

**PUBLIC NOTICE OF PROPOSED RULEMAKING**

RHODE ISLAND GOVERNMENT REGISTER

PUBLIC NOTICE OF REPEAL OF RULES

**AGENCY:** Department of Administration

**DIVISION:** Office of Library and Information Services

**RULE IDENTIFIER:** ERLID 2775

**REGULATION TITLE:** Regulations for Public Library Construction/Renovation Reimbursement Funding

**RULEMAKING ACTION:** Proposed Repeal

**TYPE OF FILING:** Repeal

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

Filing Date (Notice Posted): June 1, 2018

Date of Public Comment Hearing: June 20, 2018 at 10AM (Public Comment Hearing to be held at the Department of Administration, One Capitol Hill, Second Floor, Conference Room '2A', Providence, RI 02908)

End of Public Comment Period: July 10, 2018

**SUMMARY OF PROPOSED RULE:**

The regulations are outdated. The regulations include redundant requirements already included in the Minimum Standards and Regulations for Rhode Island Public Libraries (220-RICR-60-15-02) and need to be removed; they lack guidelines for compliance with the Green Buildings Act RIGL Chapter 37-24. Information in the appendices should be included in the regulations. Construction Reimbursement Funding and Priorities need to include maximum reimbursement amounts and the reimbursement amounts are outdated. Limitations to eligible reimbursement amounts are missing. Building parts and features that should be included in Allowable and Non-Allowable Costs need to be added to make the regulations fit contemporary building laws. Contractor Requirements do not include Bidding Requirements. Completion of Project section does not include audit process by the Office of Library and Information Services. Record retention procedures are not clear. Requirements for reporting refinancing of any loans or bonds used need to be in the regulations. This repeal corresponds with an adoption of 220-RICR-60-15-1.

**COMMENTS INVITED:** All interested parties are invited to submit written or oral comments concerning the repeal of the regulations by July 10, 2018 to the address listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:**

Department of Administration  
Office of Library and Information Services  
One Capitol Hill  
Providence, RI 02908

karen.mellor@olis.ri.gov

**WHERE COMMENTS MAY BE INSPECTED:**

Department of Administration  
Office of Library and Information Services  
One Capitol Hill, 2<sup>nd</sup> floor  
Providence, RI 02908

**PUBLIC HEARING INFORMATION:**

**June 20, 2018 at 10AM (Public Comment Hearing to be held at the Department of Administration, One Capitol Hill, Second Floor, Conference Room '2A', Providence, RI 02908)**

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-574-9302 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

**FOR FURTHER INFORMATION CONTACT:**

Karen Mellor, Chief of Library Services  
Office of Library and Information Services  
One Capitol Hill  
Providence, RI 02908.  
(401-574-9304)  
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**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis Summary and Supporting Documentation:**

Repealing the regulations and replacing them with new ones will give communities a better guide to building or renovating 21st-century public libraries.

**Authority for This Rulemaking:** RIGL § 29-6-6; § 29-3.1-4.1 (b)(7)(ii); § 29-3.1-7(8)(ii)

**Regulatory Findings:** In the development of the proposed **repeal** consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Amendment:** The Department of Administration, Office of Library and Information Services proposes to repeal ERLID 2775 as follows:

**~~Regulations for Public Library Construction/Renovation Reimbursement Funding under Section 29-6-6 of the Rhode Island General Laws~~**

**~~1. Projects initiated prior to the reinstatement of the construction reimbursement~~**

## **program**

~~Any public library that completed or completes a construction project between July 1, 1992 and July 1, 2000 which was initiated prior to the implementation of the rules and regulations promulgated to implement Governor Lincoln Almond's Executive Order 98-4, which reinstates the program of state aid for public library construction and capital improvements as specified in Rhode Island General Laws (Section 29-6-6), is eligible to apply for construction reimbursement funding through the Office of Library and Information Services. Only costs financed by bonds, mortgages, or other loan instruments would be eligible for reimbursement. Reimbursement payments for projects approved for funding under this program would begin in state fiscal year 2000, or in the state fiscal year following the completion and acceptance of the completed project by the Office of Library and Information Services. Such projects are exempted from any of the provisions in these regulations that may not be applicable to a project which has already been completed or is under construction.~~

## **2 — General Requirements**

~~These are the general requirements for the construction/renovation of public library facilities for areas where facilities are inadequate for the development of good library services.~~

- ~~2.1. — The library must be legally established as a public library according to the General Laws of Rhode Island (Title 29, Chapter 4).~~
- ~~2.2. — The library must have a regular source of operating income.~~
- ~~2.3. — The library must be eligible for grant-in-aid to cities and towns (Title 29, Chapter 6).~~

