

Business Ready Communities Program Scoping Paper

August 7, 2015

Management Audit Committee

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Introduction

From 2003 through 2014, the Legislature provided over \$300 million in General Fund appropriations for the Wyoming Business Council's (WBC) Business Ready Communities (BRC) program. This money was used to develop more than 280 economic development projects. These projects are intended to help communities overcome economic challenges and take advantage of unique local business opportunities and assets. The BRC program has expanded and changed in order to provide an assortment of economic development tools to address a variety of needs found around the State.

In December 2014, the Management Audit Committee (Committee) directed the Legislative Service Office (LSO) to conduct a scoping topic review of the BRC program. This review covered the general grant and loan approval processes, with a focus on funds distribution, local community matching requirements, and the constitutionality of the program. The assigned areas were reviewed to help the Committee determine if the BRC program could benefit from a full evaluation.

Background

The BRC program was established July 1, 2003 (2003 Laws, Ch. 211) and is currently codified under W.S. 9-12-601 through 9-12-603. The BRC program provides funding through grants and loans, to cities, towns, counties, joint powers boards, and tribes (through cooperative agreements) for economic development infrastructure projects or community education and planning. These efforts work to increase the health and strength of Wyoming's economy.

BRC program funds can be used to purchase and develop land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or any other infrastructure as determined by the WBC. The program prohibits the use of these funds for the rehabilitation or expansion of existing infrastructure unless the WBC determines the rehabilitation or expansion is necessary to meet the purposes of the BRC program.

The Legislature assigns administration and oversight of the program to the WBC staff and Board of Directors (Board), with final approval of the projects to the State Loan and Investment Board (SLIB), which consists of the five statewide elected officials. Both the WBC and the SLIB have rule making authority and the most current WBC rules were issued on November 22, 2013.

Investment Ready Communities Division

Within the WBC, the Investment Ready Communities (IRC) Division manages the BRC program. The IRC Division also oversees three other programs including the Community Facilities Grant and Loan Program

(CFP), the Main Street Program, and the federally funded Community Development Block Grant Program. According to the WBC, the IRC Division is responsible for offering:

“Responsive state support to local governments and businesses for a diversified, growing, resilient economy benefiting people, families, businesses and communities...[to] become ‘business-ready’.”

Currently, the IRC Division has seven employees including a director, three program managers, two grant and loan specialists, and a data analyst.

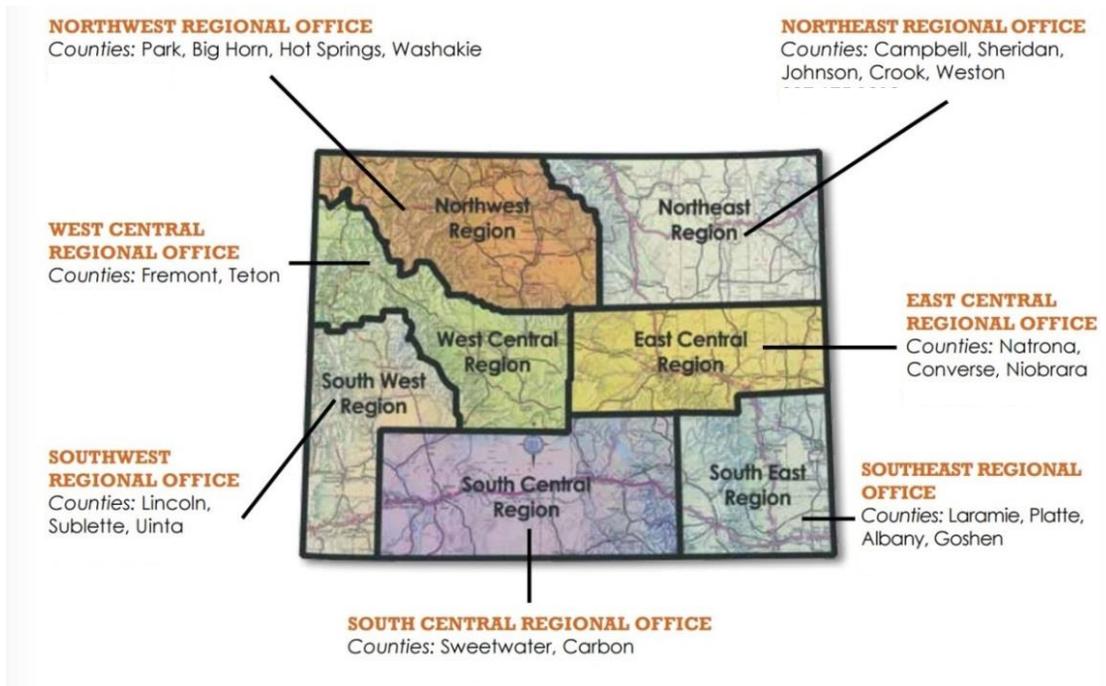
WBC Regional Offices and Directors

The WBC has a central office, in Cheyenne, and seven regional offices located in Casper, Sheridan, Powell, Rock Springs, Laramie, Kemmerer, and Riverton. Regional directors operated these offices, disseminate information on WBC programs, work with communities to plan, coordinate, and manage economic development within each region.

For the BRC program, the regional directors act as a liaison between the applicant and Cheyenne office. The regional directors help communities develop project ideas and applications, while at the same time they provide the WBC Cheyenne staff with more information about the community, local economy, and individual projects.

Figure 1, below, illustrates the counties included in each WBC region.

