

§ 700.41

(b) In the case of unsolicited applications, the Secretary uses the procedures in EDGAR (34 CFR 75.222(d) and (e)).

(Authority: 20 U.S.C. 6022(i)(2)(D)(i))

**§ 700.41 How are contract proposals selected for award?**

Following evaluation of the proposals, the contracting officer shall select for award the offeror whose proposal is most advantageous to the Government considering cost or price and the other factors included in the solicitation.

(Authority: 20 U.S.C. 6011(i)(2)(D)(i))

**PART 770—LIBRARY SERVICES AND CONSTRUCTION ACT STATE-ADMINISTERED PROGRAM**

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AUTHORITY: 20 U.S.C. 351 *et seq.*, unless otherwise noted.

SOURCE: 57 FR 9351, Mar. 17, 1992, unless otherwise noted.

EFFECTIVE DATE NOTE: At 61 FR 18681, Apr. 29, 1996, part 770 was removed, effective Oct. 1, 1997.

**Subpart A—General**

**§ 770.1 The Library Services and Construction Act State-Administered Program.**

Under the Library Services and Construction Act State-Administered Program—referred to in this part as the State-Administered Program—the Secretary provides Federal funds to assist States to—

- (a) Extend and improve public library services;
- (b) Construct, renovate and enhance the technology of public libraries; and
- (c) Develop and strengthen inter-library cooperation, resource sharing,

and the preservation of library resources.

(Authority: 20 U.S.C. 351, 353, 355b, 355e)

**§ 770.2 Who is eligible to apply for a grant under the State-Administered Program?**

Under the State-Administered Program the following parties are eligible to apply:

(a) States are eligible to apply to the Secretary for—

(1) Public Library Services grants under title I of the Act;

(2) Public Library Construction and Technology Enhancement grants under title II of the Act; and

(3) Interlibrary Cooperation and Resource Sharing grants under title III of the Act.

(b)(1) Public libraries are eligible to apply to their respective States for subgrants under each type of grant specified in paragraph (a) of this section.

(2) Library systems or networks that include libraries other than public libraries are eligible to apply for a subgrant under title I of the Act if the purpose of the subgrant is to improve services for public library patrons.

(3) In the case of Interlibrary Cooperation and Resource Sharing grants, a State may also permit other types of libraries to apply for subgrants.

(Authority: 20 U.S.C. 351d, 352, 355a, 355e)

**§ 770.3 What regulations apply to the State-Administered Program?**

The following regulations apply to the State-Administered Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 76 (State-Administered Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), part 85 (Govern-

mentwide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)), and part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 770.

(Authority: 20 U.S.C. 351 *et seq.*)

**§ 770.4 What definitions apply to the State-Administered Program?**

(a) *Definitions in the Act.* The following terms used in this part are defined in section 3 of the Act:

- Adult with limited literacy skills
- Annual program
- Basic State plan
- Construction
- Educationally disadvantaged adult
- Handicapped individual
- Hawaiian native
- Indian tribe
- Library service
- Library services for the physically handicapped
- Long-range program
- Major urban resource library
- Network
- Public library
- Public library services
- State
- State Advisory Council on Libraries
- State institutional library services
- State library administrative agency
- Technology enhancement

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

- Acquisition
- Applicant
- Application
- Department
- EDGAR
- Facilities
- Fiscal year
- Grant
- Grantee
- Nonprofit
- Private
- Project
- Secretary
- Subgrant
- Subgrantee

(c) *Other definitions that apply to this part.* The following definitions apply to this part:

*Act* means the Library Services and Construction Act, as amended.

*Community information referral center* means a center that provides information and makes referrals to link people

in need of services to appropriate resources.

*Disadvantaged* means persons whose socio-economic or educational deprivation or whose cultural isolation from the general community may preclude them from benefiting from public library services to the same extent as the general community benefits from these services.

*Illiteracy* means the inability of an individual to read, write, or comprehend or to perform basic arithmetical computations.

*Information and building technologies* means those technologies that have been developed or will be developed for the storage, retrieval and processing of information and for the efficient operation and maintenance of buildings and other structures that are authorized to be constructed with title II funds awarded under the Act.

