

# **COMMUNITY REVENUE SHARING PROGRAM**

**AS 29.60.850 – 29.60.879**

**3 AAC 180.010 – 180.900**

The Community Revenue Sharing Program is one of the most important sources of non-locally generated operating revenue for Alaska's communities. The Community Revenue Sharing Program annually provides Alaska's boroughs, cities, and unincorporated communities with funds vital to the delivery of basic public services. Payments received by communities can be used at the discretion of the community for any public purpose as it is generally recognized that local residents are in the best position to determine the needs and priorities of their own communities.

The Community Revenue Sharing Fund was established in 2008 in the State's general fund for the purpose of making community revenue sharing payments. Annually on June 30, one-third of the amount available in the fund is withdrawn and distributed by the department during the following fiscal year with payments beginning in July. If the fund balance falls below \$60 million, no payments may be made from the fund.

Each fiscal year, the legislature may appropriate to the community revenue sharing fund money received by the state during the previous calendar year under AS 43.20.030(c). The amount may not exceed \$60 million or the amount that when added to the fund equals \$180 million. However, this does not prevent the legislature from appropriating additional money for community revenue sharing payments. For example, the legislature appropriated an additional \$20 million in FY12 and an additional \$25 million in FY13 to help offset the rising cost of energy. The additional one-time appropriations were distributed to communities proportionally to the normal CRS payments.

The legislature may also appropriate less than \$60 million annually or nothing at all. While the State of Alaska was experiencing lower than normal general fund revenues due to low oil prices and declining oil production, the legislature opted in FY15 to appropriate \$52 million to the fund, providing \$57.3 million for distribution. The lower than historical FY15 appropriation will reduce the CRS fund balance and begin effecting basic CRS payments starting in FY16. In FY16, the legislature did not appropriate any additional money to the CRS fund. If the legislature does not supplement the fund, the June 30 2016 fund balance will be approximately \$114.6 million, providing 38.2 million for FY17 distribution. If the legislature does not appropriate any future funding, the fund balance will fall to 76.4 million allowing for the final CRS payments in FY18.

At the \$60,000,000 annual target funding level, communities are eligible for basic community revenue sharing payments of:

- \$480,000 for unified municipalities
- \$384,000 for organized boroughs
- \$96,000 for cities
- \$32,000 for unincorporated communities in the unorganized borough
- \$20,200 for unincorporated communities in organized boroughs

If the annual distribution falls below \$60 million, the basic community revenue sharing payments listed above are prorated. For the \$57 million to be distributed in FY16, communities are eligible for basic community revenue sharing payments of:

- \$458,800 for unified municipalities
- \$367,000 for organized boroughs
- \$91,800 for cities
- \$30,600 for unincorporated communities in the unorganized borough
- \$19,300 for unincorporated communities in organized boroughs

If the amount of funding available exceeds the amount necessary to fully fund all the basic community revenue sharing payments, the balance is distributed on a per capita basis excluding the unincorporated communities located within organized boroughs.

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## **COMMUNITY REVENUE SHARING PROGRAM STATUTES**

### **Sec. 29.60.850. Community revenue sharing fund.**

(a) The community revenue sharing fund is established in the general fund for the purpose of making community revenue sharing payments to municipalities, reserves, and communities for any public purpose. The fund consists of appropriations. Income earned on money in the fund may be appropriated to the fund. Money in the fund does not lapse.

(b) Each fiscal year, the legislature may appropriate to the community revenue sharing fund money received by the state during the previous calendar year under AS 43.20.030 (c). The amount may not exceed

(1) \$60,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$180,000,000.

(c) The balance in the community revenue sharing fund shall be determined on June 30 of each year. If the fund balance is at least \$60,000,000, without further appropriation, the department shall distribute one-third of that amount as community revenue sharing payments for the immediately following fiscal year. Otherwise, no payments may be made.

(d) Notwithstanding the guidelines in (b) of this section, the legislature may appropriate any amount to the community revenue sharing fund. Nothing in this section creates a dedicated fund.

**Sec. 29.60.855. Basic community revenue sharing payments.**

(a) The department shall calculate the basic amount used for determining the basic community revenue sharing payment for a fiscal year by applying the following formula: the amount available for payments for that fiscal year under AS 29.60.850 (c), minus 60,000,000, divided by 60,000,000, plus one, multiplied by 384,000. However, if the amount calculated is less than \$220,000, the basic amount for that fiscal year is \$220,000.

