activities.

An applicant may challenge a grant award decision made by the department within 30 days after receipt of the notice of a decision by submitting a request in writing that provides rationale for overturning the decision. The department has 14 days to respond with a final determination.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

The proposed rule, in addition to state law, would regulate the administration of a state grant program for PSAPs. Any federal grant program for Next Generation 911 implementation would complement rather than regulate the state grant program.

Public Law 112-96, under the Next Generation 9-1-1 Advancement Act of 2012, includes one-time Next Generation 911 Implementation Grants to state and tribal entities, with funds ending March 31, 2022. The Act funds could be used for: (a) the implementation and operation of 911 services, E911 services, migration to an IP-enabled emergency network, and adoption and operation of Next Generation 911 services and applications; (b) the implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations, and; (c) training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services. This law does not regulate activities performed under a competitive state grant program. In August 2019, Wisconsin was awarded \$2.9 million in federal funds that has been awarded to 36 public safety answering points for purchasing Next Generation 911-capable equipment hardware, software, and training. Eligibility criteria and other applicant requirements were outlined in the applicable regulations, 47 CFR Part 400, and a subsequent Notice of Funding Opportunity. In order to maintain eligibility, applicants must annually certify that 911 fees within the applicant's jurisdiction are not being diverted to non-911 purposes. <https://www.911.gov/pdf/911-Grant-Program-Awards-Press-Release-Aug-2019.pdf>

The proposed Next Generation 911 Act of 2021 was introduced as part of H.R. 1848, LIFT America Act and would authorize a one-time \$15 billion federal grant program to state and tribal organizations. The proposed language in the Act would provide grants to eligible entities for: (a) implementation of Next Generation 911; (b) establishing and maintaining Next Generation 911; (c) training directly related to Next Generation 911; (d) public outreach and education on how best to use Next Generation 911; (e) administrative costs associated with planning and implementation of Next Generation 911, including costs to apply and administer the federal grant program. This bill was introduced in March 2021 and was referred to several House of Representative committees. This proposed federal regulation has not passed and would not regulate activities performed under a competitive state grant program.

7. Comparison with Similar Rules in Adjacent States:

Illinois -

Rules established by the Illinois Department of State Police provide guidance on the public safety answering point grant process and criteria for issuing grants to offset nonrecurring costs associated with 911 system consolidation for jurisdictions with a population of less than 500,000 (Illinois Administrative Code, Title 83, Chapter IV, Part 1327 - 9-1-1 Emergency Systems Consolidation Grants).

Iowa -

Rules established by the Iowa Department of Homeland Security & Emergency Management govern the distribution of their 911 emergency communications fund which is funded through the Iowa wireline 911 service surcharge and emergency communications service surcharge. The 911 emergency communications fund is allocated to public safety answering points based on square mileage of the 911 service area and based on the number of wireless 911 calls. If any funds are remaining in the overall 911 emergency communications fund, they may be distributed through grants to public safety answering points "for the purpose of developing and maintaining GIS [Geographical Information System] data to be used in support of the next generation 911 network" and for non-recurring costs associated with voluntary public safety answering point consolidation.

(Chapter 34A of the Iowa Statutes and Iowa Administrative Code Section, Homeland Security and Emergency Management [605], ch. 10.)

Michigan -

No state-funded public safety answering point competitive grant program or similar rules found. Public safety answering points are funded directly from a state 911 fee, local surcharges, and training fund under section 484.1101-484.1717 of the Michigan Statutes.

Minnesota -

No state-funded public safety answering point competitive grant program or similar rules found. Public safety answering points are funded directly from a state 911 fee for eligible expenses identified in section 403.113 (3) of the Minnesota Statutes.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

Administrative rules that outline eligibility criteria and funding purposes to govern a grant program are a common mechanism to ensure a grant process is transparent and consistent. As described above, Iowa and Illinois both use rules to govern the distribution of their 911 grant funding. Similar rules typically outline eligibility criteria, grant purposes, and standards that must be met to maintain eligibility for grant funding.

A significant portion of the proposed rule was modeled after the State of Ohio's Emergency Services IP-based Network (ESInet) Steering Committee 2016 rules for Public Safety Answering Point Operations used to administer funding disbursements under section 128.55 of the Ohio Statutes, as well as definitions and standards set by the National Emergency Number Association (NENA). The Ohio PSAP Operations rules outline requirements that PSAPs must satisfy to be eligible for state grant disbursements, including minimum staffing levels, initial and ongoing training standards, service standards, and statistical reporting requirements.

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

This rule does not have an effect on small businesses because the eligibility criteria and minimum standards established by the proposed rule are only applicable to eligible public safety answering points in Wisconsin. Please see the attached economic impact analysis.

10. Effect on Small Business:

The proposed rule does not impose any compliance, service standards, or reporting requirements on small businesses and therefore has no effect on small businesses.

