

**TITLE 4           CULTURAL RESOURCES**  
**CHAPTER 5       STATE LIBRARY**  
**PART 2           STATE GRANTS IN AID TO PUBLIC LIBRARIES**

**4.5.2.1           ISSUING AGENCY:** Department of Cultural Affairs, New Mexico State Library Division.  
[4.5.2.1 NMAC - Rp, 4.5.2.1 NMAC, 6/1/2016]

**4.5.2.2           SCOPE:** Public libraries and developing public libraries.  
[4.5.2.2 NMAC - Rp, 4.5.2.2 NMAC, 6/1/2016]

**4.5.2.3           STATUTORY AUTHORITY:** Subsection I of Section 18-2-4 NMSA 1978 directs the state librarian to make rules and regulations necessary to administer the division and as provided by law. Subsection B of Section 18-2-4 NMSA 1978 directs the state librarian to administer grants-in-aid and encourage local library services and generally promote an effective statewide library system.  
[4.5.2.3 NMAC - Rp, 4.5.2.3 NMAC, 6/1/2016]

**4.5.2.4           DURATION:** Permanent.  
[4.5.2.4 NMAC - Rp, 4.5.2.4 NMAC, 6/1/2016]

**4.5.2.5           EFFECTIVE DATE:** June 1, 2016 unless a later date is cited at the end of a section.  
[4.5.2.5 NMAC - Rp, 4.5.2.5 NMAC, 6/1/2016]

**4.5.2.6           OBJECTIVE:** The objective of this rule is to describe the state grants in aid to public libraries program (hereinafter “the state aid program”) and to establish criteria for reviewing and awarding the grants. The purpose of the state aid program is to provide financial assistance that encourages and supports public library service by public libraries and developing public libraries. The state aid program is intended to supplement and encourage local effort in providing local library service. The state aid program consists of developing library grants and public library grants that may be used for: library collections; library staff salaries; library staff professional development; library equipment; or other operational expenditures associated with delivery of library services.  
[4.5.2.6 NMAC - Rp, 4.5.2.6 NMAC, 6/1/2016]

**4.5.2.7           DEFINITIONS:**

**A.           “Annual report”** means a report sent once a year from a public library or developing library to the state library. An annual report shall at least accomplish the following tasks:

- (1) provide information in the time, manner, and form prescribed by the state library;
- (2) describe prior fiscal year’s activities, including income, expenditures, statistics on collections and services, and compliance with state aid program criteria;
- (3) be certified by the library as to the accuracy, completeness, and truthfulness of the information provided; and
- (4) be approved by and on file at the state library.

**B.           “Basic library services”** means free services provided in a library’s legal service area, including library collections with circulating materials; reference services; a catalog of library holdings accessible by the public; educational programs; interlibrary loan services; public access computers connected to the internet; and internet connectivity for patrons and staff. Basic library service may include any technology or service that relates to the access to information for patron use.

**C.           “Bookmobile”** means a mobile branch that offers basic library services with the exception of computers and internet connectivity.

**D.           “Branch”** means an auxiliary service administered by a public or developing library that provides the following public services:

- (1) separate quarters from the main library;
- (2) a permanent library collection and reference services;
- (3) offers basic library services;
- (4) staff present during open hours; and
- (5) at least 20 hours of public access to physical quarters per week on an annual basis.

**E.           “Circulating materials”** means items from library collections that are checked out by patrons for use outside of the library.

**F. “Collection development policy”** means guidelines used by library staff for making decisions about the budget for and selection, management, and preservation of library collections.

**G. “Community analysis and needs assessment”** means an evaluation of a library’s legal service area, its current and future needs, and the library’s role in meeting those needs.

**H. “Developing library”** means a New Mexico organization that has initiated and is progressively implementing basic library services within its legal service area.

- (1) A developing library is established through one of the following mechanisms:
  - (a) through an ordinance or legal resolution of a subdivision of state government;
  - (b) by a contract between a private entity and a subdivision of state government;
  - (c) by an Indian nation; or
  - (d) as a non-profit corporation.
- (2) A developing library provides the following public services:
  - (a) staff present during open hours;
  - (b) at least 15 hours of public access to physical quarters per week on an annual basis; ;
  - (c) at least two days of public access to physical quarters per week on an annual basis; and
  - (d) hours of operation posted on or near the library.

**I. “Fiscal year”** means July 1 through June 30.

**J. “Legal service area”** means the geographic area for which a library has been established to offer services and from which, or on behalf of which, the library derives income. The legal service area may be defined by a written agreement with a political subdivision of the state for which the library is the primary service provider. The most recent United States or tribal census determines the population of the legal service area if the population figures are given separately for that area. If the census does not report a discreet population figure for the legal service area, then the state library in its sole discretion shall determine the population for the library’s legal service area.

**K. “Library board”** means an administrative or advisory group comprised of representative members of the library’s community.

**L. “Library collections”** means library items for public use. Library collections may include such items as books, videos, sound recordings, licensed databases, and equipment. A portion of the collections must be circulating materials.