Figure 1
WBC Region Map



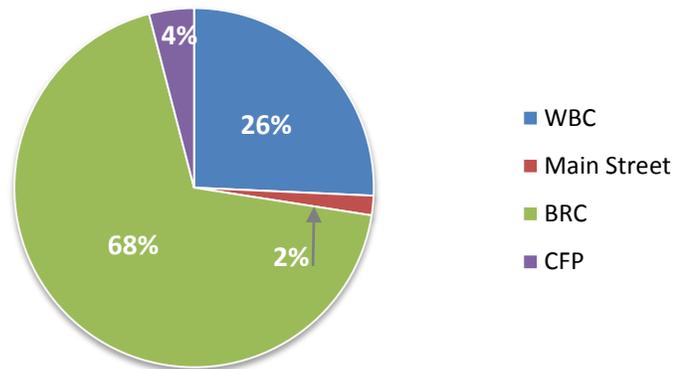
Source: Wyoming Business Council 2013 Business Plan

Program Funding

The IRC Division encompasses the majority of the WBC operating funds for the most recent biennial budget periods (FY 2013-2014 and FY 2015-2016). More specifically, the funding for the IRC Division accounted for \$58.5 million, or 66%, and \$74.13 million, or 73%, of these biennia, respectively. Within the IRC Division, there are two sub-units, one each for the BRC and the CFP programs. Of these two sub-units, the BRC program constitutes most of the IRC Division budget.

Overall, the BRC program accounts for over half of the WBC General Fund appropriations. Figure 2, below, illustrates the proportion of BRC funds as compared to the total WBC General Fund appropriations for all budget units for the current biennium, FY 2015-2016.

Figure 2
2015-2016 Biennial WBC General Fund Appropriations



Source: Legislative Service Office analysis of Wyoming Business Council budget information.

Programs and Processes Overview

The BRC program consists of seven sub-programs as described in Table 1.

Table 1
BRC Sub-Programs Description

Sub-Program	Description	Maximum Award ¹
Business Committed	Infrastructure to facilitate the startup, retention, expansion, or location of a specific business	\$3 million
Community Readiness	Infrastructure to prepare a community for future business development under a specific community plan	\$3 million
Community Enhancement	Infrastructure to improve aesthetics or quality of life to make a community attractive for business development	\$500,000
Downtown Development	A Community Readiness project located in a downtown or Main Street Program area	\$2 million
Child and Senior Care	Infrastructure to facilitate the start up or expansion of a childcare or senior care facility	\$1 million
Managed Data	Reduction of the utility cost for electrical and/or broadband	\$2.25

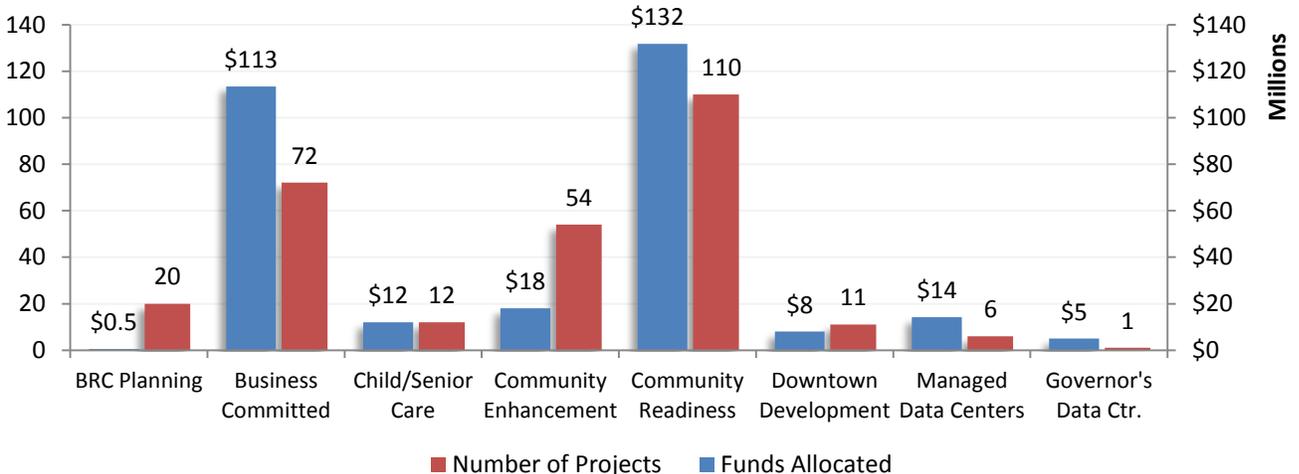
Sub-Program	Description	Maximum Award ¹
Centers	for the recruitment or expansion of managed data centers	million
BRC Planning	There are five types of planning grants available	
<i>Economic Development</i>	Address the community as a whole and identify potential future economic development opportunities and further develop a community's economic development strategy	\$50,000
<i>Feasibility Studies</i>	Site specific or industry specific plans to determine the feasibility of a project or plan for a project that addresses an economic development objective	\$25,000
<i>Promotional</i>	Address the promotion of a community's economic development asset(s) (e.g. branding)	\$25,000
<i>Tourism</i>	Address economic development opportunities for a defined region or community that specifically focuses on the tourism and hospitality industry	\$25,000
<i>Regional Targeted Industry</i>	Plans that encompass a defined region and potential targeted industries for economic development growth	\$50,000

Source: Legislative Service Office analysis using Wyoming Business Council information.

¹ A project may receive more than one grant or loan if completed in phases.