*Interlibrary cooperation* means the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers.

*Interlibrary Cooperation and Resource Sharing grants* means Federal financial assistance provided by the Secretary under title III of the Act.

*Library materials* means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial works, graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, computer software, and materials designed specifically for the handicapped.

*Limited English-speaking proficiency*, where used with reference to individuals, means individuals who—

(1)(i) Were not born in the United States or whose native tongue is a language other than English;

(ii) Come from environments where a language other than English is dominant; or

(iii) Are American Indian and Alaskan Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and

(2) Because of one of the reasons listed in paragraph (1) of this definition,

have sufficient difficulty speaking, reading, writing, or understanding the English language to be denied the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in society.

*Literacy* means the ability of an individual to read, write, and comprehend and to perform basic arithmetical computations.

*Literacy program* means a project or activity designed to help individuals improve their ability to read, write, or comprehend or to perform basic arithmetical computations.

*Public Library Construction and Technology Enhancement grants* means Federal financial assistance provided by the Secretary under title II of the Act.

*Public Library Services grants* means Federal financial assistance provided by the Secretary under title I of the Act.

*State aid* means funds that are appropriated by a State legislature for aid to public libraries and to library systems for library services, including funds appropriated for subgrants by the State library administrative agency for those purposes. The term “State aid” does not include—

(1) Funds appropriated for the purpose of defraying the administrative expenses of the State library administrative agency;

(2) Funds expended directly by the State library administrative agency;

(3) Funds for construction;

(4) Funds from special purpose non-recurring appropriations; or

(5) Federal funds received by the State under a categorical assistance program.

(Authority: 20 U.S.C. 351 *et seq.*)

[57 FR 9351, Mar. 17, 1992, as amended at 58 FR 11167, Feb. 23, 1993]

### Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

#### § 770.10 What types of projects may be funded under Public Library Services grants?

(a) The Secretary awards Public Library Services grants to assist projects

designed to plan for, establish, extend, or improve public library services.

(b) The types of projects referred to in paragraph (a) of this section may include, but are not restricted to, the following:

(1) Extending public library services to areas and populations that lack these services.

(2) Improving public library services to ensure that these services are adequate to meet the needs of specific areas and populations.

(3)(i) Making public library services accessible to individuals who, because of a disadvantage, are unable to benefit from public library services regularly made available to the general public.

(ii) These disadvantages include, but are not restricted to, distance, residence, handicap, age, literacy level, and limited English-speaking proficiency.

(4) Establishing, expanding, and operating programs to improve State and local public library services for—

(i) The elderly;

(ii) The institutionalized;

(iii) The physically handicapped; and

(iv) The disadvantaged in urban and rural areas.

(5) Adapting public library services to meet particular needs of individuals.

(6) Assisting libraries to serve as community information referral centers.

(7) Assisting libraries in providing literacy programs for adults and school dropouts and in carrying out these literacy programs in cooperation with other agencies and organizations in a community.

(8) Establishing and supporting model library literacy centers, coordinated by the State library administrative agency with other interested State agencies and nonprofit organizations to reduce the number of functionally illiterate individuals and to help them reach full employment.

(9) Assisting libraries in developing intergenerational library programs that will match older adult volunteers with libraries interested in developing after school literacy and reading skills programs for unsupervised children during afterschool hours.

(10) Assisting libraries in providing mobile library services and programs

to licensed or certified child-care providers or child-care centers.

(11) Assisting libraries in providing and displaying educational materials, and conducting community programs aimed at preventing and eliminating drug abuse, in cooperation with local education agencies, or other agencies or organizations.

(12) Strengthening the capacity of the State library administrative agency to meet the needs of the people of the State with regard to library services, facilities, and resources.

(13) Supporting and expanding the services of major urban resource libraries that meet the demands of individual users and other libraries.

(14) Assisting public libraries in making effective use of technology to improve library and information services.

(15) Strengthening metropolitan libraries that serve as national or regional resource centers.