**M. “Library equipment”** means equipment associated with the delivery of library services.

**N. “Library staff”** means salaried employees or volunteers whose time is regularly dedicated to delivery of library services.

**O. “Matching funds”** means the amount expended in a fiscal year for library collections from any source other than the state. Sources for matching funds may include municipal funds, county funds, tribal funds, or money acquired through donations, fund-raising, or grants. In-kind contributions are not matching funds. Matching funds do not include funds used for operating costs, administrative costs, or regular staff salaries.

**P. “Public library”** means a New Mexico organization that offers basic library services within its legal service area.

- (1) A public library is established through one of the following mechanisms:
  - (a) through an ordinance or legal resolution adopted by a subdivision of state government;
  - (b) by a contract between a private entity and a subdivision of state government;
  - (c) by an Indian nation; or
  - (d) as a non-profit corporation.
- (2) A public library provides the following public services:
  - (a) staff dedicated to the library
  - (b) year-round public access to the physical location at least 25 hours per week;
  - (c) at least two days of public access to physical quarters per week on an annual basis; and
  - (d) hours of operation posted on or near the library.

**Q. “Reference services”** means the provision of library staff to answer reference questions during all the hours the library is open.

**R. “Strategic plan”** means a detailed program to ensure that library services meet the current and future needs of the library’s legal service area. The strategic plan shall include a vision and mission statement as well as goals and objectives, and it shall cover a period of at least the next three years and not exceed five years. [4.5.2.7 NMAC - Rp, 4.5.2.7 NMAC, 6/1/2016]

**4.5.2.8 DEVELOPING LIBRARY GRANT:**

**A. Purpose:** To supplement an eligible developing library’s budget for up to five years until it meets the minimum requirements for a public library grant.

**B. Description:** The developing library grant funds shall be used for library collections, library staff salaries, library staff training, library equipment, or other operational expenditures associated with delivery of basic library services.

**C. Criteria for reviewing and awarding developing library grants:** The state library shall award developing library grants to developing libraries that meet or exceed the following criteria.

(1) timely submission of an annual report with the state library;

(2) receipt of no more than five, consecutive, awards of developing library grants;

(3) continuous operation for at least nine months;

(4) demonstration of receipt of financial support from sources other than the state. In particular, matching funds in relation to the population of the library’s legal service shall be at least \$0.25 per person in its first year and any non-consecutive years of developing library grant application participation; \$0.50 per person in its second consecutive year; \$0.75 per person in its third consecutive year; \$1.00 per person in its fourth consecutive year; and \$1.25 per person in its fifth consecutive year;

(5) maintenance of adequate financial and other records to support the library’s eligibility for receiving library grants; the state library may audit such records annually, or as needed, as determined in the state library’s sole discretion;

(6) compliance with all state statutes and rules;

(7) compliance with requirements for developing library grants;

(8) employment of a designated director;

(9) creation of a library board that meets at least two times a year and adheres to the state’s open meetings law; and

(10) successful expenditure of all developing library grant funds during the prior fiscal year, if applicable.

[4.5.2.8 NMAC - Rp, 4.5.2.8 NMAC, 6/1/2016]

**4.5.2.9 PUBLIC LIBRARY GRANT:**

**A. Purpose:** To supplement eligible public libraries’ budgets.

**B. Description:** The public library grant funds shall be used for library collections, library staff salaries, library staff training, library equipment, or other operational expenditures associated with delivery of basic library services.

**C. Criteria for reviewing and awarding public library grants:** The state library shall review and award public library grants to public libraries that have met the following criteria:

(1) timely submission of an annual report with the state library for the current year and a minimum of two years prior;

(2) continuous operation for at least one year;

(3) receipt of a minimum of three consecutive developing library grants;

(4) demonstration of receipt of financial support from sources other than the state; in particular, matching funds in relation to the population of the library’s legal service area shall be at least \$1.50 per person;

(5) maintenance of adequate financial and other records to support the public library’s eligibility for receiving library grants; the state library may audit such records annually, or as needed, as determined in the state library’s sole discretion;

(6) compliance with all state statutes and rules;

(7) compliance with all requirements for public library grants;

(8) Formation of a strategic plan that the public library reviews, updates, and files with the state library every three years, and a community analysis and needs assessment, and a collection development policy that the public library reviews, updates, and files with the state library every five years;

- (9) maintain a library board that meets at least two times a year and adheres to the state open meetings law;
  - (10) employment of a designated director; and
  - (11) successful expenditure of all public library grant funds during the prior fiscal year.
- [4.5.2.9 NMAC - Rp, 4.5.2.9 NMAC, 6/1/2016]

