



**PUBLIC COMMENTS RECEIVED CONCERNING DRAFT RULE 173-2, LIBRARY FACILITIES IMPROVEMENT FUND**

**From:** Beth Anderson <beth.anderson@clark.lib.wv.us>

**Sent:** Wednesday, June 27, 2018 10:30 AM

**To:** Goff, Karen E <Karen.E.Goff@wv.gov>

**Subject:** Library Facilities improvement Fund Rules

I looked at the rules and think that they are fine. It is pretty standard and straight forward.

Beth Anderson, Director

Burnsville Public Library

Where every visit starts an adventure!

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Virus-free. [www.avast.com](http://www.avast.com)

**From:** Goff, Karen E

**Sent:** Wednesday, June 27, 2018 10:32 AM

**To:** 'Beth Anderson'

**Subject:** RE: Library Facilities improvement Fund Rules

Thanks Beth.

*Karen*

*1800 Kanawha Boulevard, East*

*Charleston, West Virginia 25305-0620*

*Tel: 304-558-2041 Fax: 304-558-2044*

*Email: karen.e.goff@wv.gov*

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-----Original Message-----

**From:** Hali Taylor <taylor\_h@martin.lib.wv.us>

**Sent:** Wednesday, June 27, 2018 4:20 PM

**To:** Goff, Karen E <Karen.E.Goff@wv.gov>

**Subject:** Library Facilities Improvement Fund HaliProofed

Hi Karen: My two cents : looks like the numbering system got derailed after 173-2-3 (3.1) Alteration should be 3.2, and

not a whole new subfield.

Hali

Hali Taylor, Director

Shepherdstown Public Library

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**From:** Goff, Karen E  
**Sent:** Wednesday, June 27, 2018 4:31 PM  
**To:** 'Hali Taylor'  
**Subject:** RE: Library Facilities Improvement Fund HaliProofed  
Thanks for catching the numbering glitch. That will be an easy fix.  
Karen  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0620  
Tel: 304-558-2041 Fax: 304-558-2044  
Email: karen.e.goff@wv.gov  
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**From:** Connie Sutton <[sutton\\_c@martin.lib.wv.us](mailto:sutton_c@martin.lib.wv.us)>  
**Sent:** Friday, July 06, 2018 12:10 PM  
**To:** Goff, Karen E  
**Subject:** Library facilities improvement fund review  
**Attachments:** TITLE 173 DRAFT Revised 6.28.18 Construction comments.docx  
Karen,  
Well I have reviewed and inserted comments.  
First, what a great draft. Congratulations on a fine job.  
I have asked questions, made comments and even included a rant.  
Thanks for asking for comments.  
Connie Sutton  
Director  
Keyser-Mineral County Library  
105 N Main Street  
Keyser, WV 26726  
304-788-3222  
304-788-3222 (fax)

**From:** Goff, Karen E  
**Sent:** Thursday, July 26, 2018 11:18 AM  
**To:** 'Connie Sutton'  
**Subject:** TITLE 173 DRAFT Revised 6.28.18 Construction comments (002).docx  
**Attachments:** TITLE 173 DRAFT Revised 6.28.18 Construction comments (002).docx  
Connie,  
Thanks again for commenting on the Draft Rule for the Library Facilities and Improvement Fund.  
My responses to your comments are attached.  
*Karen Goff, Executive Secretary*  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0620  
Tel: 304-558-2041 Fax: 304-558-2044  
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**TITLE 173  
DRAFT PROCEDURAL RULE**

**WEST VIRGINIA LIBRARY COMMISSION**

**SERIES 2  
LIBRARY FACILITIES IMPROVEMENT FUND**

**§ 173-2-1. General.**

1.1. Scope. Establishes requirements and procedures for grants and loans from the Library Facilities Improvement Fund administered by the West Virginia Library Commission.