(Authority: 20 U.S.C. 351(a), 351a, 352, 353)

**§ 770.11 What types of projects may be funded under Public Library Construction and Technology Enhancement grants?**

(a) The Secretary awards Public Library Construction and Technology Enhancement grants to assist projects designed to carry out the following activities:

(1) Construction of new buildings.

(2) Acquisition, expansion, remodeling, and alteration of existing buildings, including the purchase of existing historic buildings.

(3) Purchase, lease, and installation of equipment for any building referred to in paragraphs (a) (1) and (2) of this section.

(4) Technology enhancement, as defined in section 3(19) of the Act.

(5) Any combination of activities referred to in paragraphs (a) (1) through (4) of this section (including architect's fees and the cost of acquisition of land).

(b) As used in paragraph (a)(3) of this section, "equipment" includes the following:

(1) Information and building technologies.

(2) Video and telecommunications equipment.

(3) Machinery.

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- (4) Utilities.
- (5) Built-in equipment.
- (6) Any enclosures or structures necessary to house the items referred to in paragraphs (b) (1) through (5) of this section.
- (7) All other items necessary for the functioning of a particular facility as a provider of public library services.
- (c) As used in paragraph (a)(2) of this section, "remodeling" includes the following:
  - (1) Remodeling to meet the standards of the Architectural Barriers Act of 1968.
  - (2) Remodeling designed to ensure safe working environments and to conserve energy.
  - (3) Remodeling or renovation to accommodate new technologies.

(Authority: 20 U.S.C. 351a(2), 355a, 355c)

**§ 770.12 What types of projects may be funded under Interlibrary Cooperation and Resource Sharing grants?**

The Secretary awards Interlibrary Cooperation and Resource Sharing grants to assist projects designed to enable various types of libraries to share resources and materials. The types of projects that may be supported under an Interlibrary Cooperation and Resource Sharing Grant include the following mandated and allowable activities:

- (a) Mandated activities include:
  - (1) Planning for, and taking other steps leading to the development of, cooperative library networks.
  - (2) Establishing, expanding, or operating local, regional, or interstate cooperative library networks.
  - (3) Developing the technological capacity of libraries for interlibrary cooperation and resource sharing.
  - (4) Developing a Statewide resource sharing plan directed toward attaining compliance with section 304 of the Act.
- (b) Allowable activities include one or more of the items listed in section 304(c) of the Act.
- (c) Activities for which a plan must be approved for the use of LSCA funds include developing and implementing a Statewide preservation cooperation plan for systematically preserving endangered library and information resources. Such a plan must be developed

in consultation with such parties and agencies as—

- (1) The State archives;
- (2) Historical societies;
- (3) Libraries;
- (4) Scholarly organizations; and
- (5) Other interested parties.
- (d) State library administrative agencies may contract with other agencies or institutions for part or all of the preservation activities in the Statewide preservation cooperation plan described in paragraph (c) of this section.

(Authority: 20 U.S.C. 351(a), 355e-1(a), 355e-2, 355e-3, 355e-4)

**Subpart C—How Does a State Apply for a Grant?**

**§ 770.20 What must a State do to receive a grant under the State-Administered Program?**

- (a) In order to receive a grant under the State-Administered Program, a State must—
  - (1) Establish a State Advisory Council on Libraries; and
  - (2) After consulting with the council, submit to the Secretary by the various dates established by the Secretary the three parts of a State plan, as described in § 770.21.
- (b) The Secretary does not consider the other parts of the plan until the Secretary has approved the basic State plan.

(Approved by the Office of Management and Budget under control number 1850-0528)

(Authority: 20 U.S.C. 351d(a))

**§ 770.21 What must a State plan include?**

A State plan must consist of the following three parts:

- (a)(1) A basic State plan, as described in § 770.22, covering a five-year period.
- (2) One basic plan to cover all types of grants provided under this program:
  - (i) Public Library Services grants.
  - (ii) Public Library Construction and Technology Enhancement grants.
  - (iii) Interlibrary Cooperation and Resource Sharing grants.
- (b)(1) A long-range program, as described in § 770.23, covering a period of not fewer than three years and not more than five years.