(b) Except as provided in (c) of this section, the basic community revenue sharing payment for a fiscal year equals, for each

(1) unified municipality, the sum of the amounts calculated under (2) and (3) of this subsection, rounded to the nearest \$1,000;

(2) borough, the basic amount, rounded to the nearest \$1,000;

(3) city and eligible reserve, one-fourth of the basic amount, rounded to the nearest \$100;

(4) eligible community in the unorganized borough, one-twelfth of the basic amount, rounded to the nearest \$100;

(5) eligible community in a unified municipality or borough, one-nineteenth of the basic amount, rounded to the nearest \$100.

(c) The basic revenue sharing payment amount for a succeeding municipality formed when two or more municipalities merge, consolidate, or unify after January 1, 2002, equals the sum of the amounts each of the former municipalities would receive under (b) of this section calculated as if the merger, consolidation, or unification had not occurred.

**Sec. 29.60.860. Per capita payment increases.**

(a) Subject to (b) of this section, if the amount available for distribution under AS 29.60.850 (c) exceeds the amount needed to fully fund all the basic community revenue sharing payments, the balance shall be distributed on a per capita basis to municipalities, to reserves, and to communities in the unorganized borough.

(b) The per capita amount distributed to each community in the unorganized borough may not, when added to the basic community revenue sharing payment for that community, exceed the basic amount calculated under AS 29.60.855 (b)(3). If the per capita distribution for a community in the unorganized borough, when added to the basic community revenue sharing payment for that community, would exceed the basic amount calculated under AS 29.60.855 (b)(3), the excess amount shall be distributed on a per capita basis to other communities in the unorganized borough.

(c) For purposes of this section, the population of a municipality, reserve, or community shall be determined by using the numbers of permanent fund dividend recipients or other population data that

the department determines is reliable. For purposes of determining the population of a borough, the population of each city in the borough shall be deducted from the total borough population.

**Sec. 29.60.865. Eligibility requirements for reserves and communities.**

(a) The department, with advice from the Department of Law, shall determine whether there is in each community or reserve an incorporated nonprofit entity or a Native village council that will agree to receive and spend the community revenue sharing payment. If there is more than one qualified entity in a reserve or community in the unorganized borough, the department shall pay the money to the entity that the department finds most qualified to receive and spend the money on behalf of the reserve or community. The department may not make a community revenue sharing payment to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the payment. A waiver of immunity from suit under this section must be on a form provided by the Department of Law. If there is no qualified incorporated nonprofit entity or Native village council in a reserve or community that is willing to receive the community revenue sharing payment and use the payment on behalf of that reserve or community, the payment for that reserve or community may not be paid. Neither this section nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council.

(b) The department may make a community revenue sharing payment on behalf of a community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or Native village council that has been approved by the assembly and meets the requirements of (a) of this section. The department shall have written evidence of the assembly approval. If there is more than one qualified entity in a community in a borough or unified municipality, one of the entities may receive the entire payment, or the payment may be shared between two or more of the qualified entities, as determined by the assembly.

(c) A community in a borough or unified municipality is eligible for a community revenue sharing payment only if at least three of the following services are generally available to all residents of the community and each of the three services, in any combination, are provided by one or more qualifying incorporated nonprofit entities or a Native village council or are substantially paid for by the residents of the community through taxes, charges, or assessments levied or authorized by the borough or unified municipality:

- (1) fire protection;
- (2) emergency medical;
- (3) water and sewer;
- (4) solid waste management;
- (5) public road or ice road maintenance;
- (6) public health;
- (7) search and rescue.

**Sec. 29.60.879. Definitions.**

In AS 29.60.850 – 29.60.879,

- (1) "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit;
- (2) "reserve" means a place that is organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection.

# COMMUNITY REVENUE SHARING PROGRAM REGULATIONS

## **3 AAC 180.010. Application**

(a) Application for community revenue sharing payments under AS 29.60.850 - 29.60.879 must be made on forms prescribed by the department.

(b) By February 1 of each computation year, the department will send community revenue sharing application forms to each municipality and community that the department believes eligible for community revenue sharing payments under AS 29.60.850 - 29.60.879.

(c) To participate in the community revenue sharing program under this chapter, an applicant must return a completed application to the department, postmarked no later than June 1 of the computation year.

(d) The application for municipalities under (b) of this section must include verification that the municipality has met the following minimum requirements for participation in the community revenue sharing program:

- (1) the municipality has successfully conducted its most recently scheduled local regular election;
- (2) regular meetings of the governing body are held in accordance with local code and a record of the proceedings is maintained;
- (3) local ordinances adopted by the municipality have been codified in accordance with AS 29.25.050;
- (4) taxpayer notices required under AS 29.45.020 and 29.45.660 have been provided; and
- (5) reports required under AS 29.20.640 have been filed with the department.

