

STATE

DIVISION OF THE NEW JERSEY STATE LIBRARY

New Jersey Library Construction Bond Act Rules

Proposed Amendments: N.J.A.C. 15:24-2.5, 2.6, and 4.1

Authorized By: Jennifer R. Nelson, State Librarian, with the approval of Merodie Hancock, Ph.D., President, Thomas Edison State University.

Authority: P.L. 2017, c. 149.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-062.

Submit written comments by September 1, 2023, electronically to jnelson@njstatelib.org. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment. The State Library encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

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The agency proposal follows:

Summary

In July 2017, the New Jersey Library Construction Bond Act (the Act), P.L. 2017, c. 149, was enacted, establishing the New Jersey Library Construction Fund ("Library Construction Fund")

or "Fund") to be held by the New Jersey State Treasurer (State Treasurer), to be dedicated and applied to the costs of grants to New Jersey's public libraries as set forth at Section 5 of the Act. N.J.A.C. 15:24 implements the Act and was first proposed on July 1, 2019, at 51 N.J.R. 1102(a), and adopted effective October 10, 2019, at 51 N.J.R. 1610(a). Pursuant to the Act, the New Jersey State Library ("Division" or "State Library") proposes to amend the rules.

The amendments proposed by the Division address issues that have arisen in implementation of grant awards in the context of the pandemic and its continuing effects, as well as a drafting error. The impact of the pandemic on local governments and construction costs and availability of workers has been significant. The proposed amendments are designed to remove unnecessary burdens on grantees in planning and executing legislatively approved projects.

The Division proposes new N.J.A.C. 15:24-2.5(a)1 that will allow the State Librarian to adjust the maximum dollar per square foot cost for computation of project grant funding for documented increases in the Consumer Price Index for All Urban Consumers (CPI-U), Northeast Region, All Items, when such adjustment will further the purpose of the grant program. The change is needed to reflect the dramatic increase in construction costs due to the economic impact of the COVID-19 pandemic and to ensure that grant awards made pursuant to Round 1, Round 2, and any future rounds of funding, are allowed a maximum square foot cost that is commensurate with increased costs experienced by grantees and reflected in the CPI-U, Northeast Region, All Items. An additional amendment to subsection (a) would clarify that the subsection pertains to rehabilitation and repair, not "renovation."

The Division proposes to delete N.J.A.C. 15:24-2.6(b)4 to correct an error, as this type of cost is included at N.J.A.C. 15:24-2.6(a) as an eligible project cost and was erroneously included at N.J.A.C. 15:24-2.6(b) as well.

The Division proposes an amendment to N.J.A.C. 15:24-4.1 that would allow the State Librarian and the President of Thomas Edison State University to analyze and determine whether to grant approval for substantial changes, as defined in the rules, to approved projects after a grant is made. The change is needed due to inherent delays in the legislative approval process. Currently, grantees are not able to move forward on substantial structural changes without legislative approval, which significantly delays the progress of projects, many of which are already delayed as a result of the continuing impact of the pandemic on construction costs and availability of contractors and workers. The Division's approval process will continue to involve a detailed review and analysis of the proposed changes to assure that the intent of the original application is adhered to. The New Jersey State Legislature (Legislature) made specific appropriations of grants for the projects. This rulemaking would impact only those projects for which grantees are not requesting additional or decreased grant funds as a result of the substantial changes. Approval of the Joint Budget Oversight Committee for reallocations of monies appropriated by the Legislature for the projects remains a requirement pursuant to the Act.

Pursuant to N.J.A.C. 1:30-3.3(a)5, as the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, at N.J.A.C. 1:30-3.1 and 3.2.

Social Impact

The proposed amendments would permit the State Librarian to adjust the allowable per square foot cost pursuant to the Library Construction Bond Act rules, N.J.A.C. 15:24-2.5, so that if square footage of a project is reduced, the grant amount awarded will not be reduced. This will ensure that cost increases do not further harm the grantee by reducing the grant amount to the maximum allowable per square foot cost at the time of application. The grant amount would remain

as awarded, and the programmatic intent of the project would not vary from what was approved by the Legislature.

The proposed amendments also remove, from the list of ineligible project expenses, those expenses incurred when moving from the current library location to a new or purchased building to be used as public library and/or an addition to a purchased building. This will correct an error in the existing rules and clarify for current and future grant recipients that this is an allowable expense pursuant to the grant program.