(2) The State library administrative agency shall develop the long-range program—

(i) With the advice and assistance of the State Advisory Council on Libraries; and

(ii) In consultation with the Secretary.

(3) The State shall—

(i) Submit a long-range program that provides a comprehensive description of the State's identified library needs and a description of the activities to be undertaken toward meeting those needs supported with the assistance of the LSCA State-Administered Program;

(ii) Review the program each year;

(iii) Revise the program each year according to changing needs and the results of evaluations and surveys; and

(iv) Submit the revised program to the Secretary.

(c) An annual program, as described in §770.24, for each type of grant for which the State is applying.

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(Authority: 20 U.S.C. 351d(a))

**§ 770.22 What must a State include in a basic State plan?**

A State shall include the following in its basic State plan:

(a) Assurance that the State library administrative agency—

(1) Will administer or supervise the administration of all programs and projects in the State assisted under the State-Administered Program;

(2) Has the fiscal and legal authority and capability to administer or supervise the administration of programs and projects assisted under the State-Administered Program;

(3) Has established or will establish policies, priorities, criteria, and procedures necessary to implement the program in the State;

(4)(i) Will make the reports the Secretary reasonably requires to—

(A) Carry out the Secretary's functions under the program; and

(B) Determine the extent to which funds provided under the program have been effective in carrying out the purposes of the program;

(ii) Will include in these reports, if requested by the Secretary, reports of

evaluations made under the State plan; and

(iii) Will make the reports in the form and containing the information reasonably required by the Secretary; and

(5)(i) Will keep the records the Secretary finds necessary to assure the correctness and verification of the reports referred to in paragraph (a)(4) of this section; and

(ii) Will give the Secretary access to the records as the Secretary finds necessary.

(b) Assurances that—

(1) Any funds paid to the State under a long-range program and an annual program will be expended only for the purposes for which the funds have been authorized and appropriated;

(2) The State has adopted the necessary fiscal control and fund accounting procedures to assure proper disbursement of, and accountability for, Federal funds paid—

(i) To the State under the State-Administered Program; and

(ii) By the State to any other agency under the program;

(3) The State will give priority to programs and projects designed to carry out the following objectives:

(i) To improve access to public library resources and services for the least served populations in the State, including—

(A) Projects for individuals with limited English-speaking proficiency;

(B) Projects for individuals with disabilities; and

(C) Projects in urban and rural areas.

(ii) To serve the elderly.

(iii) To combat illiteracy.

(iv) To increase library services and access to services through effective use of technology; and

(4) Libraries within the State that receive funds under this Act will not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings.

(Approved by the Office of Management and Budget under control number 1850-0528)

(Authority: 20 U.S.C. 351a(11), 351d(b))

**§ 770.23 What must a State include in a long-range program?**

(a) A State shall include the following in a long-range program covering all activities under the State-Administered Program:

(1) A comprehensive description of the State's identified present and projected library needs.

(2) A plan for meeting those identified needs with Federal funds made available through the appropriate type of grant under the State-Administered Program.

(3)(i) The State's policies, priorities, criteria, and procedures for administering this type of grant and appropriate subgrants under the State-Administered Program.

(ii) A description of how the State plans to implement the priorities in § 770.22(b)(3).

(4) A description of the State's policies and procedures regarding each of the following:

(i) The periodic evaluation of the effectiveness of projects supported under this type of grant in measurable terms and with generally accepted evaluation methods appropriate to the purpose of the program and the project.

(ii) The appropriate dissemination of project evaluations and other information pertaining to these projects.

(iii) The coordination of projects assisted under this type of grant with similar library programs and projects operated by other libraries, institutions, and agencies in the State.

(b) In the case of an application for a Public Library Construction and Technology Enhancement grant, the State shall also include in its long-range program the policies and procedures to be followed by the State library administrative agency in providing an opportunity for a hearing to a local or other public agency whose application for a subgrant is denied.

(c) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include the following in its long-range program:

(1) A Statewide resource sharing plan directed toward attaining compliance with the provisions of section 304 of the Act. In developing the plan, the State library administrative agency, with

the assistance of the State Advisory Council on Libraries, shall consider recommendations from current and potential participating institutions in interlibrary cooperation and resource sharing projects authorized under the Act.

