# BRC Proposed Rule

## Goals: Accessibility, Simplicity, Program and Local Sustainability and Accountability

| | Issues | Current Rules | Proposed Rule Changes | Comments |
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| **Match** | The matching requirements are complex and one-size fits all--rules do not take into account the applicant's ability to match. | Based on the amount of the grant request.<br><br>The first $1.5MM:<br>Businesses Committed - 10%<br>Community Readiness - 15%<br><br>Above $1.5MM:<br>30% match of which half must be cash | Match based on the Total Project Cost, half must be cash<br><br>Category 1 Applicants:<br>Businesses Committed - 10%<br>Community Readiness - 10%<br>Downtown Development - 10%<br>Planning - 25% *<br>Community Enhancements - 50%<br><br>Category 2 Applicants: Business<br>Committed - 5%<br>Community Readiness - 5%<br>Downtown Development - 5%<br>Planning - 25%*<br>Community Enhancements - 50%<br>*planning match must be all cash | Applicants are considered Category 2 if they are a municipality with a population under 4,000 or a county with an assessed value less than the average of all counties in the State of Wyoming. Otherwise they are considered Category 1. In the case of a joint powers board, the project's location will determine its categorization.<br><br>These break-downs are intended to make match requirements more attainable for those entities who do not have significant tax base or other resources.<br><br>Assessed Valuations are updated annually from the Wyoming Dept. of Revenue (update available in August), and population figures are updated every five years by the US Census Bureau (next update is 2015). This information will be available on the WBC website and regularly updated. |
| **Revenue Recapture** | Revenue recapture is not consistent and varies by project.<br><br>Recaptured funds are a way to increase BRC program sustainability as well as local sustainability.<br><br>**In 2014, the Legislature passed Senate File 100: "The council shall promulgate rules and regulations to identify the type and maximum amount, as a percentage of the total grant, of the revenue that may be recaptured and credited to the account as a result of grants under this section."** | Revenue recapture must be commensurate with the public investment. | Revenue recapture must be commensurate with the public investment. More specifically, a minimum of 50% of all net revenue generated from BRC grant-funded infrastructure must be recaptured back to the Wyoming Business Council (WBC).<br><br>**This proposed change only applies to revenue-generating projects like building leases and land sales, not non-revenue generating project like water, sewer, and roads.**<br><br>Of the total local recaptured funds, 50% may be used for O&M as long as the funds are matched at 100% with other local funds.<br><br>Grantee/borrower will be required to have a separate account dedicated to economic development for all recaptured funds. An annual accounting of the local recapture funds must be provided to the WBC. | Projects that generate revenue (lease revenues or sales income) will be subject to this recapture provision. Grantee recaptures 50% of revenue generated and the Business Council recaptures the other 50%.<br><br>A BRC loan is preferred. If a loan is not a feasible and repayment of recapture funds is the only option, a copy of the revenue recapture plan will be filed with the real estate record in the county where the project is located. This will effectively behave as lien on the property. |