- 2.4. ~~The library shall furnish proof that the governing body providing operating funds has agreed to provide appropriations so that the new building area can be properly operated, and services to be provided will be properly funded.~~
- 2.5. ~~Matching project funds must currently be available at the time an agreement is signed with the library. The library must also provide for the total funds needed to complete the project and cover interest costs until reimbursement of the state share begins in the state fiscal year (July through June) following the completion, audit, and acceptance of the completed project by the Office of Library and Information Services. Reimbursement of the state share will take place over a period of up to twenty years, with one twentieth of the principal, plus the actual interest cost of borrowing the state share paid each year. Usually a library or the city or town borrows the state share, entering into a mortgage or loan agreement or issuing bonds to cover the period of state reimbursement funding.~~
- 2.6. ~~The Office of Library and Information Services must approve both building plans and site.~~
- 2.7. ~~The library must present the following information:~~
- 2.7.1. ~~What is the adequacy of the present library service in the area?~~
- 2.7.2. ~~If the library service is inadequate, in what specific measure will this proposed construction improve the service?~~
- 2.7.3. ~~What relationship does this proposed construction have to overall planning for libraries in the area? Is the proposed construction included in the **COMPREHENSIVE COMMUNITY PLAN**? If there is a Library Council, has this proposal been approved by said Council?~~
- 2.7.4. ~~How does the library relate its present plan for construction to the future of the community and the future library needs of the area?~~

### **3 — Project Requirements**

- 3.1. ~~A professional librarian with experience of library construction projects must serve as consultant to the library director, library board and/or building committee and to the architect throughout the planning and construction of the building.~~

- 3.2. ~~There must be a written program prepared by the library director or consultant prior to the designing of the building by the architect.~~
- 3.3. ~~The library must have a long range plan covering a period of at least five years.~~
- 3.4. ~~The building program must be in keeping with the library's program of service.~~
- 3.5. ~~The library must ensure project compliance with all of the assurances required for state funding listed in APPENDIX C. These include, but are not limited to, issues related to handicapped access, EEO Compliance, Minority Business Enterprises and historic preservation. Please read Appendix C very carefully, and make sure your architect gets a copy to include in the construction specifications.~~
- 3.6. ~~Projects shall be in compliance with Rhode Island General Law 29-6-6 (Appendix D).~~
- 3.7. ~~The library will not dispose of or encumber its title or other interests in the site and facilities during the period of reimbursement of the state share of the project funding.~~
- 3.8. ~~Facilities built or remodeled under a construction agreement with the Office of Library and Information Services must continue to be used as free public library facilities unless their use for another purpose is approved by the State of Rhode Island's Chief Information Officer.~~
- 3.9. ~~The library will follow such procedures, submit such reports, maintain such records, and afford access thereto, as the Office of Library and Information Services may find necessary.~~
- 3.10. ~~At the completion of the project the State of Rhode Island Department of Administration or its designee shall perform an audit in accordance to the funding principles established by the Office of Library and Information Services.~~
- 3.11. ~~The library shall retain all financial records until notified by the Office of Library and Information Services that records are no longer needed for program administrative review.~~
- 3.12. ~~The library shall provide the Office of Library and Information Services, through an authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.~~

#### ~~4 Construction Grant Program Reimbursement Funding and Priorities~~

- ~~4.1. Priorities for construction projects are established by the Library Board of Rhode Island on a biennial basis. Current priorities are listed in Appendix F.~~
- ~~4.2. Agreements for construction projects will be entered into on a priority basis, with the estimated amount required for state reimbursement amounts in any given fiscal year to remain below the cap established by the Library Board of Rhode Island (Appendix F).~~
- ~~4.3. Reimbursement for state funds is for up to fifty percent of the total allowable project costs according to Rhode Island General Laws 29-6-6, within parameters established for the rate/share by the Library Board of Rhode Island for maximum per square foot and/or total state share (Appendix F).~~

#### ~~5 Application Procedures~~

- ~~5.1. A copy of the project checklist used by the Office of Library and Information Services is included as Appendix B.~~
- ~~5.2. As soon as the library begins initial discussions about a construction project, a letter of intent should be sent to the Office of Library and Information Services.~~
- ~~5.3. Based on a summary of the space needs included in the Building Program the library shall submit a preliminary project budget to the Office of Library and Information Services.~~
- ~~5.4. When preliminary estimates and preliminary architectural plans and drawings are completed, the library shall submit a construction project application (Appendix A) to the Office of Library and Information Services.~~
- ~~5.5. After a meeting between the Office of Library and Information Services, the library and the architect to review the application and architectural plans, a final assessment will be made by the Office of Library and Information Services.~~
- ~~5.6. The Office of Library and Information Services will participate in the development of the loan or mortgage agreement, assuring the lender of its participation in the project and agreeing to the total amount of capital and interest to be reimbursed and to the terms of the mortgage or other loan(s).~~

~~5.7. Upon final approval of the project, the Office of Library and Information Services will enter into the agreement with the library. A sample construction agreement has been included as Appendix H.~~

~~6. Allowable Costs include the following:~~

~~6.1. Construction of new buildings to be used specifically as public library facilities.~~

~~6.2. Expansion, remodeling, and alteration, *as distinguished from maintenance and repair*, of existing buildings to be used for public library purposes.~~