(2) An identification of interlibrary cooperation and resource sharing objectives to be achieved during the period covered by the basic State plan and the long-range program. These objectives may include, but are not restricted to, one or more of the items listed in section 304(c) of the Act.

(3)(i) A State that intends to use LSCA funds for the preservation of library materials shall also include in its long-range program a Statewide preservation cooperation plan (preservation plan) that—

(A) Identifies the preservation objectives to be achieved during the period covered by the long-range program; and

(B) Specifies the methods by which endangered library and information resources are to be preserved systematically.

(ii) In developing the preservation plan, a State shall consult with parties and agencies such as the State archives, historical societies, libraries, scholarly organizations, and other interested parties.

(iii) In carrying out the preservation plan, a State shall work with libraries, archives, historical societies, scholarly organizations and other agencies, within or outside the State, in planning, education and training, coordinating, outreach and public information, and service programs.

(Approved by the Office of Management and Budget under control number 1850-0528)

(Authority: 20 U.S.C. 351(a), 351a(12), 351d(d), 355c, 355e, 355e-2, 355e-3)

**§ 770.24 What must a State include in an annual program?**

(a) A State shall include the following in an annual program:

(1) A description of the projects and activities the State plans to carry out—and the basis upon which the State plans to award subgrants—during the specified year with regard to public

library services, public library construction and technology enhancement, or interlibrary cooperation and resource sharing, as appropriate.

(2) A description of how these projects and activities would—

(i) Be consistent with purposes specified in the Act and in § 770.10, § 770.11, or § 770.12;

(ii) Fulfill the objectives of the State's long-range program or the update of the long-range program; and

(iii) Meet the needs identified by the State in the long-range program.

(3) A description of the criteria the State plans to use in allocating funds.

(4)(i) A demonstration that the manner in which the State proposes to carry out the annual program is consistent with the policies, criteria, priorities, and procedures specified in the long-range program or update of the long-range program.

(ii) In meeting this requirement, the State shall address, among other items, policies and procedures regarding evaluations, dissemination, and coordination, as described in § 770.23(a)(4).

(5) A description of how proposed projects and activities are to be based on the results of evaluations described in § 770.23(a)(4)(i) undertaken according to the long-range program.

(6) A demonstration that proposed projects and activities would meet the assurance given by the State in its basic State plan to implement the priorities specified in § 770.22(b)(3), if appropriate.

(7) The amount of Federal funds the State plans to spend to carry out its administrative functions under the grant, as specified in § 770.46.

(b) In the case of an application for a Public Library Services grant, the State shall also include the following in its annual program:

(1) The criteria the State plans to use to ensure that the State meets the financial obligations specified in §§ 770.40, 770.41, 770.42, and 770.43.

(2) A description of how the State plans to allocate funds to support and expand library services of major urban resource libraries if—

(i) The sum appropriated for the year exceeds the amount specified in section 102(c)(1) of the Act; and

(ii) The State has one or more cities with populations of at least 100,000 individuals.

(3) A description of how the State plans to use funds for projects and activities for the elderly.

(4) A description of how the State plans to use funds to make public library services and programs more accessible to handicapped individuals.

(5)(i) To enable the Secretary to make a determination of payment under section 7(a) of the Act, a statement of the amounts the State will have available for expenditure for the proposed projects and activities during the period covered by the annual program from—

(A) State sources; and

(B) Local sources.

(ii) The State may not include in-kind contributions among the amounts the State declares it will have available for expenditure under paragraph (b)(5)(i) of this section.

(c) In the case of an application for a Public Library Construction and Technology enhancement grant, the State shall also include in its annual program a description of how the State plans to—

(1) Use funds that year, consistent with the long-range program, for approved construction projects in areas of the State lacking the library facilities necessary to provide adequate public library services; and

(2) Follow policies and procedures in the construction of the public libraries that will promote the preservation of library and information resources to be used in the facilities.