## **3 AAC 180.020. Financial reports**

(a) In addition to the completed application required under 3 AAC 180.010, an applicant that is a municipality must submit to the department its approved municipal budget covering July 1 of the allocation year.

(b) In addition to the completed application required under 3 AAC 180.010 and the information required under (a) of this section,

- (1) a municipality
  - (A) must submit to the department an audit for the municipality's fiscal year preceding January 1 of the computation year; or
  - (B) must submit to the department an audit or statement of annual income and expenditures approved by the governing body for the municipality's fiscal year preceding January 1 of the computation year if the municipality is a second class city;
- (2) a community in the unorganized borough must submit to the department a statement approved by the governing body of expenditure of money received under AS 29.60.855 - 29.60.865.

(c) In addition to the requirements of (a) and (b) of this section, a municipality and community located in the unorganized borough must submit to the department, on a form approved by the department, a budget showing the municipality's or community's proposed use of its community revenue sharing payment.

(d) The department will not issue a community revenue sharing payment to an entity for an allocation year until the department has received the applicant's approved budget; audit or statement of annual income and expenditures; statement of expenditure of money; and community revenue sharing budget form in accordance with this section.

(e) The audit prepared under (b)(1) of this section must be reviewed by a certified public accountant licensed under AS 08.04.

### **3 AAC 180.030. Population determination**

(a) For purposes of community revenue sharing per capita payments to municipalities under AS 29.60.860 , the director shall annually determine the permanent resident population of the previous calendar year for each municipality in the state. No later than January 15 of each calendar year, the director shall mail to each municipality the determination of the municipality's previous calendar year population.

(b) The determination under (a) of this section must be based upon the following census or estimate that indicates the most recent population of the municipality:

- (1) a census of the United States Bureau of the Census;
- (2) a head count census conducted by the municipality in accordance with 3 AAC 180.040(c) ;
- (3) a housing unit method population estimate conducted by the municipality in accordance with 3 AAC 180.040(d) ;
- (4) an estimate by the Department of Labor and Workforce Development.

(c) If there is a conflict between or among the population results, for the same calendar year, of a census or a population estimate listed in (b) of this section, the order of precedence for determination of population is the order in which the censuses and population estimates are listed in (b) of this section.

(d) When a city is within a borough, a head count census or housing unit method population estimate conducted by the borough may be used to determine the population of the city. For the purposes of (c) of this section, a head count census or housing unit population estimate conducted by the borough within which the city is located takes precedence over an estimate by the Department of Labor and Workforce Development.

(e) If a population determination under this section for a city within a borough conflicts with the population for that city indicated in a head count census or housing unit population estimate upon which a population determination for the borough is based, the conflict is automatically appealed to the commissioner. Both municipalities are parties to the appeal.

### **3 AAC 180.040. Request for adjustment of population determination**

(a) A municipality may request an adjustment of its population determination under 3 AAC 180.030 by submitting a written request to the director, postmarked no later than April 1 of the calendar year. If a municipality requests an adjustment under this section, the municipality shall substantiate the requested adjustment with

- (1) a head count census conducted by the municipality in accordance with (c) of this section; or
- (2) a housing unit method population estimate conducted by the municipality in accordance with (d) of this section.

(b) If a municipality's request under (a) of this section is postmarked after April 1 of the calendar year, it will be denied by the director as being untimely filed. An appeal to the commissioner regarding that denial, submitted in accordance with 3 AAC 180.050, will be accepted if the applicant shows good cause for missing the postmark deadline.

(c) For the purposes of (a)(1) of this section, a head count census must be conducted in a manner satisfactory to the division. The division shall validate the census in accordance with the standard census definitions and procedures specified by the division. The municipality shall bear the expense of the census. The governing body of the municipality must pass a resolution adopting the results of the census and the municipality must provide a copy of the resolution with the census results to the division.

(d) For the purposes of (a)(2) of this section, a housing unit population estimate must be conducted in a manner satisfactory to the division. The division shall validate the estimate in accordance with standard

census definitions and procedures specified by the division. The municipality shall bear the expense of the estimate. The governing body of the municipality must pass a resolution adopting the results of the estimate and the municipality must provide a copy of the resolution with the estimate results to the division.

(e) A municipality shall, upon request of the director, furnish available information and provide assistance requested by the director necessary to make a determination to grant or deny a municipality's request for adjustment under (a) of this section. The director may prescribe forms containing procedures for reporting the information.