The final proposed amendment would permit the State Librarian and the President to approve substantial changes to a project after the grant award is made. This will streamline the approval process for substantial changes and promote the timely completion of the projects and expenditure of bond funds. A grant recipient may request approval of substantial changes to a project where such changes are needed to adapt the project due to changes in the circumstances or conditions of the building project, which include managing the impact of construction cost increases or the feasibility of aspects of the project which were uncovered further in the building planning process. The approval process would ensure that the original programmatic intent of the project remains intact.

Economic Impact

Library Construction Bond Act projects are a local driver of short-term employment in municipalities and counties in New Jersey. As a 50 percent matching grant program, it is contributing a minimum of \$125 million dollars to the State's economy for the duration of project construction. The first amendment is a response to sharply escalated construction costs between 2019 and 2023, as measured by the Consumer Price Index-All Urban Consumers, Northeast Region, All Items, and ensures the economic viability of already approved projects. The

amendments similarly ensure that approved projects move forward at a reasonable pace, with spending taking place during the construction period.

Federal Standards Statement

The proposed amendments are not subject to Federal standards or requirements, therefore, a Federal standards analysis is not required for this rulemaking.

Jobs Impact

The Division does not anticipate that jobs will either be created or lost as a consequence of the proposed amendments.

Agriculture Industry Impact

The proposed amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments relate to the costs of grants to New Jersey's public libraries and do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined at N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act; therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendment would evoke a change in the average costs associated with housing because the proposed amendments would reflect cost changes and changes to approvals and have no impact on housing costs.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing

production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendments would reflect cost changes and changes to approvals and have no impact on housing costs.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The State Librarian has evaluated the proposed amendments and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State of New Jersey. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. TERMS OF GRANT PROGRAM

15:24-2.5 Computation of square footage costs

(a) The maximum per square foot costs for computation of the project grant funding of construction [and], rehabilitation, **and repair** have been set at \$500.00 per square foot for new construction and \$350.00 per square foot for rehabilitation and repair. For the rehabilitation [or renovation] **and repair** of a building registered as a New Jersey or Federal historic site, the maximum cost per square foot has been set at \$500.00. If the grant program is administered in a phased-solicitation process, these costs will be adjusted annually according to the Consumer Price Index for All Urban Consumers (CPI-U), Northeast Region, All Items, not seasonally adjusted.

1. The State Librarian may, at any time during the administration of the grant program, adjust the maximum per square foot costs for documented increases in the

Consumer Price Index for All Urban Consumers, Northeast Region, All items, whenever such adjustment would ensure the implementation of the grant program and fulfillment of its purpose. The adjusted maximum allowable square foot cost shall be calculated based on the most recent 12-month change in the Consumer Price Index for All Urban Consumers, Northeast Region, All Items.

(b)-(e) (No change.)

15:24-2.6 Eligible and ineligible project costs.

(a) (No change.)

(b) The following are ineligible project costs:

1. - 2. (No change.)

3. Expenses for off-site storage and related moving costs, when necessary, after 18 months; **and**

[4. Expenses for moving from the current location to a new or purchased building to be used as public library and/or an addition to a purchased building; and]

[5.] **4.** (No change in text.)

SUBCHAPTER 4. APPLICATION PROCEDURES; REVIEW OF APPLICATIONS

15:24-4.1 Application procedures

(a)-(g) (No change.)

(h) Any substantial changes [or revisions] to a project after a grant [award] is made[, including any structural changes in the building plans,] shall be submitted, [on the appropriate forms] **by a method as prescribed by the State Librarian**, to the State Librarian and the President. **The**

initial substantial changes to a project request form will be made available on the New Jersey Library Construction Bond Act page of the New Jersey State Library website, and such additional forms as the State Librarian requires the applicant to complete will be provided to the applicant individually. The State Librarian and the President may request meeting(s) with the applicant, the architect, and others associated with the project, as necessary. [The President will submit the request for a change to a project grant award to the New Jersey State Legislature. The Legislature will decide if the substantial change to a project grant award can be made.] **The State Librarian and the President shall approve or deny the proposed substantial change(s), in part or in whole, following review and analysis of the materials submitted by the grant recipient; provided however, that where the proposed substantial changes require the reallocation of any funds appropriated by the Legislature and allocated to the projects, the approval of the Joint Budget Oversight Committee shall also be required in accordance with the Bond Act.** Approval of the [change(s)] **substantial changes to a project** or [revision(s)] **changes to the amount of a project grant [award is] are** necessary in order for the [applicant] **grant recipient** to proceed.

(i)-(j) (No change.)