(d) In the case of an application for an Interlibrary Cooperation and Resource Sharing grant, the State shall also include in its annual program a description of how the proposed projects and activities would meet the requirements of the Act with respect to—

(1) The Statewide resource sharing plan;

(2) The interlibrary cooperation and resource sharing objectives identified in the long-range program; and

(3) If applicable, the Statewide preservation cooperation plan described in § 770.23(c)(3).

(Authority: 20 U.S.C. 351, 351a(13), 351d(a), 351d(b)(4); 351e(a)(1), 354, 355c, 355e–2, 355e–3)

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#### Subpart D—[Reserved]

### Subpart E—What Conditions Must Be Met by a State and Its Subgrantees?

#### § 770.40 What matching requirements apply to a Public Library Services grant?

In order to receive a Public Library Services grant, a State shall have available, from State and local sources, for expenditure for the projects and activities proposed in its annual program an amount that equals or exceeds the difference between—

(a) The cost of carrying out the State's annual program; and

(b) The Federal share of these costs, as specified in section 7(b) of the Act.

(Authority: 20 U.S.C. 351e(b), 354)

#### § 770.41 What are the basic maintenance-of-effort requirements for a Public Library Services grant?

(a) *Basic maintenance-of-effort.* In order to receive a Public Library Services grant, a State shall have available for expenditure—

(1) For State aid to public libraries and library systems, an aggregate amount equal to 90 percent of the amount actually expended by the State for those purposes in the second preceding fiscal year; and

(2) For the State library administrative agency, or the part of the State library administrative agency charged by State law with extending and developing public library services throughout the State, an aggregate amount equal to 90 percent of the amount actually expended for those purposes in the second preceding fiscal year.

(b) *Waiver.* (1) The Secretary may waive the basic maintenance-of-effort requirements contained in paragraph (a) of this section, if the Secretary determines that application of paragraph (a) would be unjust or unreasonable in

light of exceptional extenuating circumstances.

(2) The circumstances under which the Secretary may waive the basic maintenance-of-effort requirements include, but are not limited to, the following:

(i) A natural disaster affecting the State.

(ii) A precipitous decline in the financial resources of the State resulting in general reductions in the State's expenditures, except that the effect of State legislative action or referenda reducing revenue or rejecting revenue initiatives does not in and of itself justify a waiver.

(3) A State shall support a waiver request with appropriate documentation.

(4)(i) If the Secretary grants a waiver under this section, the amount of funds that the State library administrative agency is otherwise entitled to receive under this part is not reduced.

(ii) The basic maintenance-of-effort level in the second fiscal year following the fiscal year for which a waiver is granted is at least 90 percent of the amount that the State library administrative agency would have been required to expend in the waiver year had the waiver not been granted.

*Example:* In fiscal year 1991 a State library administrative agency obtains a waiver under this section because it will have available for expenditure for FY 1991 less than 90 percent of its actual expenditures in the second preceding year (1989) due to exceptional extenuating circumstances. In determining whether the agency meets the basic maintenance-of-effort requirements for fiscal year 1993, the State agency must have available for expenditure at least 90 percent of its actual expenditures for 1989, the second fiscal year preceding the year for which the waiver was granted, and not 90 percent of its actual expenditures in FY 1991 (the waiver year). Thus, if the State agency expended \$3,000,000 in FY 1989, \$2,800,000 in FY 1990, and only \$2,500,000 in FY 1991, when it should have expended \$2,700,000 (90 percent of \$3,000,000) but obtained a waiver instead, then in FY 1993 it must expend 90 percent of \$2,700,000, for a total of \$2,430,000, rather than 90 percent of \$2,500,000 (the amount it actually expended in FY 1991), or \$2,250,000.

(Authority: 20 U.S.C. 351e(a))

**§ 770.42 What other maintenance-of-effort requirements apply to a Public Library Services grant?**

(a) In addition to the requirements in § 770.41, in order to receive a Public Library Services grant a State shall spend for State institutional library services and library services to the physically handicapped, from Federal, State, and local sources, an amount not less than the amount that the State spent from those sources for those services during the second preceding fiscal year.

