

**Title 3. Commerce, Community and Economic Development**  
**Chapter 180. Community Assistance Program**

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**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 the municipality, reserve, or community is in compliance with AS 29.60.850 – 29.60.879 and this chapter;

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

(3) to make a service or facility provided with a payment 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 or mental disability, sex, marital status, changes in marital status, pregnancy, parenthood, or political affiliation; and

(4) to maintain, as required under this paragraph, all accounting records, receipts, invoices, and other documents related to the receipt and expenditure of a payment under AS 29.60.855 and 29.60.860, including all documents that record the activities that occurred through the use of the payment; if the payment is for a community, the village council or incorporated nonprofit entity that agrees to receive the payment of the community must agree to maintain documents as required under this paragraph; the documents must be maintained

(A) for at least three years after the date when the department distributes a payment under AS 29.60.855 and AS 29.60.860 each year to the municipality or reserve or to the village council or incorporated nonprofit entity for a community; and

(B) for longer than three years and until the matter is fully resolved, if the municipality or reserve, or the village council or incorporated nonprofit entity for a community,

has an unresolved audit finding, questioned costs, litigation, or a grievance at the end of the three-year period.

(b) In addition to making the certification and agreement on 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 that the borough or unified municipality has determined meet the eligibility criteria under AS 29.60.865, 29.60.879, and 3 AAC 180.110; and

(B) the village council or incorporated nonprofit entity located within each community listed under (A) of this paragraph that the borough or unified municipality 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 making the certification and agreement on the form provided under (a) of this section and receiving any identification required under (b) of this section, a reserve or village council must submit to the department a waiver of sovereign immunity in accordance with AS 29.60.865(a) and 3 AAC 180.130.

(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.

(e) To administer more efficiently the community assistance payment program under AS 29.60.850 – 29.60.879 and this chapter, and to reduce the costs associated with its administration, the department will use electronic mailing and electronic filing to the maximum degree possible. An applicant may submit the form and documents required by this section to the department by means of electronic mail received not later than 4:30 p.m. on June 1 or regular mail postmarked not later than June 1, for community assistance payments to be distributed the following state fiscal year. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; em am 3/10/2011 - 7/7/2011, Register 198; am 12/22/2017, Register 224)

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

**Editor's note: For an application submitted by electronic mail, the department's electronic mail address is [caa@alaska.gov](mailto:caa@alaska.gov) .**

**3 AAC 180.020. Reports to the department by municipalities.** In addition to meeting the requirements of 3 AAC 180.010 that apply to a municipality, and before the department makes a community assistance payment to a municipality, the municipality must submit

(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 submit an audit, a copy of that audit reviewed by a certified public accountant licensed under AS

08.04, as required under AS 29.20.640(a)(2); 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);

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

(7) a copy of the taxpayer notices required under AS 29.45.020 and 29.45.660. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

<b>Authority:</b>	AS 29.20.640	AS 29.45.660	AS 29.60.865
	AS 29.45.020	AS 29.60.850	AS 44.33.020

**3 AAC 180.030. Population determination.** (a) For purposes of community assistance per capita payments to municipalities, reserves, and communities under AS 29.60.860, the director shall annually determine the permanent resident population of the previous calendar year for each municipality, reserve, and community in the state. No later than January 15 of each calendar year, the director shall mail to each municipality, reserve, and community 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, reserve, or community:

(1) a census of the United States Bureau of the Census;

(2) a head count census conducted in accordance with 3 AAC 180.040(c) by the municipality or reserve, or by the village council or incorporated nonprofit entity for a community;

(3) a housing unit method population estimate conducted in accordance with 3 AAC 180.040(d) by the municipality or reserve, or by village council or incorporated nonprofit entity for a community;

(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. (Eff. 5/15/2008,

Register 186, am 10/8/2008, Resister 188, em am 3/10/2011 – 7/7/2011, Register 198, am 12/22/2017, Register 224)

**Authority:** AS 29.60.860 AS 44.33.020

**3 AAC 180.040. Request for adjustment of population determination.** (a) A municipality or reserve, or the village council or incorporated nonprofit entity for a community, may request an adjustment of the population determination under 3 AAC 180.030 for the municipality, reserve, or community by submitting a written request to the director, postmarked no later than April 1 of the calendar year. If a municipality or reserve, or the village council or incorporated nonprofit entity for a community, requests an adjustment under this section, the municipality, reserve, village council, or incorporated nonprofit entity shall substantiate the requested adjustment with

(1) a head count census conducted by the municipality, reserve, village council, or incorporated nonprofit entity in accordance with (c) of this section; or

(2) a housing unit method population estimate conducted by the municipality, reserve, village council, or incorporated nonprofit entity in accordance with (d) of this section.

(b) If a request under (a) of this section is postmarked after April 1 of the calendar year, the director shall deny the request 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, reserve, village council, or incorporated nonprofit entity shall bear the expense of the census. The governing body of the municipality, reserve, or the governing body of a village council or incorporated nonprofit entity for a community, must

(1) pass a resolution adopting the results of the census; and

(2) 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, reserve, village council, or incorporated nonprofit entity, shall bear the expense of the estimate. The governing body of the municipality, reserve, village council, or incorporated nonprofit entity, must

(1) pass a resolution adopting the results of the estimate; and

(2) provide a copy of the resolution with the estimate results to the division.