From 2003 through 2014, the WBC states that the BRC program has funded 286 projects¹. As shown in Figure 3, the Business Committed and Community Readiness sub-programs account for 63.6%, or 182, of all projects. Combined, these two project categories also account for approximately \$245 million or 81% of the funding.

Figure 3
BRC Projects and Funding by Sub-Program, FY2003-FY2014



Source: Legislative Service Office summary of Wyoming Business Council's 2014 BRC Annual Report

¹ The 2014 BRC Annual Report indicated that there were 286 total projects funded as of the date the report was issued. Preliminary LSO review counted 285 projects, although total funding did not change despite the discrepancy in the number of projects.

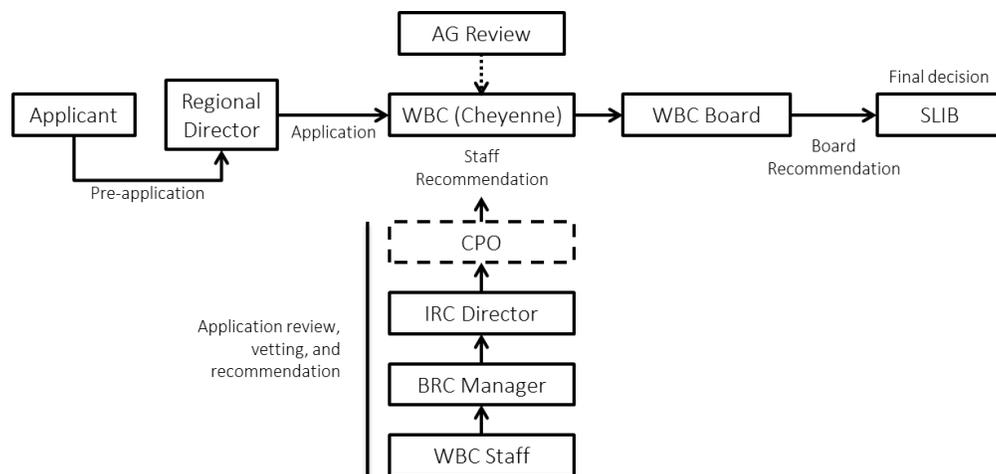
Project Fit Criteria and Application/Approval Process

The BRC program was intended to be flexible enough to meet the needs of a variety of local economies and communities. Therefore, the WBC promulgated rules are important for determining the fit and eligibility of projects. There are five standards found in Chapter 1 of the BRC rules that define fit:

- Support Wyoming’s diverse communities;
- Focus on projects that produce benefits that endure beyond the funding of the program;
- Support projects that help people, families, and communities;
- Increase the ability for communities, to create working economic development partnerships across the public and private sectors, acknowledge each has its own responsibilities; and,
- Encourage innovative responses to local economic challenges through a flexible review and recommendation process.

The application and approval process for BRC projects is multi-faceted. A diagram of the process (from left to right) can be found in Figure 4, below.

Figure 4
BRC Program Application and Approval Process



Source: Legislative Service Office illustration using Wyoming Business Council information.

Note: CPO stands for “Chief Performance Officer,” a new position created in 2015.

In summary, the project application and approval process occurs as follows:

- **Pre-Application:** Regional director and applicant meet to discuss the project, address initial questions and concerns, and identify if the project is eligible and fits the BRC program.
- **Application:** The regional director, applicant, and local community (both public and private entities) create an application packet.

- **Vetting and Staff Recommendation:** The application is reviewed by IRC Division staff in Cheyenne and as needed, by the Attorney General’s (AG’s) Office. Once the application is reviewed, a WBC recommendation is created for the WBC Board.
- **Board Recommendation:** The project is presented to the Board and interested parties are invited to attend to answer questions and speak about the project. The Board approves the official WBC recommendation to the SLIB.
- **Final Decision:** The project is presented to SLIB and interested parties are invited to attend to answer questions and speak about the project. The SLIB makes the final decision for the project, including approval of changes to terms and conditions it deems necessary.

Application Match Requirements

The current local matching requirement for several of the BRC programs including Business Committed, Community Readiness, and Downtown Development, is dependent on a project threshold funding amount of \$1.5 million. For these three programs, the local match requirements differ for funding above or below this amount. Summarized in Table 2, below, are the current matching requirements for all BRC sub-programs.

**Table 2
Current Match Requirements by BRC Sub-Program**

Program	Current	
	<i>Up to \$1.5 M</i>	<i>Above \$1.5 M</i>
Business Committed	10% (Cash or in-kind match)	30% of funds <i>above \$1.5 M</i> (half must be cash match)
Childcare/Senior Care	Up to \$1 million, 15% match	
Community Readiness	<i>Up to \$1.5 M</i>	<i>Above \$1.5 M</i>
	15% (Cash or in-kind match)	30% of funds <i>above \$1.5 M</i> (half must be cash match)
Downtown Development	<i>Up to \$1.5 M</i>	<i>Above \$1.5 M</i>
	15% (Cash or in-kind match)	30% of funds <i>above \$1.5 M</i> (half must be cash match)
Managed Data Center Cost Reduction	<i>Up to \$2.5 M</i>	
	<ul style="list-style-type: none"> ▪ 125% in capital expenditures and payroll over next 5 years ▪ 50% of payroll and jobs must be 150% county median wage 	
Community Enhancement	50% match	
BRC Planning	25% cash match of total project	