1.2. Authority. West Virginia Code § 10-1-24.

1.3. Filing Date.

1.4. Effective Date:

**§ 173-2-2. Purposes.**

2.1. The purposes of this rule are to:

2.1.1. Provide the West Virginia Library Commission and West Virginia public libraries with a process for submitting, reviewing, evaluating, awarding Library Facilities Improvement Fund grants and loans; and

2.1.2. Establish a system for administering Library Facilities Improvement Fund grants and loans.

2.2. The purposes of the Library Facilities Improvement Fund are to:

2.2.1. Provide grants to Public Libraries for the planning, design, improvement, and expansion of Public Library facilities so that there is a corresponding improvement in services offered and access to those services. Grants are not intended to aid with activities such as regular repair and maintenance except under extraordinary circumstances.

Suggest adding the word construction to 2.2.1. It is sort of implied, as one can't expand without construction, but on first reading my thought was, "What about construction?" I would also add the word alteration.

*Thanks for your suggestion. Changed to "Provide grants to Public Libraries for the planning, design, improvement, expansion, or replacement of Public Library facilities..."*

2.2.2. Provide grants and loans to Public Libraries to support energy savings and critical life safety projects.

**§ 173-2-3. Definitions.**

3.1. ADA. Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*

3.2. Alteration. Project addressing changing use of space.

3.3. Applicant. The governing board of a Public Library established in accordance with West Virginia Code § 10-1-2 and eligible to receive state aid to public libraries.

Does the above mean if a library has not met MOE or the Match that the library is not eligible to receive funds from Library Facilities Improvement Fund? (LFIF)

I guess the question is: Is this eligible as per state code, or as per the administrative regulations.?

*4.1 states that "all public libraries may apply for grants and or loans". This means that libraries not meeting the match and MOE requirements of CSR 173.1.3.4 and 173.1.3.5 3.5 are eligible to apply.*

3.4. Application. The form, and any attachments, that a Public Library is required to file in order to apply for a grant or loan.

3.5. Application round. The period during which grant application materials are made available to prospective applicants, grant applications are submitted, grant applications are reviewed, provisional award requirements are fulfilled, and grants are awarded, and projects placed on the waiting list.

3.6. Capital project. The construction or renovation of a fixed asset, including buildings, fixed equipment and infrastructure.

3.7. Catastrophic loss. An emergency created when an existing Public Library is rendered permanently unusable. Loss cannot be the result of deferred maintenance or negligence.

3.8. Construction. New construction, alteration, renovation, rehabilitation, or other activity that is intended to result in a significant increase in the internal usable space of a Public Library.

3.9. Deferred maintenance. Repair, maintenance, and renewal of capital facilities which should be part of normal maintenance management, but which have been postponed to a future budget cycle or until funds become available.

I certainly understand not using the LFIF for normal maintenance. The phrase “until funds become available” suggests some libraries may be in the position of waiting “until funds become available” and unable to do anything because of lack of funds and their problem becomes worse. Sort of a Catch-22.

I also recall a conversation with JD regarding my thought to put back a portion of the library’s annual operating funds aside for future maintenance. Seemed like good business sense to me. JD told me that those put aside funds could not be counted towards the MOE. Another Catch-22.

How would the WVLC make a determination, that a library has committed Deferred Maintenance? *WVLC would use library financial reports and, if necessary, site visits to make this determination.*

Potential solution: Allow any funds put aside in savings for future use to be counted towards MOE.

Is building maintenance included in the new director’s workshop? *No, but we can add it.*

3.10. Demolition. The act or process of tearing down or razing an existing structure or portions of the structure so that the site may be used for an approved Public Library project.

Whose approval?

3.11. Design. Plans prepared by an engineering or architectural firm for the design or modification of a facility. Designs must include, but are not limited to: drawings, specifications, and other necessary project design documentation.

3.12. Development plan. A planning document that includes a Public Library's mission statement, needs statement, multi-year goals and objectives, an annual action plan with measurable objectives, a brief description of the planning methodology, and an indication that it has been approved by the Public Library's governing board.

This is a knee jerk reaction to the need for yet another stinking development plan. And brief description of the planning methodology, Here’s my planning methodology. **Think:** I sat in my office and thought about it, then asked staff and board what they thought. Nothing beats thinking for a planning methodology. I would also say that a library whose developmental plan including mention of capital improvement projects would have a leg up in showing the board was aware of the need. I don’t think other items in a development plan would much of a part to play.