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| **Projects with Private Developers** | The Attorney General has suggested several factors to be considered when determining whether an expenditure comports with Article 16 Section 6 of the Wyoming Constitution. In reviewing projects that involve private developers, the AG advises the following factors should be analyzed:<br><br>*the way in which the public benefits compare to the way in which private parties may benefit<br>* the overall primary effect of the public expenditure<br>*the consideration given for the expenditure<br>*the location or site improvement of a particular project<br>*the creation of employment opportunities<br>*the comparison of private dollars involved in a project to the number of public dollars increased tax and / or other revenues and competition with other localities. | Revenue recapture for private developments have a higher public benefits threshold but vary by project type. | 100% recapture of the grant amount and a positive internal rate of return. Recapture may occur through a BRC loan, repayment of funds, tax benefits and donation of real estate. The value of all real estate donations must be verified by an appraisal. | Private developments must recapture 100% of the grant amount and have a positive internal rate of return as calculated by staff. |
| **Community Development Organization (CDO)** | Some CDO bylaws and IRS codes do not specify that BRC funded assets owned by the CDO revert back to public ownership upon dissolution. | Currently, if CDO dissolves, CDO's bylaws or IRS code govern asset disposal. | A deed restriction on the grant or loan funded asset with a reversionary clause back to the grantee/borrower, joint powers board, city, town or county in the event of dissolution of the CDO. | Ensures BRC funded asset will remain in the ownership of an allowable public entity in the event of the CDO's dissolution. |
| **Loans** | Loan structuring lacks consistency. | <u>Interest Rate:</u><br>No to low interest (taken from statute)<br><br>Collateral:<br>To be recommended by the Business Council and determined by the SLIB | <u>Interest Rate:</u><br>• Non-revenue generating projects - floor of zero percent (0%)<br>• Revenue generating projects - floor of one percent (1%)<br>• All loans will include an annual servicing fee of 0.5% not to exceed $5,000<br><br>No match is required on loans<br><br><u>Collateral:</u><br>All loan projects that create a lease or a revenue-based asset must be secured. | Revenue generating projects have the capacity to pay a higher interest rate than non-revenue generating projects. Rates will comport with the intent of the statute to be no to low interest but keeping in mind<br>current interest rates. |
| **Child Care/Senior Care** | The program currently allows for child care and senior care projects. There is not significant demand for these types of projects. | Both Senior Care and Childcare projects are accepted once a year with a maximum of $1 million per project. | Create a new category of community development projects that will include, but not be limited to child care, senior care and community centers. | This change will allow applicants to address quality of life or workforce needs that support a community's economic development efforts. |

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| **Deadlines** | Difficult for planning at the local level when some applications are accepted only once or twice a year. | Not all types of applications are accepted quarterly. Certain types of applications are accepted on defined deadline dates and limited as follows:<br><br>Business Committed - 4/fiscal year<br>Data Center - 4/fiscal year<br>Community Readiness - 2/fiscal year<br>Downtown Development - 2/fiscal year<br>Community Enhancement - 2/fiscal year<br>Planning - 2/fiscal year | All types of applications will be accepted on a quarterly basis.<br><br>Applications are limited by type as follows:<br><br>Business Committed - 4/calendar year<br>Data Center - 4/calendar year<br>Community Readiness<br>Downtown Development 2/calendar yea<br>Community Enhancement r<br>Planning | Flexibility allows applicants to apply when most strategic.<br><br>In order for this rolling acceptance of applications to be successful it will be important for the board to adopt an allocation plan. |
| **Downtown Development** | Downtown development projects are community readiness projects that happen to be located in downtowns, but are not consistent with the same maximum awards. | Downtown Development Grant Awards - $2 million maximum | Downtown Development Grant Awards - $3 million maximum and available for projects | The WBC recognizes the rising costs of rehabilitation projects. |
| **Operations and Maintenance (O&M)** | Communities do not always have the on- going funds to maintain BRC-funded assets. | O&M is not a formal requirement for every project. | Applicants will be required to adopt an O&M plan for the life of the BRC-funded asset. | This plan will help WBC staff and local communities understand a majority of the costs associated with maintaining and operating projects long term. |
| **Reporting** | Staff regularly collects reporting information, but performance measures need to be formally addressed. More accountability is required for revenue recapture at local level. | Grantees/borrowers provide quarterly reports during construction. Following construction, the grantees and borrowers submit an annual report for three years on revenue recapture, job creation, private investment, etc. | Grantees/borrowers will report on each performance measure. Reporting period will be extended from three years to five years for all projects types except Community Enhancement (which will remain at three years) and Planning which are complete with the submission of a final plan. | Allows WBC staff to collect and analyze data to ensure the program continues to meet the goals set forth by the WBC, the legislature and the Governor. |
| **Contingency and Development (C&D)** | C & D agreements differ by project and community. Lack of consistency sometimes delays project development. | An agreement between parties is required, but the rules are vague as to what specifically must be included. | Rules will outline all requirements of the C&D agreement. | Staff will develop a template for applicants, shortening project development phase. |
| **Managed Data Center Cost Reduction** | There is a discrepancy between when funds are disbursed and when the match by the company is realized. | The company has five years to realize its match of payroll and capital expenditures.<br><br>Grant funds are disbursed over three years. | Funds will be disbursed up to five years but only as the match from the company is realized. | A clawback provision requires grant funds be repaid if the company leaves town or goes out of business within five years of first receiving funds. This change allows applicants lessen exposure to clawback as grant funds are drawn down and match is realized. |