(b) The Secretary ratably reduces the amount that a State is required to spend for institutional library services and library services to the physically handicapped to the extent that—

(1) The Federal allocation for the State's Public Library Services grant is reduced; and

(2) The Secretary determines that the populations served by those expenditures have declined.

(Authority: 20 U.S.C. 354)

**§ 770.43 What maintenance of Federal support is required for major urban resource libraries (MURLs)?**

(a) Except as provided in paragraph (b) of this section, if the amount of a Public Library Services grant requires a State library administrative agency to allocate funds to support and expand library services of the State's MURLs, under sections 102(a)(3) and (c) of the Act and in § 770.24(b)(2), the State library administrative agency may not reduce the amount it pays to a MURL below the amount that it paid to that MURL in the preceding fiscal year.

(b) A State library administrative agency may ratably reduce the amount that a State library administrative agency must pay to a MURL under paragraph (a) of this section to the extent that—

(1) The Federal allocation to the State library administrative agency for its Public Library Services grant is reduced for the applicable fiscal year; or

(2) The 1990 Census shows that the population of the city served under paragraph (a) of this section has decreased.

(c) In any fiscal year in which both circumstances described in paragraph (b) of this section occur, the State li-

brary administrative agency shall determine whether to apply one or the other, or both, of the reduction rates, or to not reduce payments to its State's MURLs at all. The following example illustrates how the calculation of the reduction can be made if a State library administrative agency chooses to apply both rates in a fiscal year when both circumstances occur.

*Example:* In a State with 4 MURLs, where the minimum amount required to be set aside for MURLs is \$100,000, the allocation reduction rate is 10 percent, and one of the MURLs has a 5 percent decrease in its population. The ratable reduction may be calculated as follows:

$\$100,000 \times 10\% = \$10,000$   
 $\$100,000 - \$10,000 = \$90,000$   
 $\$90,000 \div 4 = \$22,500$  (assuming equal distribution among these 4 MURLs)  
 $\$22,500 \times 5\% = \$1,125$   
 $\$22,500 - \$1,125 = \$21,375$  to be paid to the MURL with a 5 percent population decrease.

(Authority: 20 U.S.C. 353(c))

**§ 770.44 What are a State's financial obligations under a Public Library Construction and Technology Enhancement grant?**

(a) A State that receives a Public Library Construction and Technology Enhancement grant shall provide, from State or local sources or both, in the fiscal year for which the grant is made, the difference between—

(1) The costs of projects financed under the grant; and

(2) The Federal share of these costs, as specified in section 7(b) of the Act.

(b) In the case of any individual project awarded under a Public Library Construction and Technology Enhancement grant, at least one half of the total cost must be supplied by State or local sources or both.

(Authority: 20 U.S.C. 351e(b), 355b(b))

**§ 770.45 What other financial obligation does a recipient have under a Public Library Construction and Technology Enhancement grant?**

(a) Unless released from the obligation under paragraph (c) of this section, a recipient of Federal financial assistance under a Public Library Construction and Technology Enhancement grant—or the recipient's successor in title or possession—shall repay to the United States on request an

amount as specified in paragraph (b) of this section if, within 20 years of the completion of construction of the library facility—or part of the facility—for which the assistance was received—

(1) The recipient or its successor ceases or fails to be a public or non-profit institution; or

(2) The facility ceases to be used as a library facility.

(b) The amount the recipient or its successor is obligated to repay is an amount that equals—

(1) The value of the facility or part of the facility at the time of the occurrence specified in paragraph (a)(1) or (a)(2) of this section, multiplied by—

(2) The ratio of—

(i) The amount of Federal assistance under the grant or subgrant; to

(ii) The cost of the facility or part of the facility for which the assistance was received.

*Example:* In 1977 a local public library completed a project to enlarge its reading room. The project had been assisted by a subgrant from the State under a Public Library Construction grant. The total cost of the project was \$300,000; the subgrant had amounted to \$120,000 a ratio of 2 to 5 or 40 percent of the cost.

In 1989 the local library moves to another district, and the facility for which it received assistance in 1977 ceases to be used as a library facility. It is determined that the part of the facility for which assistance was received has a current market value of \$400,000.