RULE TEXT

SECTION 1. Chapter DMA 2 is created to read:

CHAPTER DMA 2

COMPETITIVE GRANTS FOR PUBLIC SAFETY ANSWERING POINTS

DMA 2.01 Authority and purpose. This chapter is promulgated under the authority of s. 256.35 (3s) (bm), Stats., to establish the eligibility criteria and appropriate purposes for awarding competitive grants to local public safety answering points for Next Generation 911.

DMA 2.02 Definitions. In this chapter:

- (1) “Basic training” means the minimum level of training for a telecommunicator who performs 911 call taking or emergency services dispatching.
- (2) “Department” means the department of military affairs.
- (3) “Designated public safety answering point” means a public safety answering point identified pursuant to s. DMA 2.04 as the one public safety answering point in a given county that is eligible to receive grants under this chapter.
- (4) “Emergency services” includes public or private organizations that provide law enforcement, emergency medical, or firefighting services and that at the request of a public safety answering point or dispatch center respond to and manage emergencies, calls for service, or critical incidents when they occur.
- (5) “Equipment and software expenses” means the expenses incurred to purchase and maintain technology and data required for a public safety answering point and telecommunicator to communicate, locate, and dispatch emergency services to a 911 caller.

- (6) “First class cities” are those cities that meet the criteria set forth in s. 62.05, Stats.
- (7) “Grant period” means the period of time, as established by the department, in which grant funds can be spent by a public safety answering point.
- (8) “Grants” means competitive public safety answering point grants authorized by s. 256.35 (3s) (bm), Stats.
- (9) “Next Generation 911” has the meaning given in s. 256.35 (3s) (a) 3., Stats.
- (10) “911 subcommittee” means the 911 subcommittee created in s. 15.315 (2), Stats.
- (11) “Public safety answering point” has the meaning given in s. 256.35 (1) (gm), Stats.
- (12) “Telecommunicator” means an emergency response coordination professional trained to receive, assess, and prioritize requests for emergency assistance.

DMA 2.03 Designated Public Safety Answering Point.

- (1) Grants under this chapter may only be awarded to one public safety answering point per county. The single public safety answering point eligible to apply for grants in a given county shall be designated by resolution of its county board, except that, in counties with first class cities, the single public safety answering point shall be designated by majority vote of an intergovernmental cooperation council established pursuant to s. 66.0301, Stats.
- (2) Once a public safety answering point has been designated under sub. (1), no other public safety answering point in that county may be awarded a grant in that grant period or any subsequent grant period.

DMA 2.04 Minimum Training and Service Standards. This section establishes minimum training and service standards that designated public safety answering points must meet in order to be eligible to apply for grants.

- (1) The designated public safety answering point shall establish and implement a basic training program that provides at least 40 hours of training to a telecommunicator by utilizing a commercially available program or a self-developed training program.
- (2) The basic training program established under sub. (1) shall provide instruction to a telecommunicator in all of the following areas:
- (a) The general knowledge and awareness of the geography, population, and demographic served, including emergency services agencies and their jurisdictions.

(b) The incident command system, national incident management system, interoperable communications plans, and emergency operations plans.

(c) The procedures for accurately processing and relaying caller information in accordance with established public safety answering point procedures, obtaining complete caller information, properly classifying and prioritizing requests for emergency services, and processing available caller information to identify conditions that may affect safety.

(d) The appropriate use of emergency services terminology and the ability to communicate clearly in written and oral form, especially when relaying emergency information to emergency services or communicating with the public requesting emergency assistance.

(e) The procedures to operate and respond to emergency alerts.

(f) The certifications required to operate computer applications and databases necessary to perform assigned duties, including radio communication equipment, computer equipment, telecommunication equipment, and computer applications and systems.

(g) The procedures to process and document records and operate records systems.

(3) The designated public safety answering point shall establish and implement a policy that does all of the following:

(a) Prohibits a telecommunicator from handling any request for emergency services without direct supervision until the telecommunicator receives at least 40 hours of basic training.

(b) Requires a telecommunicator employed by the designated public safety answering point prior to the submission of an application for a grant to start the basic training program established under sub. (1) before the date of the application and be scheduled to complete the program within 12 months of starting the basic training.

(c) Requires a telecommunicator hired after the date of the application for a grant to complete the basic training program established under sub. (1) within 12 months of hire.

(4) The designated public safety answering point shall receive wireline and wireless 911 calls directly.

(5) The designated public safety answering point shall be in operation 24 hours per day, 7 days per week and have a minimum of 2 telecommunicators on duty and available to receive and process requests for emergency assistance while the designated public safety answering point is in operation.

(6) The designated public safety answering point shall answer 90 percent of requests for emergency assistance within 10 seconds and 95 percent of requests for emergency assistance within 20 seconds.