(e) A municipality, reserve, village council, or incorporated nonprofit entity 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 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. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; em am 3/10/2011 – 7/7/2011, Register 198, am 12/22/2017, Register 224)

**Authority:** AS 29.60.860 AS 44.33.020

**3 AAC 180.050. Appeal of population determination to the commissioner.** (a) A municipality, reserve, village council, or incorporated nonprofit entity 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, reserve, village council, or incorporated nonprofit entity received the written decision of the director. The appeal must include relevant evidence in support of the 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, reserve, village council, or incorporated nonprofit entity.

(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 population report on or before June 1 of that calendar year. (Eff. 5/15/2008, Register 186; em am 3/10/2011 – 7/7/2011, Register 198; am 12/22/2017, Register 224)

**Authority:** AS 29.60.860 AS 44.33.020

**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 12/22/2017, Register 224)

**3 AAC 180.065. Standards for payment to reserves.** Repealed. (Eff. 10/8/2008, Register 188; repealed 12/22/2017, Register 224)

**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 12/22/2017, Register 224)

**3 AAC 180.080. Determination of most qualified entity.** If there is more than one qualified entity within a community in the unorganized borough that will agree to receive and spend the community assistance payment under AS 29.60.865, the department shall determine which entity is to receive the payment. In making this determination, the department 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 intends to spend the community assistance payment. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188. am 12/22/2017, Register 224)

**Authority:** AS 29.60.865 AS 44.33.020

**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 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 payment under AS 29.60.855 - 29.60.860 if

(1) the city has not qualified for a community assistance 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 12/22/2017, Register 224)

**Authority:** AS 29.60.855 AS 29.60.860 AS 44.33.020

**3 AAC 180.100. Waiver for good cause.** The department may waive a deadline in this chapter if the department 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 12/22/2017, Register 224)

**Authority:** AS 29.60.855 AS 29.60.860 AS 44.33.020

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

(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) 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; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

**Authority:** AS 29.60.865 AS 29.60.879 AS 44.33.020

**3 AAC 180.120. Preliminary and final payments.** (a) Upon a finding by the department that it is in the state's best interest, the department may make preliminary community assistance payments to eligible municipalities, communities, and reserves. The amount of the preliminary payment equals the sum of the basic payment calculated under AS 29.60.855.

(b) Immediately after identifying and verifying all information necessary to calculate final community assistance payments, the department will 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 equals 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 12/22/2017, Register 224)

**Authority:** AS 29.60.855 AS 29.60.860 AS 44.33.020

**3 AAC 180.130. Waiver of sovereign immunity.** The department will not make a community assistance 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. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

**Authority:** AS 29.60.855 AS 29.60.865 AS 44.33.020

AS 29.60.860

**3 AAC 180.140. Overpayment, adjustment, and assignment.** (a) If the amount that an entity receives under this chapter exceeds the amount that the entity is entitled to receive under AS 29.60.855 and 29.60.860, the department will either request the entity to return the excess to the state or will reduce the entity's payment for the next distribution by the difference between the amount received and the amount that the entity was entitled to receive.

(b) If the department determines that it is in the best interests of the state and the entity involved, the commissioner may extend the adjustment period over three 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 is imminent, an entity receiving community assistance payments 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 12/22/2017, Register 224)

**Authority:** AS 29.60.855 AS 29.60.860 AS 44.33.020

**3 AAC 180.900. Definitions.** In this chapter, unless the context requires otherwise,

- (1) "commissioner" means the commissioner of commerce, community, and economic development;
- (2) "community" has the meaning given in AS 29.60.879;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "director" means the director of the departmental division responsible for community and regional affairs;
- (5) "division" means the departmental division responsible for community and regional affairs;
- (6) "entity" means a municipality, reserve, community, village council, or incorporated nonprofit entity.
- (7) "governing body" means
  - (A) the assembly or council for a municipality defined;
  - (B) the council for a reserve defined in AS 29.60.879;
  - (C) the council for a Native village council; or
  - (D) the board of directors for an incorporated nonprofit entity;
- (8) "municipality" has the meaning given in AS 29.71.800;
- (9) "permanent resident" means a person whose primary place of residence is within the corporate limits of a municipality or community;
- (10) "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;
- (11) "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;
- (12) "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 under 3 AAC 190.110 - 3 AAC 190.150. (Eff. 5/15/2008, Register 186; am 10/8/2008, Register 188; am 12/22/2017, Register 224)

**Authority:** AS 29.60.850 AS 29.60.860 AS 43.33.020  
AS 29.60.855 AS 29.60.865 AS 29.60.879

**Article 08. COMMUNITY ASSISTANCE PROGRAM Sec. 29.60.850.**

**Community Assistance Fund.** (a) The community assistance fund is established in the general fund for the purpose of making community assistance 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 assistance fund money received by the state during the previous calendar year under [AS 43.20.030\(c\)](#). The amount may not exceed the greater of

(1) \$30,000,000; or

(2) the amount that, when added to the fund balance on June 30 of the previous fiscal year, equals \$90,000,000.

(c) The balance in the community assistance fund shall be determined on June 30 of each year. If the fund balance is at least \$15,000,000, without further appropriation, the department shall distribute one-third of that amount as community assistance 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 assistance payments.** (a) The basic amount used for determining the basic community assistance payment for a fiscal year is \$300,000. However, if the amount available for payments for that fiscal year under [AS 29.60.850\(c\)](#) is less than the amount necessary to make the payments under (b) of this section, the department shall reduce the basic amount pro rata.

(b) Except as provided in (c) of this section, the basic community assistance 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 dollar;

(2) borough, the basic amount, rounded to the nearest dollar;

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

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

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

(c) The basic community assistance 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 assistance 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 assistance 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 assistance 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 assistance 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 assistance 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 assistance 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 assistance 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 assistance 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.