

3 AAC is amended by adding a new chapter to read:

Chapter 198. Library Construction and Major Expansion Matching Grant Program.

Section

- 10. Applicability
- 20. Uses of grant
- 30. Eligible applicant
- 40. Maximum amount of grant
- 50. Local match
- 60. Application
- 70. Consideration of application
- 80. Standards for decision on grant application
- 90. Priority for grant approval
- 100. Administrative hearing
- 110. Acceptance of grant offer; grant conditions
- 120. Withheld money
- 130. Project Audit
- 140. Grant program administration
- 150. Waiver of sovereign immunity
- 900. Definitions

3 AAC 198.010. Applicability. This chapter applies to the public library construction and major expansion matching grant program established in AS 14.56.355. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.020. Uses of grants. An eligible applicant

(1) may use grants under this chapter

- (A) to construct a new public library; or
- (B) make a major expansion to an existing public library;

(2) may not use grants under this chapter for

- (A) costs of ordinary maintenance and operating expenses of a library;
- (B) equipment or furnishings not part of the construction or major expansion of a public library; or
- (C) other purposes not authorized under AS 14.56.355 or 14.56.356. (Eff.

___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.030. Eligible applicant. (a) The following entities are eligible to submit a proposal under this solicitation

- (1) a municipality
- (2) a Native Village Council
- (3) a community in the unorganized borough

(b) To be eligible to receive a grant under this chapter, a community in the unorganized borough must have an incorporated non-profit entity in good standing under AS10.20 that will agree to receive and spend the grant money for the applicable purpose specified in this chapter. If a community in the unorganized borough has more than one of the organizations described in this subsection, and each is eligible to receive a grant, the department will determine which organization is to receive the grant money. In making this determination, the department will consider factors relevant to achieving the purpose of the grant, including:

(1) the administrative capability of each incorporated non-profit entity, including past performance on any previous grant awards;

(2) the ability of each incorporated non-profit entity to manage its debt and other finances;

(3) the degree to which each incorporated non-profit entity is representative of the community; and

(4) the purpose for which each incorporated non-profit entity intends to spend the grant money. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.040. Maximum amount of grant. (a) Subject to appropriation, the department may make grants under the program in an amount not to exceed 50 percent of the total proposed grant project costs.

(b) For purposes of AS 14.56.355(c) and this section, the total proposed grant project costs for a public library that is combined with a municipal or other community facility includes only costs that are attributable, as determined by the department, to uses relating to construction of a public library within the proposed combined facility. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.050. Local match. (a) An applicant must provide, as a local match, the portion of the total proposed grant project costs not met by the grant payable under AS 14.56.355 - 14.56.356 and this chapter.

(b) The local match may be in the form of

(1) money; if the applicant is a governmental entity, the money must come from unrestricted locally generated revenue of the applicant;

(2) land; or

(3) services. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.060. Application. (a) An applicant must apply for a grant on a form provided by the department.

(b) The application must state or include

(1) a detailed study outlining the library space needs of the community and library service area in which the project will be constructed, with projections for use of the facility for a period of not less than 20 years;

(2) a detailed description of the project, its associated costs, and the funding sources that will support construction of the project and its operation and maintenance after construction; and

(3) assurances that

(A) the applicant will provide the local match required by AS 14.56.356 and this chapter; and

(B) ownership of a public library to be constructed or to undergo a major expansion with money received under the grant will conform to the requirements of AS 14.56.356 and this chapter.

(c) In addition to the requirements of (b) of this section, if the application for a grant is for the construction or major expansion of a combined facility in which the public library is to be located as part of a municipal or other community facility, the applicant shall submit a copy of a valid agreement between the governing body of the public library and

(1) the governing body of the community, if the application is for a combined

facility in a community building;

(2) the board, committee, or other organization managing or operating the portion of a community facility not used for library purposes, if the application is for a combined facility for which a community is not responsible.

(d) The agreement provided under (c) of this section must clearly delineate the responsibilities of the public library, the community, or other organization, with provisions made in the agreement for

- (1) financial responsibility for the maintenance and care of the combined facility;
- (2) financial responsibility for the library personnel;
- (3) use of equipment; and
- (4) hours of service.

(e) Nothing in this section makes a public or private school library eligible for a grant under AS 14.56.355 - 14.56.356. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.070. Consideration of application. Before making a final decision on a grant application, the department will

- (1) consult with the applicant about the proposed project; and
- (2) allow an applicant to submit an amended application. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.080. Standards for decision on grant application. The department will make a decision on a grant application or amended application that requests a grant based on

(1) compliance of the proposed project with minimum space requirements as follows:

(A) for a project serving a community with an estimated population of fewer than 400: at least 800 square feet;

(B) for a project serving a community with an estimated population of 400 - 1,000: at least 1,200 square feet;

(C) for a project serving a community with an estimated population of more than 1,000: 2,000 square feet or 0.7 square feet per capita, whichever is greater;

(2) compliance of the proposed project with applicable municipal, state, and federal law, including 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act) and 28 CFR 36;

(3) conformance of the proposed project to the siting, design, space, floor load, shelving, and layout requirements that reflect the needs of the community and the anticipated users of the library;

(4) the suitability of the proposed project to meet the library needs of the community for at least 20 years;

(5) the appropriateness of the amount requested in the grant application to the proposed project and the library requirements of the community served by the applicant; and

(6) the ability of the applicant to operate and maintain the proposed project, including an evaluation of the applicant's past performance in operating a library, if applicable.