(f) The director shall, in writing, grant or deny a request for adjustment within 10 days after receipt of the request. The director's response shall include the reason for granting or denying the request for adjustment, and a determination of the municipality's population determination based upon the director's decision to grant or deny the request.

### **3 AAC 180.050. Appeal of population determination to the commissioner**

(a) A municipality may appeal to the commissioner a decision of the director made under 3 AAC 180.040. The appeal must be in writing and must be postmarked within 10 days after the municipality received the written decision of the director. The appeal must include relevant evidence in support of the municipality's claim.

(b) No later than 10 days after receipt of the appeal, the commissioner will render a decision on the appeal. Immediately following the commissioner's decision, written notification, containing a statement of the decision and the reasons for it, will be sent to the municipality.

(c) The commissioner's decision of an appeal is final.

(d) After deciding all appeals made under this section, the commissioner will certify a final municipal population report on or before June 1 of that calendar year.

### **3 AAC 180.060. Standards for payment to communities located in the unorganized borough**

A community in the unorganized borough eligible under AS 29.60.865 (a) must meet the following standards to receive payment:

- (1) the qualifying entity must agree to irrevocably dedicate for a public purpose the payment that the entity receives under AS 29.60.855 and 29.60.860;
- (2) the qualifying entity must have held at least one public meeting in the community to give residents the opportunity to express their ideas and preference for the use of the community's revenue sharing payment and must have posted notice of the meeting in three public and prominent places in the community for at least five days before the meeting;
- (3) the qualifying entity must agree to make a service or facility provided with money received under AS 29.60.855 and 29.60.860 available to every person in the community regardless of race, religion, color, national origin, age physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or political affiliation; and
- (4) the entity that is an incorporated nonprofit is considered active and in good standing with the department.

### **3 AAC 180.065. Standards for payment to reserves**

A reserve in this state eligible for payment under AS 29.60.865 (a) must meet the same standards contained in this chapter for a municipality as if those standards applied to a reserve, except for the following:

- (1) 3 AAC 180.010(d) ;
- (2) 3 AAC 180.020(a) ;
- (3) 3 AAC 180.090.

### **3 AAC 180.070. Standards for payment on behalf of communities located within boroughs and unified municipalities**

A borough or unified municipality shall submit to the division a resolution adopted by the assembly that clearly identifies

- (1) the communities it has determined meet the eligibility criteria under AS 29.60.865 , 29.60.879, and 3 AAC 180.110; and
- (2) the Native village council or incorporated nonprofit entity located within each community listed under (1) of this section that it has approved as the recipient of the community revenue sharing payment.

### **3 AAC 180.080. Determination of most qualified entity**

If the division determines that there is more than one qualified entity within a community in the unorganized borough that will agree to receive and spend the community revenue sharing payment, the director shall determine which entity is to receive the payment. In making this determination, the director shall consider factors relevant to achieving the public purpose of the payment, including

- (1) the administrative capability of each village council or incorporated nonprofit entity, including past performance on any previous grant awards;
- (2) for each incorporated nonprofit entity, whether the entity has articles of incorporation and a certificate of incorporation in good standing under AS 10.20;
- (3) the ability of each village council or incorporated nonprofit entity to manage its debt and other finances, including whether amounts due to the United States Internal Revenue Service are timely paid;
- (4) the degree to which each village council or incorporated nonprofit entity is representative of the community; and
- (5) the purpose for which each village council or incorporated community intends to spend the community revenue sharing money.

### **3 AAC 180.090. Incorporation or dissolution of a municipality**

(a) A municipality that incorporates on or before June 30 of a state fiscal year is eligible to receive a community revenue sharing payment under AS 29.60.855 and 29.60.860 the following state fiscal year.

(b) A qualified entity under AS 29.60.865 (a) located within a city in the unorganized borough may receive a community revenue sharing payment under AS 29.60.855 and 29.60.860 if

- (1) the city has not qualified for a community revenue sharing payment under AS 29.60.855 and 29.60.860 for two consecutive state fiscal years; and
- (2) a petition has been submitted under AS 29.06.460 to the Local Boundary Commission to initiate dissolution of the city.

(c) Payment may not be made under (b) of this section for more than two state fiscal years.

### **3 AAC 180.100. Waiver for good cause**

The commissioner may waive a deadline in this chapter if the commissioner determines there was good cause for missing the deadline and that a waiver will not unreasonably disrupt the process of administering the program under this chapter.