(7)

(a) The designated public safety answering point shall establish and implement a continuity of operations plan to maintain operations in the event of catastrophic failure.

(b) A telecommunicator employed by the designated public safety answering point shall be trained in the continuity of operations plan established under par. (a) at least annually.

(c) At a minimum, the continuity of operations plan must address all of the following:

1. The designated public safety answering point operational processes that identify key communications and information technology components.

2. The processes required for the designated public safety answering point to recover operations.

3. The roles and responsibilities of a communications response team that may be deployed to restore emergency services operations.

4. Employee training exercises necessary to implement and maintain the continuity of operations plan.

5. Interoperable communications planning and operations.

6. A list of essential contacts, including public safety answering point and emergency services staff.

7. A list of priority services available during disruptions to the designated public safety answering point operations.

8. Identification of an alternate operations site.

(8) To remain eligible for grant funding, within 3 years following the first grant award, the designated public safety answering point shall, in circumstances where a caller may require medical assistance, provide emergency medical dispatching by doing any of the following:

(a) Establishing an emergency medical dispatch protocol that provides pre-arrival instruction through a recognized training provider that meets the standards set by the 911 subcommittee and includes certified emergency medical telecommunicators.

(b) Establishing an agreement with another public safety answering point or 3rd-party emergency medical dispatch provider that can be conferenced in and provide the caller with assistance on administering emergency medical protocol. If a public safety answering point transfers callers under this paragraph, the transferring public safety answering point shall do all of the following:

1. Use an evidence-based protocol for the identification of a person in need of emergency medical protocol.
2. Provide appropriate training and continuing education, as determined by the department, on the protocol for identification of a person in need of emergency medical protocol.
3. Ensure that any dedicated 3rd-party emergency medical dispatch provider or public safety answering point to which calls are transferred under this paragraph uses telecommunicators that meet the requirements under par. (a) to provide assistance on administering emergency medical protocol.

DMA 2.05 Eligibility.

(1) The department shall establish a process for determining whether an applicant has met the eligibility criteria listed in sub. (2) based on recommendations from the 911 subcommittee.

(2) An applicant must satisfy all of the following criteria to be eligible to apply for grants under this chapter:

(a) The applicant is a designated public safety answering point under s. DMA 2.03.

(b) The applicant meets all minimum training and service standards identified under s. DMA 2.04, as determined by the department.

(c) By the deadline set by the department, the applicant must submit all of the following to the department:

1. An application on a form prescribed by the department.
2. A copy of the county board resolution selecting the public safety answering point or a letter from the chair of the intergovernmental cooperation council affirming that the public safety answering point was selected by the majority vote of the council, as applicable.

DMA 2.06 Eligible and ineligible costs.

(1) ELIGIBLE COSTS. In this chapter all of the following costs are eligible for grants:

- (a) Advanced telecommunicator training, including emergency medical dispatch protocol certification training from an emergency medical dispatch protocol training organization as approved by the 911 subcommittee.
- (b) Public safety answering point equipment and software expenses for enabling Next Generation 911 services, including hosted equipment and software services.
- (c) Activities to consolidate some or all functions of 2 or more public safety answering points.
- (d) Enhanced continuity of operations planning and equipment.

(2) INELIGIBLE COSTS. In this chapter all of the following costs are ineligible for grants:

- (a) General public safety answering point overhead and staffing.
- (b) Costs for providing emergency services or emergency services equipment.
- (c) Costs for facility construction.

DMA 2.07 Awards.

(1) In consultation with the 911 subcommittee, the department shall do all of the following when awarding grants to eligible public safety answering points under this chapter:

- (a) Determine the maximum percentage of funds that must be derived from local funding sources for all eligible public safety answering points. The amount required from local funding sources shall not exceed 25 percent of the grant amount awarded by the department to a public safety answering point in a grant period. The amount required

from local funding sources shall be in addition to the grant amount awarded by the department.

(b) Set the maximum award amount that an eligible public safety answering point may apply for under each grant period based on the amount of funding available in the appropriation s. 20.465 (3) (qm), Stats., and the local funding source percentage identified in par. (a).

(2) For any application received for activities to consolidate some or all functions of 2 or more public safety answering points, the department may reduce or waive the required local funding source percentage and maximum award amount identified in sub. (1) (a) and (b).

(3) No grant period shall exceed 18 months.

DMA 2.08 Reconsideration. An applicant shall have 30 days after receipt of the determination by the department to request reconsideration of any denial of funds. The applicant shall submit the request in writing to the department with a detailed rationale for overturning the determination. The department shall provide notice of the final determination to the applicant within 14 days after receipt of the request for reconsideration.

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin May 17, 2022.

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS

BY _____
Maj Gen Paul E. Knapp, Adjutant General

