

In Oregon, the Higher Education Coordinating Commission, Office of Community Colleges and Workforce Development (CCWD) is the eligible agency receiving Title II Adult Education and Family Literacy funds from the US Department of Education. The CCWD will release a competitive request for applications (RFA) for Federal Workforce Innovation and Opportunity Act (WIOA) Title II Adult Basic Education and Literacy Services between July 1, 2016 and June 30, 2017, following guidance received from the US Department of Education.

The information below was taken directly from the WIOA and the Notice of proposed rulemaking (NPRM) [Docket ID ED-2015-OCTAE-003]; it is the most current information available at this time. Some responses may change depending on further Federal and State guidance received.

Purpose of the Adult Education and Family Literacy Act

The purpose of the Adult Education and Family Literacy Act (AEFLA) is to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy activities, in order to--

- a) Assist adults to become literate and obtain the knowledge and skills necessary for employment and economic self-sufficiency;
- b) Assist adults who are parents or family members to obtain the education and skills that—
 - 1) Are necessary to becoming full partners in the educational development of their children; and
 - 2) Lead to sustainable improvements in the economic opportunities for their family;
- c) Assist adults in attaining a secondary school diploma and in the transition to postsecondary education and training, through career pathways; and
- d) Assist immigrants and other individuals who are English language learners in—
 - 1) Improving their—
 - i. Reading, writing, speaking, and comprehension skills in English; and
 - ii. Mathematics skills; and
 - 2) Acquiring an understanding of the American system of Government, individual freedom, and the responsibilities of citizenship.

What are adult education and literacy programs, activities, and services?

WIOA retains, revises, and supplements the adult education and literacy activities under Workforce Investment Act (WIA). Specifically, WIOA retains adult education, literacy, workplace adult education and literacy, and family literacy as adult education and literacy activities. WIOA changes the name of the English literacy program under WIA to the “English language acquisition program.”

Section 203(2) of WIOA further adds three new activities to the definition of “adult education and literacy activities”: integrated English literacy and civics education, workforce preparation activities, and integrated education and training.

§463.30 states the statutory requirements:

The term “adult education and literacy activities” means programs, activities, and services that include:

- a) Adult education,
- b) Literacy,
- c) Workplace adult education and literacy activities,
- d) Family literacy activities,
- e) English language acquisition activities,
- f) Integrated English literacy and civics education,
- g) Workforce preparation activities, or
- h) Integrated education and training.

What is the process that the eligible agency must follow in awarding grants or contracts to eligible providers?

WIOA retains the WIA requirement that an eligible agency award multiyear grants or contracts on a competitive basis to eligible providers for the purpose of developing, implementing, and improving adult education within the State or outlying area.

WIOA also retains the requirement under WIA that an eligible agency ensure that all eligible providers have direct and equitable access to apply for and compete for grants and contracts under AEFLA. Title II of WIOA further requires an eligible agency to use the same grant or contract announcement and application processes for all eligible providers in the State or outlying area.

Under WIA, when awarding grants under AEFLA, State eligible agencies were required to consider 12 factors. WIOA revises these 12 factors, and adds one additional factor relating to the alignment between proposed activities and services and the strategy and goals of the local plan under section 108, and the activities and services of the one-stop partners. Eligible agencies must also consider under WIOA the coordination of the local education program with available education, training, and other support services in the community.

§463.20 states the statutory requirements:

- a) From grant funds made available under section 222(a)(1) of the Act, each eligible agency must award competitive multiyear grants or contracts to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State or outlying area.
- b) The eligible agency must require that each eligible provider receiving a grant or contract use the funding to establish or operate programs that provide adult education and literacy activities, including programs that provide such activities concurrently.
- c) In conducting the competitive grant process, the eligible agency must ensure that—
 - 1) All eligible providers have direct and equitable access to apply and compete for grants or contracts;

