



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF CAREER, TECHNICAL, AND ADULT EDUCATION

PROGRAM MEMORANDUM OCTAE 17-1

DATE: October 18, 2016

TO: State Directors of Adult Education

FROM: Johan E. Uvin /s/
Deputy Assistant Secretary,
Delegated the Duties of the Assistant Secretary

RE: Clarifications Regarding Competition and Award of Adult Education and Family Literacy Act Funds to Eligible Providers under the Workforce Innovation and Opportunity Act

Purpose

The purpose of this memorandum is to clarify requirements related to the eligible agency's competition and award to eligible providers of Adult Education and Family Literacy Act (AEFLA) funds under the Workforce Innovation and Opportunity Act (WIOA).

Background

Section 231 of WIOA requires the eligible agency of each State to award multi-year grants or contracts on a competitive basis to eligible providers for the purpose of developing, implementing or improving adult education and literacy activities within the State or outlying areas. Section 231 further specifies 13 considerations an eligible agency must consider in awarding grants or contracts, including a new requirement to consider the extent to which the eligible provider demonstrates alignment between the proposed activities and services and the strategy and goals of the local plan under section 108, as well as the activities and services of the one-stop partners. Section 107(d)(11), pertaining to the functions of local workforce development boards (Local Boards), requires Local Boards to review local AEFLA applications that are submitted to eligible agencies by eligible providers under section 232 of WIOA to determine whether the applications are consistent with the local plan and to make recommendations to the eligible agency to promote alignment with the local plan.

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Clarification Regarding Process for Local Board Review of Local Applications

In order to clarify the requirements concerning Local Board review of local AEFLA applications, the Department promulgated 34 CFR § 463.21 to describe the process that must be in place to determine the extent to which a local AEFLA application is aligned with a local plan approved under section 108 of WIOA. While States have flexibility under this regulation to design their processes for Local Board review of local AEFLA applications, those processes must reflect the following key AEFLA requirements:

- All eligible providers must have **direct and equitable access** to apply and compete for grants or contracts (section 231(c)(1) of WIOA and 34 CFR § 463.20(c)(1));
- The **same application process** must be used for all eligible providers in the State or outlying area (section 231(c)(2) of WIOA and 34 CFR § 463.20(c)(2));
- The Local Board must review applications **submitted to the eligible agency** by eligible providers to determine whether they are consistent with the approved local plan (section 107(d)(11)(B)(i)(I) of WIOA and 34 CFR § 463.21(b)(1));
- The Local Board must make recommendations **to the eligible agency** to promote alignment with the approved local plan (section 107(d)(11)(B)(i)(II) of WIOA and 34 CFR § 463.21(b)(2); and
- The eligible agency **must consider the results of the review** by the Local Board in determining the extent to which the application addresses the required considerations in 34 CFR § 463.20 (34 CFR § 463.21(c)).

In light of these requirements, regardless of whether the State implements a process that either 1) requires submission of local AEFLA applications to the eligible agency, which, in turn, submits them to the Local Boards for review; or 2) requires submission of local AEFLA applications directly to the Local Boards first, before submission to the eligible agency, each Local Board must review all applications submitted by eligible providers within its local workforce development area. Further, for each application, the Local Board must make recommendations to the eligible agency to promote alignment with the approved local plan. The “direct and equitable access” and “same application process” requirements in section 231(c) and 34 CFR § 463.20(c)(1) and (c)(2) require that all applications be treated equitably in accordance with the same process – i.e., that they have the same opportunity to apply for and be considered for AEFLA funding.

The Department encourages States to consider implementing application processes under which eligible providers submit their local AEFLA applications directly to the eligible agency, which would then be responsible for submitting them to the Local Boards for review (see appendix A). The Department believes that this approach would assist in making the application process efficient in terms of submission, implementing Local Board review, and receiving recommendations from the Local Board concerning alignment with the approved local plan.

Request for a Delay to Conduct the Local Provider Competition

Prior to the publication of 34 CFR part 463, OCTAE issued Program Memorandum/OCTAE /DAEL 15-6 on December 8, 2015 in response to frequently asked questions related to the competition and awards of AEFLA funds under WIOA. The memorandum stated that several

conditions are required to be in place prior to competing and awarding AEFLA grants or contracts to eligible providers under WIOA. In addition to having in place an approved Unified or Combined State Plan under section 102 or 103 and Local Boards under section 107, the memorandum stated that the State must also have approved local workforce plans in place in all workforce areas.

At the time that the Program Memorandum was issued, OCTAE anticipated that these conditions would likely be met in all States for eligible agencies to hold competitions and make AEFLA awards no later than July 1, 2017. OCTAE understands, however, that some States' timelines for establishing local plans are such that those plans will not be in place in time for the eligible agency or eligible providers to comply with the requirements related to alignment of local plans and local AEFLA applications. Consequently, eligible agencies in these States will not be able to make AEFLA awards to eligible providers by July 1, 2017.

If an eligible agency has determined that it cannot issue AEFLA awards to eligible providers by July 1, 2017 because the State will not have approved local plans in place to allow 1) eligible providers to comply with the local application requirement in section 232(3) of WIOA to describe the alignment between their proposed services and the local plan; and 2) Local Boards to conduct the required review of the local AEFLA applications within the competition time period, the eligible agency should contact Karla.VerBryckBlock@ed.gov to discuss and request an extension to conduct its required local AEFLA competition. Any eligible agency that has not contacted OCTAE within 30 days of the date of this memorandum for a possible extension will be expected to conduct its local AEFLA competition in a manner compliant with all applicable statutory and regulatory provisions, in time to award funds to eligible providers no later than July 1, 2017.

Appendix A: Recommended Process for Eligible Agency Review of Local AEFLA Applications

In keeping with the key AEFLA requirements specified in this program memorandum, the visual below articulates a recommended four-step process for eligible agency review of local AEFLA applications. First, eligible providers submit local AEFLA applications to the eligible agency. Second, the eligible agency submits applications to Local Boards for review. Third, Local Boards make recommendations to the eligible agency. Finally, the eligible agency considers the results of the review by Local Boards in making awards.

The Department recognizes that there is flexibility to design the application process, including the steps relating to Local Board review, but this is a recommended approach for purposes of efficiency in meeting the requirements concerning Local Board review and ensuring that all eligible providers have direct and equitable access.