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.090. Priority for grant approval. During a fiscal year, if amounts requested in grant applications approved by the department under 3 AAC 198.080 exceed amounts appropriated for payment of grants, the department will award grants as follows:

(1) the department will rank projects giving the following priorities to proposed projects:

(A) the first priority to an application submitted by a community that does not have a public library described in AS 14.56.356(a)(2) but has created a plan for public library service;

(B) the second priority to an application that the Commissioner in consultation with the Alaska State Library evaluates as having the highest beneficial impact on the provision of library services to the public;

(2) among projects that are ranked relatively equally under (1)(B) of this section, the department will give preference to an applicant that has not previously received a grant under AS 14.56.355 - 14.56.356 and this chapter. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.100. Administrative hearing. The department will send an applicant written notice of the department's decision under 3 AAC 198.080 and 3 AAC 198.090. Within 30 days after the date that notice is sent, an applicant for a grant who is dissatisfied with a decision by the department under 3 AAC 198.080 or 3 AAC 198.090 may obtain an administrative hearing of that decision by making a request to the commissioner. The request must be in writing, and will be considered filed on the date the department receives it. The request must clearly state each objection to the department's decision, the justification for each objection, and the reasons why the applicant should receive a grant in the amount sought. The commissioner will request the office of administrative hearings to conduct the administrative hearing under AS 44.64.030(b). A hearing will be conducted under AS 44.64.060(c) - (e) and 2 AAC 64.100 - 2 AAC 64.370. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.110. Acceptance of grant offer; grant conditions. (a) Upon issuance of a

final award determination under this chapter, the department will negotiate with the applicant to develop a grant agreement. If the applicant does not enter into a grant agreement satisfactory to the department within 60 days after the final award, the department may consider the award rejected. A recipient of a final award determination does not have a vested right or other entitlement to a grant until a mutually acceptable definitive written agreement is negotiated and is executed by the department.

(b) In the grant agreement, the department shall

(1) incorporate the audit requirements of 3 AAC 198.130 and any audit requirements made applicable by 2 AAC 45.010.

(2) set out a payment schedule for the amount of the grant to be paid by the department under 3 AAC 198.040, exclusive of the amount that the department withholds under 3 AAC 198.120; and

(3) include a statement of the rights and responsibilities of the department and the applicant regarding the proposed project.

(c) In the grant agreement, the department may

(1) require the applicant to procure, maintain, and demonstrate liability, hazard, or workers' compensation insurance,

(2) designate required policy limits;

(d) In the grant agreement, the applicant shall provide assurances that the project, when constructed or expanded, will be operated as a public library for not less than 20 years or for the life of the building, whichever is less;

(e) During the term of a grant agreement, the applicant shall maintain and provide, at the department's request, all grant-related records, reports, invoices, documents, or other information

required under the grant agreement.

(f) A grant agreement with a community or a corporation must be accompanied by a resolution sufficient to bind the applicant to the terms of the agreement. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.120. Withheld money. The department will not pay to the grantee more than 50 percent of the amount that the department approved as a grant until the grantee files a project audit as required by 3 AAC 198.130 and the department accepts the audit. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.130. Project Audit. (a) In addition to complying with any audit requirements made applicable by 2 AAC 45.010, the grantee shall file a project audit for final payment with the department when a project has been completed.

(b) The project audit must include

(1) a narrative report outlining the tasks associated with project completion.

(2) a final financial progress report by the grantee of all receipts and expenditures for the project; and

(3) the grantee's certification that all project expenditures conform to law.

(c) If the grantee fails to provide a final financial progress and narrative report as required by (b) of this section, the department will notify the grantee of the failure and give 30 days after the date of notification to comply with this section. If the grantee continues to fail to comply with this section, the department will

(1) lapse the amount withheld for the project under 3 AAC 198.120; and

(2) require repayment of all or a portion of the grant that has been paid to the grantee for the project.

(d) Subject to appropriation, money lapsed or repaid under (b) of this section may be deposited into the grant account from which public library construction accounts are paid.

(Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.140. Grant program administration. (a) The department will require repayment of all or any portion of the amount of the grant paid to a grantee if the department determines that grant money has been used in a way that violates assurances given by the grantee under 3 AAC 198.110.

(b) Subject to appropriation, money repaid under (a) of this section may be deposited into the grant account from which the grants are paid. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.150. Waiver of sovereign immunity. If the grantee is an entity that possesses sovereign immunity, the grantee must agree as a condition of receiving a grant that the grantee irrevocably waives its sovereign immunity with respect to enforcement of the grant agreement or claims related to the grant agreement. The waiver of sovereign immunity must be on a form approved by the Department of Law. (Eff. ___/___/___, Register ___)

Authority: AS 14.56.355 AS 14.56.356

3 AAC 198.900. Definitions. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Commerce, Community, and Economic Development;

(2) "community" means a place in which 25 or more individuals reside as a social unit;

(3) "department" means the Department of Commerce, Community, and Economic Development;

(4) "grant" means a grant applied for or awarded under the program;

(5) "municipality" has the meaning given in AS 29.71.800(13);

(6) "Native village council" means

(A) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(B) the council for the Annette Island Reserve established by 25 U.S.C. 495 for the Metlakatla Indian Community; or

(C) a traditional village council recognized by the United States as eligible for federal aid to Indians.

(7) "operating expenses"

(A) means expenses for personal services, communications, library materials, supplies, equipment, and other services necessary to provide library services;

(B) does not include construction expenses;

(8) "program" means the public library construction and major expansion Matching grant program under 14.56.355 – 14.56.356;

(9) "public library" means a library as described as AS 14.56.400. (Eff. ___/___/___, Register _____)

Authority: AS 14.56.355 AS 14.56.356