The United States is entitled to recover from the local public library an amount equal to 40 percent of the current market value of the facility or portion of the facility assisted with Federal funds; that is, 40 percent of \$400,000 or \$160,000.

(c) The Secretary may decide, for good cause, to release the recipient from its obligation under paragraph (a) of this section.

(d) The provisions of this section apply to any facility constructed at any time with assistance under title II of the Act.

(Authority: 20 U.S.C. 355b)

**§ 770.46 What administrative costs are allowable under the State-Administered Program?**

(a) A State library administrative agency may spend funds received under a Public Library Services grant and funds received under a Public Library

Construction and Technology Enhancement grant to carry out its administrative functions under a Public Library Services grant, a Public Library Construction and Technology Enhancement grant, and an Interlibrary Cooperation and Resource Sharing grant.

(b) The total amount the agency may spend to carry out its administrative functions under all of these grants during any year may not exceed the amount specified in section 8 of the Act.

(c) The agency may spend the funds for administrative costs in connection with the following activities:

(1) Administration of the State plan, including obtaining the services of consultants.

(2) Statewide planning for and evaluation of library services.

(3) Dissemination of information concerning library services.

(4) Activities of the State Advisory Council on Libraries and of any other advisory groups and panels necessary to assist the State library administrative agency in carrying out its functions.

(Authority: 20 U.S.C. 351f, 353(b))

**Subpart F—What Are the Administrative Responsibilities of a State and Its Subgrantees?**

**§ 770.50 Under what circumstance must a State provide an applicant with an opportunity for a hearing?**

(a)(1) In the case of a Public Library Construction and Technology Enhancement grant, if a State denies funds to a local or other public agency that applies for a subgrant for construction of public library facilities, the State library administrative agency shall give the local or other public agency an opportunity for a hearing.

(2) The provision in 34 CFR 76.401(b) (which exempts State agencies from having to offer an opportunity for a hearing under certain State-administered programs) does not apply to Public Library Construction and Technology Enhancement grants.

(b) In providing opportunity for a hearing, the State library administrative agency shall follow the appropriate policies and procedures included

in the State's long-range program for the Public Library Construction and Technology Enhancement grant.

(Authority: 20 U.S.C. 355c)

**PART 776—LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT PROGRAM**

**Subpart A—General**

Sec.

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- 776.2 Who is eligible for a grant?
- 776.3 Who is eligible to participate in a project?
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**Subpart B—What Are the Application Requirements?**

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- 776.34 What agencies must be informed of activities funded under this program?

AUTHORITY: 20 U.S.C. 1021, 1031, 1032, unless otherwise noted.

SOURCE: 58 FR 45210, Aug. 26, 1993, unless otherwise noted.

EFFECTIVE DATE NOTE: At 61 FR 18681, Apr. 29, 1996, part 776 was removed, effective Oct. 1, 1997.

**Subpart A—General**

**§ 776.1 What is the Library Education and Human Resource Development Program?**

The Secretary awards grants under the Library Education and Human Resource Development Program to—

- (a) Educate and train persons in library and information science through fellowships, institutes, or traineeships, particularly in areas of critical needs; and
- (b) Establish, develop, and expand programs of library and information science, including new techniques of information transfer and communication technology.

(Authority: 20 U.S.C. 1021, 1032)

**§ 776.2 Who is eligible for a grant?**

Eligible applicants are—

- (a) Institutions of higher education;
- (b) Library organizations; or
- (c) Library agencies.

(Authority: 20 U.S.C. 1032)

**§ 776.3 Who is eligible to participate in a project?**

In order to be selected by a grantee as a participant in a project, an individual must—

- (a)(1) Be a United States citizen or national;
- (2) Provide evidence from the United States Immigration and Naturalization Service that he or she—
  - (i) Is a permanent resident of the United States; or
  - (ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or
- (3) Be a permanent resident of the Republic of Palau (until the Compact of Free Association with Palau takes effect);
  - (b) Be engaged in or preparing to engage in a profession or other occupation involving library or information science; and
  - (c) Meet the selection criteria of the grantee.

(Authority: 20 U.S.C. 1032)