**4.5.2.10 DISTRIBUTION OF FUNDS:** The library division shall distribute state grants in aid in the following manner:

- A. Application:** The annual report submitted for the immediate prior year shall serve as the developing or public library's application for state grants-in-aid.
- B. Allocation:** For state grants-in-aid, the state library shall award at least a quarter of a share (0.25) of the annual allocation to developing libraries, one (1) share of the allocation to each public library, and one half (.50) of a share of the allocation to each branch and bookmobile.
- C. Notification:** Following the end of the application period, the state library shall calculate the grant award for each library. The state library shall notify all eligible public libraries informing them of the amount of their grant.
- D. Request for payment:** Each library shall return the signed grant agreement to the state library within 60 days of receipt of the agreement measured from the postmark or electronic postmark. Upon timely receipt of the grant agreement, the state library shall process a payment request form. If a library does not submit the grant agreement within the required time period, it forfeits the grant award.
- E. Maintenance of effort:** A library's local budget shall not be reduced by its governing body as a result of eligibility for the state aid program. Upon demonstrated evidence that such a reduction has occurred, the library shall be ineligible to receive funds from the library grants award for one year after the reduction has occurred.

[4.5.2.10 NMAC - Rp, 4.5.2.11 NMAC, 6/1/2016]

**4.5.2.11 LIMITATION ON FUNDS:**

- A.** The grant amounts may vary by year, depending on the amount of the appropriation to the state library by the state legislature and the state library's other budgeted expenses.
- B.** Libraries shall not use grant funds for administrative or indirect expenses such as budgeting, accounting, financial management, information systems, data processing, and legal services
- C.** Public and developing libraries shall expend all grant funds during the fiscal year in which they are awarded.
- D.** Should a library cease providing basic library services prior to or within thirty days of funding; grant funds shall revert to the state library.

[4.5.2.11 NMAC - Rp, 4.5.2.12 NMAC, 6/1/2016]

**4.5.2.12 APPEAL OR VARIANCE:**

- A.** In the event that any library is denied a grant by the state library or does not meet a requirement of this rule, that library may appeal the decision of the state library or request a variance from the requirement.
- B.** Such appeal or variance shall be made in writing to the state librarian within 10 days of notification of denial of funds or within 10 days of discovery of non-compliance with a requirement. The appeal or variance shall state all relevant facts and conditions.
- C.** The state librarian shall consider each appeal or request for variance and respond in writing to the appealing or requesting party with a decision within 30 days. The state librarian's decision is the department of cultural affairs' final action on the matter.

[4.5.2.12 NMAC - Rp, 4.5.2.14 NMAC, 6/1/2016]

#### **HISTORY OF 4.5.2 NMAC:**

##### **Pre-NMAC History:**

NMSL 67-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, Revised April 19, 1967, filed 5/3/67.

NMSL 67-2, State Grants-In-Aid To Public Libraries, Rules and Regulations, Amended August 28, 1967, filed 8/30/67.

NMSL 68-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, Amended August 28, 1967, filed 12/19/68.

NMSL 69-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, Revised May 26, 1969, filed 6/20/69.

NMSL 69-2, State Grants-In-Aid To Public Libraries, Rules and Regulations; Revised September 16, 1969, filed 10/9/69.

NMSL 70-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, Revised February 26, 1970, filed 4/27/70.

NMSL 73-4, State Grants-In-Aid To Public Libraries, Rules and Regulations, June 1973, filed 7/10/73.

NMSL 74-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, July 19, 1974, filed 8/16/74.

NMSL 75-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, 1975, filed 6/9/75.

NMSL 76-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, March 31, 1976, filed 4/27/76.

NMSL 77-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, January 21, 1977, filed 2/4/77.

NMSL Rule 79-1B, State Grants-In-Aid To Public Libraries, Rules and Regulations, June 11, 1979, filed 6/25/79.

NMSL 79-3, State Grants-In-Aid To Public Libraries, Rules and Regulations, July 1, 1979, filed 7/27/79.

NMSL 81-2, State Grants-In-Aid To Public Libraries, Rules and Regulations, May 11, 1981, filed 5/12/81.

NMSL 89-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, filed 10/23/89.

NMSL 93-1, State Grants-In-Aid To Public Libraries, Rules and Regulations, filed 1/28/93.

**History of Repealed Material:**

NMSL 93-1, State Grants-In-Aid To Public Libraries, Rules and Regulations (filed 1/28/93), repealed 7/1/2000.

4.5.2 NMAC, State Grants-In-Aid To Public Libraries (filed 6/19/2000), repealed 7/1/2009.

4.5.2 NMAC, State Grants-In-Aid To Public Libraries (filed 7/1/2009), repealed 6/1/2016.

**Other History:**

NMSL 93-1, State Grants-In-Aid To Public Libraries, Rules and Regulations (filed 1/28/93) was replaced by 4.5.2 NMAC, State Grants In Aid To Public Libraries, effective 7/1/2000.

4.5.2 NMAC, State Grants In Aid To Public Libraries (filed 6/19/2000) was replaced by 4.5.2 NMAC, State Grants In Aid To Public Libraries, effective 7/1/2009.

4.5.2 NMAC, State Grants In Aid To Public Libraries (filed 7/1/2009) was replaced by 4.5.2 NMAC, State Grants In Aid To Public Libraries, effective 6/1/2016.