~~6.3. Construction, expansion, remodeling and alteration of the portion of a multipurpose building in which a library is to be housed. Costs relating to those portions of the shared mechanical, meeting room and multipurpose areas which count toward the square footage of the library will be also be eligible.~~

~~6.4. Expenses related to~~

~~6.4.1. acquiring land on which there is to be new building or expansion of an existing library building~~

~~6.4.2. acquiring a building to be converted to a library and expanded, if necessary, if these expenses were incurred within three fiscal years preceding the fiscal year in which the project was approved by the state agency. Such expenses must constitute actual cost or transfer of public funds in accordance with the usual procedures generally applicable to all state and local agencies and institutions.~~

~~6.5. Site grading and improvement of land, including demolition related to the project.~~

~~6.6. Landscaping for public library use areas.~~

~~6.7. Parking lots, when part of a larger construction project.~~

~~6.8. Private building consultant, architectural/engineering/inspection expenses.~~

~~6.9. Furnishings and equipment, with a total reimbursable cost of 25% of the total cost of the project.~~

***Not included are:***

- ~~6.10.— Library materials.~~
- ~~6.11.— Office supplies.~~
- ~~6.12.— Furnishing and equipment in excess of 25 % of the total cost of the project.~~
- ~~6.13.— Fundraising costs.~~
- ~~6.14.— Non public library use costs for a multipurpose building.~~
- ~~6.15.— Salaries of in-house administration or library staff.~~
- ~~6.16.— Feasibility studies.~~
- ~~6.17.— Lease of facilities, service, equipment, or maintenance contracts.~~
- ~~6.18.— Moving expenses.~~
- ~~6.19.— Landscaping for non public library use areas.~~
- ~~6.20.— Parking lots which are not part of a larger construction project.~~

**~~7.— Contractor Requirements~~**

- ~~7.1.— After the agreement has been signed with the Office of Library and Information Services, the library will publicly advertise or circulate the specifications for the project. At least three bids for projects requiring a general contractor or construction manager must be received for the project to proceed.~~
- ~~7.2.— After the opening of the bids, the library shall provide the Office of Library and Information Services with a tabulation of bids received.~~
- ~~7.3.— The library shall award the contract to the responsible bidder submitting the lowest acceptable bid. A sample letter to the successful bidder is enclosed as Appendix I.~~



- ~~7.4. The actual construction work will be performed by the lump sum (fixed price) contract method. Use of this method does not preclude the use of a construction manager if this is otherwise allowed by the governing body. (Note: RIGL 45-55 covers the award of municipal contracts. See Appendix M.)~~
- ~~7.5. The STATE OF RHODE ISLAND EQUAL OPPORTUNITY COMPLIANCE CERTIFICATE AND AGREEMENT (Appendix J) and the DRUG FREE WORKPLACE POLICY CONTRACTOR CERTIFICATE OF COMPLIANCE (Appendix L) are required before a contract can be signed by the library. The library will tentatively award the contract, pending a conference to be arranged by the Equal Opportunity Contract Compliance Officer, and the necessary compliance signatures by the contractor.~~
- ~~7.6. A prospective contractor shall include in its bid on any Construction project covered by these regulations, a simple statement acknowledging its obligation to meet the ten percent (10%) requirement for Minority Business Enterprise participation. A Minority Business Enterprises Compliance Plan (Appendix K) shall be submitted to the Director of the Department of Administration or his designee within ten (10) working days of the tentative contract award. The Director or his designee shall review and approve plans that reasonably ensure compliance with the ten percent (10%) requirement. A contractor's failure to have an approved Minority Business Enterprise Compliance Plan constitutes non-compliance.~~
- ~~7.7. The project contractor/subcontractor shall comply with the Davis Bacon Act as supplemented by the Department of Labor regulations.~~
- ~~7.8. The project contractor/subcontractor shall comply with the Copeland "Anti-Kickback Act".~~
- ~~7.9. After signing the contract, the library will submit a copy of the contract to the Office of Library and Information Services.~~

## ~~8. Amendments~~

- ~~8.1. Any amendments (change orders) to the project shall be submitted to the Office of Library and Information Services.~~

**9. — Display of Signs**

9.1. — ~~The site of the construction project shall display a sign stating that state funds administered by the Rhode Island Office of Library and Information Services are being used for such construction.~~

9.2. — ~~If specifications call for a plaque in the completed building indicating the date of completion and sources of funds, state funds administered by the Rhode Island Office of Library and Information Services shall be noted.~~

**10. — Completion of Project**

10.1. — ~~The library shall complete its construction project within three years of signing a construction agreement with the Office of Library and Information Services, and in accordance with the application and approved drawings and specifications.~~

10.2. — ~~Upon completion of the project, the library shall submit a Certificate of Substantial Completion to the Office of Library and Information Services.~~

**~~Adopted by the Library Board of Rhode Island on December 7, 1998, effective February 3, 1999. Amended regulations adopted by the Library Board of Rhode Island on October 20, 2003, effective immediately.~~**