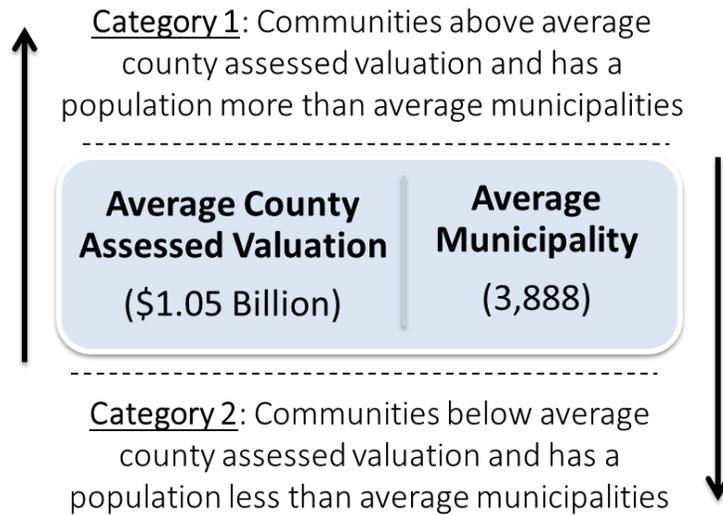
Source: Legislative Service Office summary of WBC information.

In response to legislative interest in the BRC program since early 2014, the WBC began the process of updating program rules, including the BRC matching requirements. According to WBC staff, there were three specific reasons why the match requirements were being updated:

1. Applicant feedback indicated that budgeting for the match was difficult when project costs increased.
2. Smaller communities and applicants with fewer resources indicated difficulty meeting project matches, and were unintentionally disadvantaged by the requirements.
3. Current rules for calculating matches are not easy to understand. Specifically, the complexity of the match requirements required an algebraic formula to determine the correct match amount.

The new proposed matching requirements aim to simplify match calculations for communities to provide a standardized system that is expected to be easy to understand and more transparent. A key consideration is that the proposed match amounts have been reduced in anticipation of new and ongoing revenue recapture changes (recapture conditions are discussed in the next section). Finally, the proposed match requirements will be based on two categories, average county assessed (property) valuation, and average municipal population. In other words, matching requirements will be based on the applicant’s community characteristics and not on the specific project or program values. Summarized in Figure 5 and Table 3, below, are the proposed community characteristic criteria as well as the bifurcated matching levels, respectively.

Figure 5
Category 1 & 2 Explanation



Source: Legislative Service Office illustration of Wyoming Business Council information.

Table 3
Proposed BRC Program Local Matching Requirements by Category

Program	Proposed Changes	
	Category 1	Category 2
Business Committed	10%	5%
Community Readiness	10%	5%
Downtown Development	10%	5%
Childcare/Senior Care	No proposed changes	
Managed Data Center Cost Reduction	No proposed changes	
Community Enhancement	No proposed changes	
BRC Planning	No proposed changes	

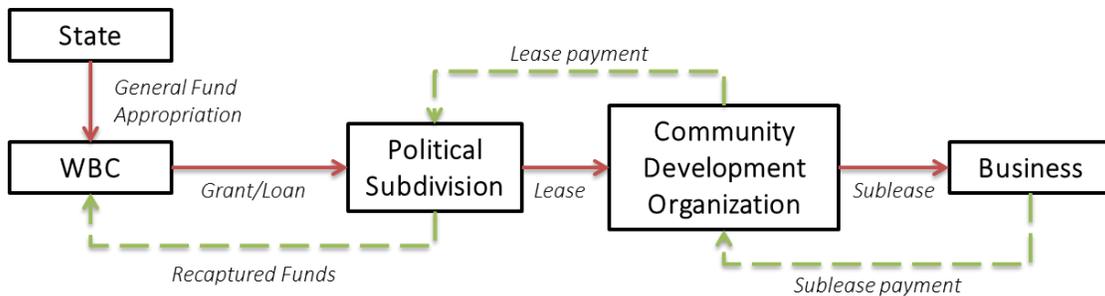
Source: Legislative Service Office summary of WBC information.

Revenue Recapture

WBC staff has expressed interest in focusing on projects with a loan component as a way to maintain the BRC program. However, where a loan is not feasible, the WBC can enter into a revenue recapture agreement with an applicant, if the project qualifies. According to the WBC, projects that receive a BRC grant and have a dedicated *revenue* stream can have funds recaptured (e.g. projects that have a lease component). The WBC believes that such funds could be used for “local community and economic development activities,” as well as for returning money to the BRC program.

Figure 7, below, is a conceptual funding and revenue recapture model developed by LSO. The red, solid lines represent funds flowing *out/from* the BRC program to communities, and the green, dashed lines represent funds flowing *back* to the State.

Figure 7
An Example BRC Funding and Revenue Recapture Plan



Source: Legislative Service Office illustration of Wyoming Business Council information.

According to the 2005 LSO evaluation of the WBC, revenue recapture was intended to provide long-term stability and extend the use of the BRC program appropriations. However, the WBC has not recaptured revenues on project grant to the extent originally envisioned by the Legislature.

Given current interest by the Legislature in the sustainability of the BRC program in light of State budget conditions, revenue recapture is an issue the WBC is currently addressing. As noted above, the proposed local matching requirements are intended to balance recent emphasis on revenue recapture for the BRC program and local communities.

Program Reporting

The BRC program has three types of reports: quarterly, final infrastructure, and post-project annual reports. Below is a summary of the purpose of each report and content requirements.