### **3 AAC 180.110. Determination of social unit**

(a) The following factors shall be considered as presumptive evidence that individuals permanently residing in a community are considered a social unit under AS 29.60.879 (1) for purposes of determining community eligibility under AS 29.60.865 :

(1) the geographic area in which the persons reside is not disproportionate in size to that number of persons; in determining whether this standard has been met consideration shall be made to the physical topography of the area, the use of the land, land ownership patterns, and other factors that could affect population density; an area with a population density of at least 14 persons per square mile is considered to have met this standard;

(2) persons residing in that area are a discrete and identifiable unit; in determining whether this standard has been met, consideration shall be given to the school enrollment, sources of employment, voter registration, and the permanency of dwelling units; if the area has at least one commercial establishment, and if persons residing in the area do so in permanent dwelling units and their children are enrolled in an operating school in or near the area, this standard is considered to have been met.

(b) Individuals residing in the following places are not considered to be a social unit under AS 29.60.879

(1) for purposes of determining community eligibility under AS 29.60.865 :

(1) a place where public access or the right to reside at the location is restricted;

(2) a place that is contiguous to a city and is dependent upon the city to the extent that it exists only because the city exists; or

(3) a place provided by an employer that is populated primarily by persons who are required to reside there as a condition of their employment.

### **3 AAC 180.120. Preliminary and final payments**

(a) Upon a finding by the director that it is in the state's best interest, the division may make preliminary community revenue sharing payments to eligible municipalities, communities located in the unorganized borough, and reserves. The amount of the preliminary payment shall equal the sum of the basic payment calculated under AS 29.60.855 and one-half of the estimated per capita payment calculated under AS 29.60.860 .

(b) Immediately after identifying and verifying all information necessary to calculate final community revenue sharing payments, the division shall calculate and distribute final payments to all eligible municipalities, communities, and reserves. The amount of the final payment for each eligible municipality, community, and reserve shall equal the difference between the amount of the total payments calculated under AS 29.60.855 and 29.60.860 and the amount distributed under (a) of this section.

### **3 AAC 180.130. Waiver of sovereign immunity**

The department will not make a community revenue sharing payment under AS 29.60.855 and 29.60.860 to a village council or reserve unless the department receives, on a form approved by the Department of Law, a waiver of sovereign immunity from suit adopted by the governing body for claims related to the payment.

### **3 AAC 180.140. Overpayment and adjustment**

(a) If the amount that an entity receives under this chapter exceeds the amount that the applicant is entitled to receive during an allocation year, the department will either request the entity to return the excess to the state or will reduce the entity's payment for the next allocation year by the difference between the amount received and the amount that the entity was entitled to receive.

(b) If the commissioner determines that it is in the best interests of the state and the entity involved, the commissioner may extend the adjustment period over three allocation years.

(c) The commissioner may waive the return of the overpayment if

- (1) the entity reasonably and in good faith relied upon the department's determination of the entity's payment; and
- (2) the reason for the overpayment was all or in substantial part departmental error.

### **3 AAC 180.900. Definitions**

In this chapter, unless the context requires otherwise,

- (1) "allocation year" means the state fiscal year for which an appropriation is made by the legislature for distribution of community revenue sharing payments and immediately follows the computation year;
- (2) "commissioner" means the commissioner of commerce, community, and economic development;
- (3) "community" means an entity defined in AS 29.60.879 (1);
- (4) "computation year" means the state fiscal year in which the division calculates community revenue sharing payments for distribution in the allocation year;
- (5) "department" means the Department of Commerce, Community, and Economic Development;
- (6) "director" means the director of the division of community and regional affairs;
- (7) "division" means the division within the department responsible for community and regional affairs;
- (8) "governing body" means
  - (A) the assembly or council for a municipality defined under AS 29.71.800 (13);
  - (B) the council for a reserve defined in AS 29.60.879 (2);
  - (C) the council for a Native village council; or
  - (D) the board of directors for an incorporated nonprofit entity;
- (9) "municipality" means an entity defined in AS 29.71.800 (13);
- (10) "permanent resident" means a person whose primary place of residence is within the corporate limits of a municipality or community;
- (11) "primary place of residence" means the place where a persons sleeps on a weekly basis; if a person has more than one residence, "primary place of residence" means the place where the person sleeps more often during the calendar year;
- (12) "public purpose" means a purpose the objective of which is to promote the public health, safety, and general welfare of the residents of a municipality, community, or reserve in the state;
- (13) "village council" means
  - (A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);
  - (B) a traditional village council recognized by the United States as eligible for federal aid to Indians; or
  - (C) a council recognized by the commissioner under 3 AAC 190.110 - 3 AAC 190.150.