Then there is measureable objectives. Since the LFIF is about physical building type stuff, the measureable objectives are simple. Construction work is done.

Example: Keyser Library plan for repairing sidewalk.

Plan: Discuss with board, determine source of funds and gain board approval.

Hire contractor who does the work. Done.

If one's development plan includes "soft" items such as improving programming than measureable objectives can be less simple.

End of rant

*Understood. The Development Plan already required by WVLC can be used if expansion, renovation, etc. is included.*

3.13. Emergency. A situation involving life safety issues, issues that would result in extensive damage to a facility if not addressed immediately, any unforeseen opportunity to use external funds, or any other situation the Library Commission determines should warrant special consideration of a request.

3.14. Financial feasibility. The ability of a Public Library to achieve sufficient income, credit, and cash flow to financially sustain a project over the long term.

"a project" - Does project refer to:

1) the building project itself. As if, LFIF grants 30% of a building project and the library can show it can get the 70% or

2) The library plan is for a new building which will cost much to run and staff and the library's projecting operating budget(s) will not be enough to run the new building.

*Both.*

3.15. Governing board. The board created pursuant to West Virginia Code § XX that governs a Public Library.

3.16. Governing authority. Local government entity authorized to establish public libraries (*e.g.*, County Commission, County Board of Education, or Municipality).

3.17. Library Commission. The state agency known as the West Virginia Library Commission.

3.18. Life safety. A condition in a Public Library or on Public Library property that, if not corrected immediately, would jeopardize the safety and property of the staff and the visiting public.

3.19. Maintenance. The act or process of maintaining and repairing a Public Library Facility to keep it in appropriate operating condition.

3.20. New construction. The creation of a new facility or of an addition to an existing facility.

3.21. **Public Library.** A library established in accordance with West Virginia Code §10-1-1 et. seq.; includes branch libraries administered by a paid librarian, under direction of a head librarian of a main library, and open to the public with a posted schedule.

3.22. **Public Library facility.** A building or other structure utilized as a Public Library, or the portion of a shared facility utilized as a Public Library.

3.23. **Renovation.** Work required to restore and modernize most of a Public Library Facility in order that the facility may be effectively utilized for its designated functional purpose and comply with current building code requirements. Such projects consist of work of such scope that, if not completed, the present facility would require complete building replacement. A renovation project must provide a Public Library Facility substantially equivalent to that of a new facility and must consist substantially of work other than deferred maintenance.

Nicely put: One understands that the renovation much be more than deferred maintenance. I get that one should comply with current building code requirement, but that leaves me wondering whose building codes, county? state? I guess that will be my problem at some point. *Specific codes will be identified in the Grant Agreement.*

3.24. **Service population.** The number of people in the geographic area for which a Public Library has been established to offer services and from which (or on behalf of which) the Public Library derives revenue, as established by the Library Commission.

Sentence construction here: Definition could be better expressed. I understand it because I know what Service Population is and that the WVLC determines it. Still I had to read it twice. I didn't think revenue comes into play when the WVLC determines a service area, or does it?

I remember when you and I discussed the service area for the Keyser-Mineral County Library and Piedmont after the 2010 census. It came down to, the population of Mineral County minus the population of Piedmont, as Keyser-Mineral was formed to be responsible for the city of Keyser and Mineral County- and then Piedmont Library came along to take library services responsibility for the city of Piedmont. I don't remember discussing revenue.

3.25. *This has been revised to "Service population. The number of people in the geographic area for which a Public Library has been established as determined by the Library Commission.*

3.26. **Shared facility.** A building or other structure incorporating a Public Library and one or more compatible partners independent of the Public Library and housed within one building. Some parts of the building may be shared, such as meeting rooms and common areas. Good to include this.

3.27. **Waiting list.** A list, created by the Library Commission, of capital projects approved for funding but awaiting the availability of funds.

#### **§ 173-2-4. Eligibility Requirements**

4.1. All Public Libraries may apply for grants or loans. No match or MOE requirements? *That is correct.*

4.2. To receive a grant or loan, a Public Library governing board must complete the application process developed by the Library Commission, including providing any additional information requested during that process.