- **Quarterly:** Once the project is active, quarterly status reports are submitted to WBC staff, including the regional director, senior specialist, and program manager, by the applicant. The purpose of these reports is to review the progress of the project and address any issues that may arise.
- **Final Infrastructure:** A report intended to provide the WBC with the final numbers regarding the project budget and infrastructure. WBC staff use this report to determine what, if any, of the remaining funds can be de-obligated and used for other projects. Report information is also used to verify original proposed figures.
- **Annual:** Annual post-project reports intended to help track performance measures and project effectiveness. The information from these reports is used to update the individual profiles posted on the WBC website that provides basic information and qualitative results for each BRC project.

The WBC requires applicants to report on BRC projects for three years after the construction for the project is complete. Currently, the WBC is reviewing this provision for possible changes.

Program Monitoring and Recent Legislative Actions

SF0100 (2014) Changes to the BRC Program

Even with the reporting requirements outline above, the Legislature has requested consolidated information from the WBC for its deliberations. In 2014, SF0100 (2014 Laws, Ch. 127) was passed, which added three new requirements to the BRC program. One requirement covers revenue recapture, while the other two requirements cover reporting/monitoring of the program and applicant's projects.

- **Applicant Reporting:** Grant and/or loan recipients are responsible for reporting to the WBC, at least annually. These reports are to include a cumulative financial audit and a list of the accomplishments that result because from use of program funds.
- **Revenue Recapture Rules:** The WBC is required to establish rules to define the type and maximum amount, as a percentage of the total grant, of the revenue that may be recaptured.

- **New BRC Annual Report:** The WBC is required to provide an annual BRC program report to the Joint Appropriations Interim Committee and the Joint Minerals, Business, and Economic Development Interim Committee. The report is required to address the administration of the program and is expected to include details such as a list of all grants and loan requests made in the previous 24 months, expenditures by project, and the progress of each project as of the date of the report. The WBC provided the first BRC program annual report to both committees in October 2014.

The Joint Subcommittee on Economic Development

Coinciding with the passage of SF0100, the Legislature formed the Joint Subcommittee on Economic Development (Subcommittee). The Subcommittee is composed of six members, three from the Joint Minerals, Business, and Economic Development Committee and three from the Joint Appropriations Committee, who are appointed by the respective committee Chairmen. This Subcommittee worked throughout the 2014 interim and was re-authorized during the 2015 General Session (2015 Laws, Ch. 142), with its authority set to expire in December 2015.

The Legislature charged the Subcommittee with studying the State's role in "providing aid and assistance in economic development projects...[and] a review of the Wyoming Business Council, its programs, funding mechanisms and rules and regulations, and the expanded use of Amendment IV funds." In 2015, the Subcommittee's purpose was expanded to "consider legislative responses to promote air services in Wyoming."

BRC Constitutionality

The central concern for the BRC program focuses on the State using public funds to directly or indirectly benefit the State's economy and businesses. Strictly speaking, according to Article 16, Section 6 of the Wyoming Constitution, public funds (except permanent State funds) cannot be directly invested in private entities. The WBC staff note the BRC program is used to assist business *indirectly* through the Business Committed, Community Readiness, and other sub-programs, as well as through fostering partnerships with local Community Development Organizations (CDOs).

Pursuant to W.S. 9-12-601(e), BRC grant and loan funds may be used to contract with CDOs and State Development Organizations (SDO) (as defined by W.S.9-12-301(a)(ii)) and W.S. 9-12-301 (a)(iv), respectively), as long as the agreement is in accordance with the purposes of the program and approved application. The WBC requires that all eligible applicants who expect to work in partnership with a CDO to submit a contingency and development agreement with the application. These agreements define the relationship between the two entities and determine the conditions for ownership of property and infrastructure.

In addition to statutory authorization and internal administrative safeguards, the WBC consults with the AG’s Office to ensure projects fall within current Wyoming Constitutional understanding for expending public funds on economic development. Specifically, the AG’s Office reviews all Business Committed applications and any projects with a loan component. The WBC also uses the principle of “adequate considerations” as recognized by the AG’s Office. The primary tenet of this principle is that if there is an equal or “adequate” exchange of funds (or other “considerations”) for public benefit (between the State and applicant) then the project is considered constitutional even if a private entity directly or indirectly benefits from the project.

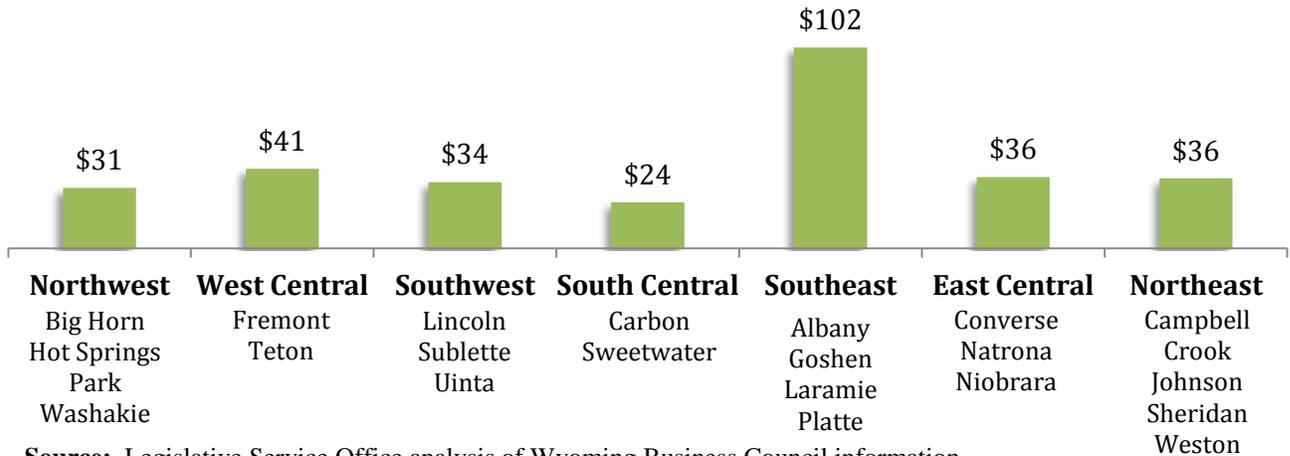
Committee Concerns with Funds and Infrastructure Distributions

