

(Words in **boldface and underlined** indicate language being added: words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

Title 3. Commerce, Community and Economic Development

The title of chapter 180 of Title 3 of the Alaska Administrative Code is amended to read:

Chapter 180. Community Assistance Program [REVENUE SHARING]

3 AAC 180.010 is repealed and readopted to read:

3 AAC 180.010. Application for community assistance payments. (a) To receive a community assistance payment under AS 29.60.850 - 29.60.879, a municipality, reserve, or community must certify and agree, on a form provided by the department

(1) that it is in compliance with all applicable community assistance program statutes and regulations;

(2) to use the funds received under AS 29.60.855 and 29.60.860 only for a public purpose as required under AS 29.60.850(a); and

(3) to make a service or facility provided with funds 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;

(4) to maintain all accounting records, receipts, invoices, and other documents related to the receipt and expenditure of community assistance program funds, including all documents that record the activities that occurred through the use of the funds, for at least three years after the date community assistance program funds are actually distributed by the department to the entity each year. If an entity person has an unresolved audit finding, questioned costs, litigation, or grievance at the end of the three-year period, the entity agrees to maintain the records until the matter is fully resolved.

(b) In addition to the form provided under (a) of this section, a borough or unified municipality that will receive community assistance payments on behalf of communities in the borough or unified municipality must

(1) submit to the department a resolution adopted by the assembly that clearly identifies

(A) the communities it has determined meet the eligibility criteria under AS 29.60.865, 29.60.879, and 3 AAC 180.110;

(B) the village council or incorporated nonprofit entity located within each community listed under (1)(A) of this subsection that it has approved as the recipient of the community assistance payment; and

(2) certify that at least three of the services required under AS 29.60.865(c) are generally available to all residents of the community.

(c) In addition to the information required in (a) and (b) of this section, a reserve or village council must submit to the department a waiver of sovereign immunity from suit adopted by the governing body for claims related to the payment on a form approved by the Department of Law.

(d) The department will not issue a community assistance payment to an entity until the department has received the entity's statement of expenditures of the prior year's community assistance payment, the community assistance program budget form for the current year's application, and all documents required under this section and 3 AAC 180.020.

(f) For the purpose of administering the community assistance payment program more efficiently and to reduce the costs associated with the administration of this program, the department shall use electronic mailing and electronic filing to the maximum degree possible.

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Applicants may submit the form and documents required by this section to the department via electronic mail or via regular mail postmarked no later than the deadline for applications determined by the department each year. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; em am 3/10/2011 - 7/7/2011, Register 198; am __/__/__, Register _____)

Authority: AS 29.60.850. AS 29.60.855 AS 29.60.860
AS 29.60.865. AS 44.33.020

3 AAC 180.020 is repealed and readopted to read:

3 AAC 180.020. Reports to the department by municipalities. In addition to the requirements under 3 AAC 180.010, a municipality must submit the following reports to the department before a community assistance payment may be made:

(1) maps and descriptions of all annexed or detached territory as required under AS 29.20.640(a)(1);

(2) if the municipality is a borough, unified municipality, or first class city, a copy of the annual audit reviewed by a certified public accountant licensed under AS 08.04, as required under AS 29.20.640(a)(2);

(3) if the municipality is a second class city and is required under state or federal law to an audit, a copy of that audit reviewed by a certified public accountant licensed under AS 08.04; otherwise, a second class city must submit a statement of annual income and expenditures approved by the governing body, as required under AS 29.20.640(a)(2);

(4) tax assessment and tax levy figures for the most recently completed annual budget cycle as required under AS 29.20.640(a)(3);

(5) a copy of the current annual budget of the municipality as required under AS 29.20.640(a)(4);

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(6) a summary of the authorized optional property tax exemptions authorized together with the estimate of the revenues lost to the municipality by operation of each exemption as required under AS 29.20.640(a)(5); and

(7) a copy of the taxpayer notices required under AS 29.45.020 and AS 29.45.660. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/____, Register _____)

Authority:	AS 08.04	AS 29.20.640	AS 29.45.020
	AS 29.45.660	AS 29.60.850	AS 44.33.020

3 AAC 180.030 is repealed and readopted to read:

3 AAC 180.030. Population determinations for per capita payment increases. (a) For purposes of community assistance per capita payment increases under AS 29.60.860, the department shall annually determine the permanent resident population of the previous calendar year for each municipality, reserve, and community using the most recent population estimates released by the Department of Labor and Workforce Development.

(b) The population determinations made under (a) of this section will be used to calculate the per capita increase amount distributed to each municipality, community, and reserve under AS 29.60.860.