4.3. To receive a grant, a Public Library must provide a dollar per dollar match from non-state sources. Non-state sources include federal funds and Governing Authority funds.

*I think it is vital that non-state sources include: local non-tax funds and other grants, including local, regional or national grants. If I had to rely on federal funds or Governing Authority funds, my project would be doomed before we started. But I do know of a local community foundation that will likely help and I know the local community will help. I think it is vital that these other non-state sources be named.*

4.4. Revised to read, *“Non-state sources include, but are not limited to, federal funds and Governing Authority funds.”*

#### **§ 173-2-5. Grant Application Process.**

5.1. The Library Commission shall at least annually invite public libraries to submit grant applications. These applications will enable the Library Commission to identify Public Library facility capital project needs and report these needs to the Legislature.

5.2. At a minimum, applications shall include:

5.2.1. A project description;

5.2.2. A project justification, including the need for the project and how the project will benefit the Public Library’s service area;

5.2.3. A project time line, including major steps necessary to complete the project; and

5.2.4. A project budget.

#### **§ 173-2-6. Grant Evaluation Criteria.**

6.1. Unless supplemented in the grant announcement, the criteria listed in this section will be used by Library Commission staff to evaluate proposals submitted under this program. The distribution of points to be awarded per criterion will be identified in the grant announcement. *Lucky you, to be able to put the distribution of points part off.*

6.2. Project design and technical merit. Reviewers will consider the soundness of the applicant's approach, the project's technical and financial feasibility, the adequacy of financial and other resources, the capabilities and experience of the applicant and its project management team, the project goals, and identified community needs and benefits. Points will be awarded under the following project elements:

6.2.1. **Comprehensiveness and feasibility.** Reviewers will assess the technical and economic feasibility of the project and how well its goals and objectives address the challenges of the library service population area. Reviewers must make a finding of operational sustainability for any points to be awarded. Projects for which future grant funding is likely to be required to assure ongoing operations will not receive any points.

Is this the part where “operational sustainability” means don’t build something one can’t afford to heat? And if one would need to ask for a grant to pay the heating bill, one wouldn’t get any points?

*Exactly.*

6.2.2. **Demonstrated experience.** Reviewers will consider whether the applicant or its project team have demonstrated experience in successfully administering and carrying out projects that are comparable to that proposed in the application. Good to include project team as I suspect many library staff and trustees do not do construction projects on a regular basis.

6.2.3. **Community needs.** Reviewers will consider the applicant's assessment of community needs to be addressed by the proposed project as well as the severity of physical and economic challenges affecting the target communities.

Goodness: what’s this “severity of . . . . .” and what does this have to do with the project. And now the library director gets to put on their economic development hat and talk about “physical and economic challenges” I think this is taking community needs assessment a bit too far. It also suggests that a library in an economically robust community might be considered less favorably.

I do understand the need for a community needs assessment (been there, done that) but the physical challenges (mountainous terrain perhaps) and economic challenges seems to me to go a bit too far.

Yes, we all know libraries can contribute to economic development, make a better community and all that.

But it comes off as, one more time libraries must justify their existence, their need for funds, and their value to a community – and to an organization (the WVLC) that should know this.

I think it should come down to hideously outdated library, which is used by the community, needs to be replaced. From where I sit, it seems simple.

*The intent is the opposite; to not exclude communities because of physical and economic challenges.*

6.2.4. Project evaluation and performance measures. Reviewers will consider the applicant's suggested project evaluation and performance criteria.

Sounds like more “stuff” and ‘current vocabulary’. But I guess it comes down to making sure that someone from the applicant’s project team is keeping an eye on the project as it goes along and makes sure that the walls are built with 2 X 6’s as specified and not 2 X 4’. *You are correct.*

6.3. Priority considerations. Evaluation points may also be awarded for projects that advance any identified in the grant announcement. The grant announcement may incorporate all or some of the priority criteria listed below and may supplement these criteria.