During the December 2014 Committee meeting, members expressed interest in knowing both the distribution of BRC funds and constructed infrastructure (e.g. by type, by ownership, by acreage). With respect to funding, the Committee specifically wanted to know if it is possible to identify where and how the majority of BRC funds have been expended. Based on information provided by the WBC, the following figures and explanations provide different ways to display how the BRC distributed funds between 2003 and 2014.

Funding Distribution by WBC Region

Preliminary LSO analysis reveals that the Southeast Region received the most (33.8%) BRC funds, as shown in Figure 8, below. The next highest region is the West Central Region, which received less than half of the Southeast Region.

Figure 8
BRC Expenditures 2003 -2014 by Region (Millions)



Source: Legislative Service Office analysis of Wyoming Business Council information.

Funding and Number of Projects by County

According to WBC data, nine counties (Laramie, Albany, Natrona, Fremont, Teton, Park, Lincoln, Uinta, and Sheridan) accounted for 73.5%, or \$222.7 million, of all BRC funds distributed since program inception. Table 4, below, shows total distributed BRC funds (2003–2014) as well as the population and the number of BRC projects for each county and WBC region.

**Table 4
BRC Funds Distribution by County**

Region	County	Dollars	Population¹	Projects²
Northwest	Big Horn	\$7,053,773	11,668	10
	Hot Springs	\$3,103,706	4,812	2
	Park	\$18,173,328	28,205	20
	Washakie	\$2,430,679	8,533	3
<i>Northwest Sub-Total</i>		<i>\$30,761,486</i>	<i>53,218</i>	<i>35</i>
West Central	Fremont	\$21,609,011	40,123	22
	Teton	\$18,928,943	21,294	16
<i>West Central Sub-Total</i>		<i>\$40,537,954</i>	<i>61,417</i>	<i>38</i>
Southwest	Lincoln	\$16,350,551	18,106	15
	Sublette	\$1,019,872	10,247	2
	Uinta	\$16,342,549	21,118	13
<i>Southwest Sub-Total</i>		<i>\$33,712,972</i>	<i>49,471</i>	<i>30</i>
South Central	Carbon	\$10,434,288	15,885	19
	Sweetwater	\$13,082,342	43,806	16
<i>South Central Sub-Total</i>		<i>\$23,516,630</i>	<i>59,691</i>	<i>35</i>
Southeast	Albany	\$31,998,675	36,299	22
	Goshen	\$6,929,651	13,249	9
	Laramie	\$57,284,212	91,738	29
	Platte	\$6,022,160	8,667	10
<i>Southeast Sub-Total</i>		<i>\$102,234,698</i>	<i>149,953</i>	<i>70</i>
East Central	Converse	\$7,951,835	13,833	9
	Natrona	\$26,873,529	75,450	22
	Niobrara	\$1,500,000	2,484	1
<i>East Central Sub-Total</i>		<i>\$36,325,364</i>	<i>91,767</i>	<i>32</i>
Northeast	Campbell	\$9,922,486	46,133	11
	Crook	\$2,455,290	7,083	6
	Johnson	\$2,431,103	8,569	4
	Sheridan	\$15,112,358	29,116	18
	Weston	\$5,763,757	7,208	6
<i>Northeast Sub-Total</i>		<i>\$35,684,994</i>	<i>98,109</i>	<i>45</i>
Grand Total		\$302,774,098	563,626	285

Source: Legislative Service Office summary of the Wyoming Business Council's 2014 BRC Annual Report.

Region	County	Dollars	Population ¹	Projects ²
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¹ Population data was taken from the 2010 U.S. Census.

² LSO calculated 285 total projects, but the WBC’s 2014 BRC Annual Report states that 286 total projects have been funded.