(c) For purposes of this chapter, the population determinations made under (a) of this section are final. (Eff. 5/15/2008, Register 186, am 10/8/2008, Register 188, em am 3/10/2011 – 7/7/2011, Register 198. am __/__/____, Register _____)

Authority:	AS 29.60.860	AS 44.33.020
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3 AAC 180.040 is repealed:

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3 AAC 180.040. Request for adjustment of population determination. Repealed. (Eff. 5/15/2008, Register 186; am 10/28/2008, Register 188; em am 3/10/2011 – 7/7/2011, Register 198; repealed __/__/__, Register ____)

3 AAC 180.050 is repealed:

3 AAC 180.050. Appeal of population determination to the commissioner. Repealed. (Eff. 5/15/2008, Register 186; em am 3/10/2011 - 7/7/2011, Register 198; repealed __/__/__, Register ____)

3 AAC 180.060 is repealed:

3 AAC 180.060. Standards for payment to communities located in the unorganized borough. Repealed. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; repealed __/__/__, Register ____)

3 AAC 180.065 is repealed:

3 AAC 180.065. Standards for payment to reserves. Repealed. (Eff. 10/8/2008, Register 188; repealed __/__/__, Register ____)

3 AAC 180.070 is repealed:

3 AAC 180.070. Standards for payment on behalf of communities located within boroughs and unified municipalities. Repealed. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; repealed __/__/__, Register ____)

3 AAC 180.080 is amended to read:

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 assistance [REVENUE SHARING] payment under AS 29.60.865, the department [DIRECTOR] shall determine which entity is to receive the payment. In making this determination, the department [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, bulk fuel loans under AS 42.45.250 - 42.45.299, or any other financial aid provided by the state or federal government;

(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 nonprofit entity [COMMUNITY] intends to spend the community assistance payment [REVENUE SHARING MONEY]. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188. am __/__/__, Register _____)

Authority: AS 10.20 AS 29.60.865 AS 44.33.020

3 AAC 180.090 is amended to read:

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 assistance [REVENUE SHARING] payment under AS 29.60.855 - 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 assistance [REVENUE SHARING] payment under AS 29.60.855 - 29.60.860 if

(1) the city has not qualified for a community assistance [REVENUE SHARING] payment under AS 29.60.855 - 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.
(Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/__, Register _____)

Authority: AS 29.60.855. AS 29.60.860. AS 44.33.020.

3 AAC 180.100 is amended to read:

3 AAC 180.100. Waiver for good cause. The department [COMMISSIONER] may waive a deadline in this chapter if the department [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. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/__, Register _____)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.110 is repealed and reenacted to read:

3 AAC 180.110. Determination of social unit (a) A community under AS 29.60.879(1)

is a social unit if

(1) the persons residing in an area are a discrete and identifiable unit based on evidence of

- (A) school enrollment;
- (B) sources of employment;
- (C) voter registration;
- (D) permanency of dwelling units; or
- (E) presence of a commercial establishment;

(2) the geographic area in which the persons reside is proportionate in size to that number of persons; in determining whether this standard has been met, the department may consider 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;

(b) Individuals residing in the following places are not a social unit under AS 29.60.879(1):

(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. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/__, Register _____)

Authority: AS 29.60.865. AS 29.60.879 AS44.33.020

3 AAC 180.120 is amended to read:

3 AAC 180.120. Preliminary and final payments. (a) Upon a finding by the **department** [DIRECTOR] that it is in the state's best interest, the **department** [DIVISION] may make preliminary community **assistance** [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 **assistance** [REVENUE SHARING] payments, the **department** [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. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/__, Register _____)

Authority: .AS 29.60.855. .AS 29.60.860. AS 44.33.020

3 AAC 180.130 is amended to read:

3 AAC 180.130. Waiver of sovereign immunity. The department will not make a community **assistance** [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

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for claims related to the payment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am ___/___/___, Register _____)

Authority: AS 29.60.855. AS 29.60.860. **AS 29.60.865**
AS 44.33.020

3 AAC 180.140 is amended to read:

3 AAC 180.140. Overpayment [AND] adjustment, and assignment. (a) If the amount that an entity receives under this chapter exceeds the amount that the entity [APPLICANT] is entitled to receive under AS 29.60.855 and 29.60.860 [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 department [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.

(d) If loss of services essential to the public health and safety of an entity eligible to receive community assistance payments is imminent, the entity may assign any portion of the current year program payment directly to a third party approved by the commissioner. (Eff.

5/15/2008, Register 186; am 10/8/2008, Register 188; am ___/___/___, Register _____)

Authority: AS 29.60.855 AS 29.60.860 AS 44.33.020

3 AAC 180.900 is amended to read:

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 ASSISTANCE PAYMENTS AND IMMEDIATELY FOLLOWS THE COMPUTATION YEAR;

(2) "commissioner" means the commissioner of commerce, community, and economic development;

(2) [(3)] "community" has the same meaning as [MEANS AN ENTITY DEFINED IN] in AS 29.60.879(1);

[(4) "COMPUTATION YEAR" MEANS THE STATE FISCAL YEAR IN WHICH THE DIVISION CALCULATES COMMUNITY ASSISTANCE PAYMENTS FOR DISTRIBUTION IN THE ALLOCATION YEAR;]

(3) [(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 OF COMMUNITY AND REGIONAL AFFAIRS;

(8) **(4) "entity" means a municipality, reserve, community, village council, or incorporated nonprofit entity.**

(5) [(9)] "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;

(6) [(10)] "municipality" **has the same meaning as** [MEANS AN ENTITY DEFINED] in AS 29.71.800.(13);

(7) [(11)] "permanent resident" means a person whose primary place of residence is within the corporate limits of a municipality or community;

(8) [(12)] "primary place of residence" means the place where a person 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;

(9) [(13)] "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;

(10) [(14)] "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 **department** [COMMISSIONER] under 3 AAC .190.110. - 3 AAC .190.150.. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am __/__/__, Register _____)

Authority: **AS 29.60.850** **AS 29.50.855** **AS 29.60.860**

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AS 29.60.865

AS 29.60.879.

AS 29.71.800

AS 44.33.020.