6.3.1. Projects involving replacement or reconstruction of public library facilities destroyed or damaged by flood, tornado, fire, earthquake or other disasters, either man-made or produced by nature.

6.3.2. Projects to correct conditions in the library or on library property determined to be severe and continuing health or life safety hazards.

6.3.3. Alterations necessary to provide accessibility for qualified individuals with disabilities.

6.3.4. Projects designed to address population growth or to replace aging public library facilities.

6.3.5. Other unique solutions to facility needs. These projects include design concepts that enhance library service to the community, including, but not limited to, technological improvements and energy conservation. Really like the technological improvements and energy conservation part.

6.3.6. Economic hardship points may be awarded when the service population area suffers from documented severe economic hardship. So how does one document this: I would include unemployment rate, % of individuals and families living in poverty. *You are right. The application will specify what is needed.*

6.3.7. Projects that evidence significant commitments of funds, contributed property, equipment, or other in-kind support for the project may be awarded additional points for this criterion. Hoping the commitments of funds can be non-tax local funds or other grant funds. *Funds from all sources will be considered.*

## **§ 173-2-7. Loan Application Process.**

7.1. Public libraries may apply for loans to support energy savings and critical life safety projects. From whom would one apply to loans. 7.2 suggests the WVLC. And where would you get the money to loan? If the loan is not from the WVLC, why would the WVLC get involved? Is the LFIF \$ a loan? Why are loans restricted to energy savings and critical life safety projects? *The legislation that establishes the fund authorizes WVLC to make loans from the fund in the specified areas.*

7.2. Applications for loans may be submitted at any time on forms developed by the Library Commission. Applications will be evaluated using the criteria listed in 173-2-6.

7.3. Loans are exempt from the match requirement, but the Library Commission may limit the percentage of the total project that can be borrowed.

7.4. Loans are subject to loan agreement between the Library Commission and the applicant. I am thinking this loan agreement concerns \$ loaned from the WVLC? *That is correct.*

7.5. The agreement will include a schedule of payment of the principal and any interest on the loan.

#### **§ 173-2-8. Grant/Loan Disbursements.**

8.1. Applicants receiving grant awards will be eligible for disbursements according to a schedule established by the Library Commission once they have signed a grant agreement with the Library Commission, provided all necessary certifications, and have agreed to all assurances.

8.1.1. The Library Commission reserves the right to terminate the project grant for failure of the grantee to comply with the provisions of the grant award agreement.

8.2. On-site construction inspections by Library Commission staff or designated representatives may occur during the construction phase and/or upon completion of the project.

#### **§ 173-2-9. Reporting.**

9.1. Project progress reports must be submitted in accordance with the procedures and schedule specified in the grant agreement and will include the following information unless otherwise specified in the grant agreement:

9.1.1. A comparison of planned and actual accomplishments according to the project timetable or list of project objectives;

9.1.2. An explanation of any delays or failures to meet the project timetable or list of project objectives;

9.1.3. A financial report comparing total project expenditures and grant expenditures for the specified period, with the estimated project budget, including, when appropriate, analysis and explanation of cost overruns of high unit costs

9.2. Any change from the original construction contract must be made by a formal “Change Order” accompanied by a letter of authorization from the president of the library board. If the change or addition requires additional funds over and above the approved budget, the library board must certify that the additional funds are available.

### 9.3. Record-Keeping Requirements

9.3.1. The grantee must maintain records that document compliance with the terms and conditions of the grant agreement. At a minimum, the grantee’s records must fully disclose:

9.3.1.1. The amount and disposition of the Library Commission grant funds;

9.3.1.2. All project expenditures and procurement actions;

9.3.1.3. The total cost of the project; Would this be the WVLC LFIF part of the project or the entire project? *The entire project.*

9.3.1.4. Copies of all reports and disbursement requests submitted to the Library Commission.

9.4. Beginning January 2019 and annually thereafter, the Library Commission will prepare a status report for the Legislature on public library facilities and needs and recommend projects for funding. The report will also include the status of all projects funded through the Library Facilities Improvement Fund.

There is no mention of “prevailing wage” Has the legislature actually finally dispensed with the concept of “prevailing wage” Yes.