Infrastructure Distributions

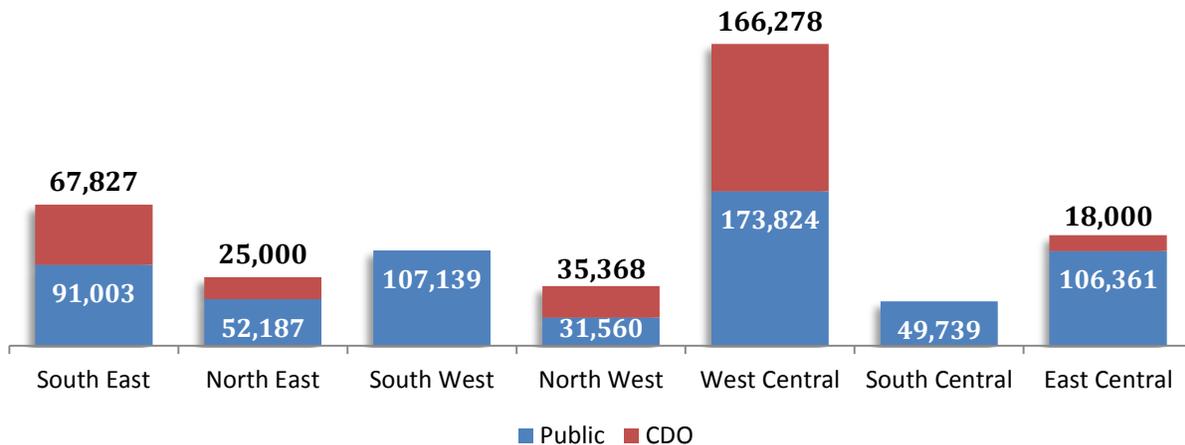
With respect to how the infrastructure is distributed throughout the State, Committee members wanted to know if it was possible to identify the public and private distribution of ownership for buildings and infrastructure for BRC projects. The WBC definition for infrastructure is found in W.S. 9-12-601 (b) and includes land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or other infrastructure determined by the council, to be consistent with the purposes of this article. The WBC records and reports buildings per square feet, land developed, in acres, and infrastructure by linear feet.

Buildings (Square Feet)

According to WBC data, approximately 939,586 square feet of building space has been completed using BRC funds and 311,323 square feet are under development. For all completed and anticipated BRC building space, 33% of building square footage is owned by CDOs and 67% is owned publically.

Specific ownership distributions of building square feet, by WBC region, are shown in Figure 9, next page.

Figure 9
WBC Region Building Ownership by Square Feet, FY2003-FY2014



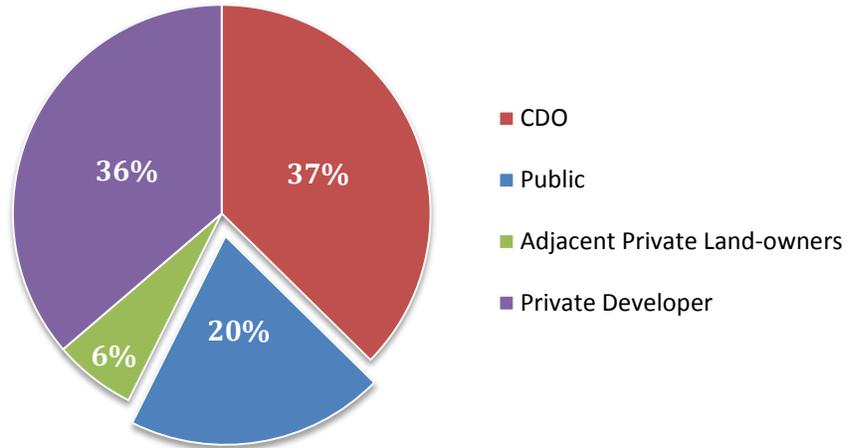
Source: Legislative Service Office summary of the Wyoming Business Council’s 2014 BRC Annual Report.

Acreage

According to the WBC, a combination of public entities, CDOs, private developers, and adjacent private landowners have developed over 7,170

acres using BRC funds. As illustrated in Figure 10, below, 20% of developed acreage is publically owned while 80% is owned by private entities including CDOs.

Figure 10
Acres Developed Ownership for Completed Projects

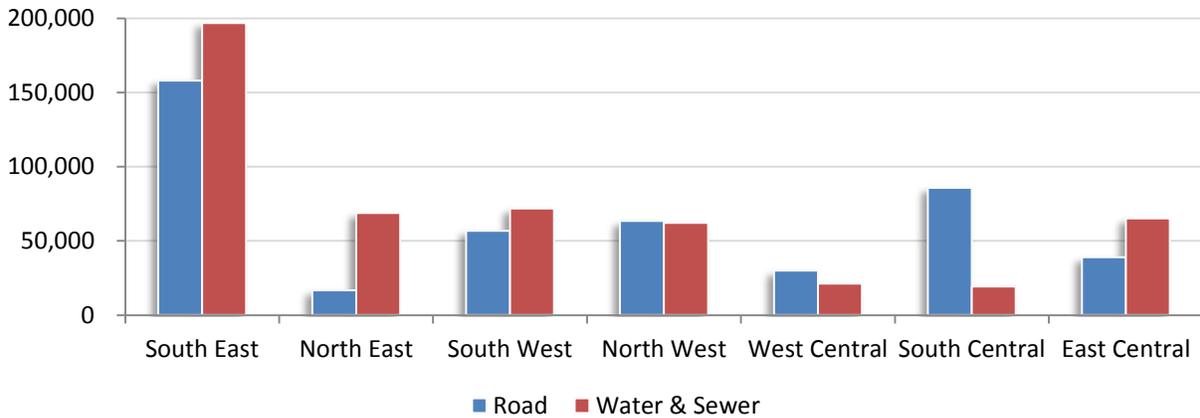


Source: Legislative Service Office summary of the Wyoming Business Council’s 2014 BRC Annual Report.

Traditional Infrastructure (i.e. Roads, Water/Sewer, and Other)

According to WBC staff, “roads, water lines and sewer lines are always owned by County, City, Town, or Joint Powers Board which applied for the grant.” Additionally, all “other infrastructure,” with the exception of one case where a rail spur is owned by the Laramie Economic Development Corporation, is owned by the applicant. Figure 11, below, illustrates the number of approved BRC funded road and water/sewer projects in linear feet, by region.

Figure 11
Road and Water/Sewer Completed using BRC Funds (Linear Feet)



Source: Legislative Service Office summary of the Wyoming Business Council’s 2014 BRC Annual Report.

Other infrastructure

There was no clear categorization as to what constitutes other infrastructure, which appears to include a wide range of projects from “community enhancement” (e.g. ornamental lights) to “traditional” infrastructure (e.g. rail spur).

Potential Evaluation Questions

The recent efforts to examine the BRC program by the Subcommittee has prompted the WBC to re-evaluate and address some of the questions and concerns shared by the Committee (e.g. match requirements). Given the ongoing Subcommittee work, common areas of LSO review, including agency rules, applying project funding standards and processes, and program reporting and monitoring are currently under review and are shifting. Consequently, it is unclear where a full LSO program evaluation may add value at this time.

However, as the WBC information used in this paper has not been independently verified, the Committee may still wish to move forward with a full evaluation and the following questions could be addressed:

1. How have private entities (e.g. CDOs) affected BRC fund distributions throughout the State? Do these entities affect both larger and smaller communities’ economic development efforts and success?
2. What does the BRC infrastructure ownership distribution look like and which projects are more likely to involve or require private entities’ participation?
3. How do the dual roles as “applicant advocate” and “information resource” affect the regional director’s ability to remain objective when developing and recommending projects? What standards and practices do Regional Directors use to accomplish these duties?
4. Are current distribution methods of BRC funds equitable and adequate given historic and recent program resources?
5. How does the WBC verify and measure that the various proposed economic development metrics in applications actually materialized and meet the “adequate consideration” principle?
6. In what ways does the WBC ensure the sustainability of the BRC program and will revenue recapture and BRC program loans affect the use and sustainability of the program at the State and local levels?

Appendices

Appendix A Glossary of Terms

Appendix B Proposed Rules Changes and Narrative (March 2015 WBC Board meeting in Casper)

Appendix A

Glossary of Terms

Adjacent Private Land Owner: Business or individuals who own property adjacent to BRC structures.

Assisted Communities: Counties, cities, towns, and joint powers boards that have been granted or loaned BRC Funds.

Businesses Assisted: Private businesses committed to either creating jobs or benefiting indirectly by BRC funded infrastructure.

Community Development Organization (CDO): A group of private citizens organized as a business entity authorized to do business in this state for the purpose of providing financing for new, existing, or expanding businesses and other economic or community development purposes throughout its community or county, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof.

Infrastructure: Pursuant to W.S. 9-12-601 (b), includes land, buildings, facilities, telecommunications infrastructure, rights of way, airports, sewer and water projects, roads, landscaping, recreational and convention facilities or other infrastructure determined by the council.

Match: Cash and/or in-kind contributions. Contributions must have value and must be applicable to the period to which the matching requirement applies and must be necessary for the project. Examples of in-kind contributions include labor, materials, and real estate.

Private Developer: For profit companies which have an interest in land improvement by BRC infrastructure investments.

Revenue Generating Project: Real property developed with BRC funds either owned by the applicant or created partnership with a private party that generates revenue from user fees, assessments paid by the beneficiaries of the facility, lease payments, or the proceeds from the sale of real property.

Revenue Recapture: Revenue generated by the applicant or a private developer through publicly funded infrastructure projects must be recaptured by the applicant at a rate negotiated between the applicant and other partners and commensurate with the public investment. The intent of local revenue recapture is to ensure BRC funding remains in a community continuing to foster community and economic development activities."

State Development Organization: A corporation organized under W.S. 17-11-101 through 17-11-120 with the authority to provide financing for new, existing or expanding businesses and to fulfill other economic or community development purposes throughout the state of Wyoming, and which may take equity positions and shall take security positions in its borrowers' businesses and appropriate personal guarantees from the owners thereof (see W.S. 9-12-301(a)iv). Note that W.S. 17-11-101 through 17-11-120 refers to the Wyoming Industrial Corporations Act.

Appendix B

Proposed BRC Rules Changes and Narrative

MEMORANDUM²

To: Wyoming Business Council Board of Directors

From: Shawn Reese, CEO

Date: March 2, 2015

Re: Business Ready Communities (BRC) Program Proposed Rule Changes

Background: In 2014, the state Legislature passed Senate File 100. That bill, in part reads: “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.”

Further, the Legislature created the Joint Subcommittee on economic development to review the WBC and the BRC program. Issues discussed with that committee included the sustainability of the program, the viability of local economic development organizations, ownership of BRC funded assets, and more.

The Wyoming Business Council (WBC) staff scheduled discussions with the Wyoming Association of Municipalities, and met with the Board of the Wyoming Economic Development Association. These conversations along with the discussions with the Legislative Joint Subcommittee on Economic Development provide the basis for the attached chart. It outlines issues that could be addressed to make the program:

- More accessible,
- Simple to use,
- More sustainable at the program and local level
- Accountable to constituents as well as the State Legislature.

The Process: Staff proposes the following:

- Discussion and direction on the proposed rule changes as presented in the attached matrix.
- A strike and underline copy will be developed for public comment.
- Following the public comment period, staff will provide an analysis of the comments and a strike and underline copy of the rules
- Subject to Board approval, begin the rule adoption process.

Staff Recommendation: Staff recommends approval of the broad concepts as provided in the attached matrix, the authority to proceed with developing a strike and underline copy detailing the proposed BRC rule revisions and to seek public comment on same. Results of these efforts will be presented to the WBC Board at its September [2015] meeting.

² The memorandum was formatted for inclusion in the Scoping Paper.