- 2) The same grant or contract announcement and application processes are used for all eligible providers in the State or outlying area; and
 - 3) In awarding grants or contracts to eligible local providers for adult education and literacy activities, funds are not used for the purpose of supporting or providing programs, services, or activities for individuals who are not eligible individuals as defined in the Act, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy activities. Prior to providing family literacy activities for individuals who are not eligible individuals, an eligible provider must attempt to coordinate with programs and services that do not receive funding under this title.
- d) In awarding grants or contracts for adult education and literacy activities to eligible providers, the eligible agency must consider the following:
- 1) The degree to which the eligible provider would be responsive to—
 - i. Regional needs as identified in the local workforce development plan; and
 - ii. Serving individuals in the community who were identified in such plan as most in need of adult education and literacy activities, including individuals who—
 - A. Have low levels of literacy skills; or
 - B. Are English language learners;
 - 2) The ability of the eligible provider to serve eligible individuals with disabilities, including eligible individuals with learning disabilities;
 - 3) The past effectiveness of the eligible provider in improving the literacy of eligible individuals, especially those individuals who have low levels of literacy, and the degree to which those improvements contribute to the eligible agency meeting its State adjusted levels of performance for the primary indicators of performance described in §677.155;
 - 4) The extent to which the eligible provider demonstrates alignment between proposed activities and services and the strategy and goals of the local plan under section 108 of the Act, as well as the activities and services of the one-stop partners;
 - 5) Whether the eligible provider's program—
 - i. Is of sufficient intensity and quality, and based on the most rigorous research available so that participants achieve substantial learning gains; and
 - ii. Uses instructional practices that include the essential components of reading instruction;
 - 6) Whether the eligible provider's activities, including whether reading, writing, speaking, mathematics, and English language acquisition instruction delivered by the eligible provider, are based on the best practices derived from the most rigorous research available, including scientifically valid research and effective educational practice;
 - 7) Whether the eligible provider's activities effectively use technology, services and delivery systems, including distance education, in a manner sufficient to increase the amount and quality of learning, and how such technology, services, and systems lead to improved performance;

- 8) Whether the eligible provider's activities provide learning in context, including through integrated education and training, so that an individual acquires the skills needed to transition to and complete postsecondary education and training programs, obtain and advance in employment leading to economic self-sufficiency, and to exercise the rights and responsibilities of citizenship;
- 9) Whether the eligible provider's activities are delivered by instructors, counselors, and administrators who meet any minimum qualifications established by the State, where applicable, and who have access to high quality professional development, including through electronic means;
- 10) Whether the eligible provider coordinates with other available education, training, and social service resources in the community, such as by establishing strong links with elementary schools and secondary schools, postsecondary educational institutions, institutions of higher education, local workforce investment boards, one-stop centers, job training programs, and social service agencies, business, industry, labor organizations, community-based organizations, nonprofit organizations, and intermediaries, in the development of career pathways;
- 11) Whether the eligible provider's activities offer the flexible schedules and coordination with Federal, State, and local support services (such as child care, transportation, mental health services, and career planning) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;
- 12) Whether the eligible provider maintains a high quality information management system that has the capacity to report measurable participant outcomes (consistent with section §677.155) and to monitor program performance; and
- 13) Whether the local area in which the eligible provider is located has a demonstrated need for additional English language acquisition programs and civics education programs.

What processes must be in place to determine the extent to which a local application for grants or contracts to provide adult education and literacy services is aligned with a local plan under section 108?

WIOA promotes coordination between the Local Board and adult education providers by requiring in section 107(d)(11) that the Local Board reviews a provider's application for AEFLA funds before the application is submitted to the eligible agency. The purpose of the Local Board review is to determine whether the application is consistent with the local workforce plan, and to make recommendations to the eligible agency to promote alignment with the local workforce plan.

WIOA section 107(d)(11) describes Local Board coordination with education providers - -

- A) the local board shall coordinate activities with education and training providers in the local area, including providers of workforce investment activities, providers of adult education and literacy activities under title II, providers of career and technical education (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C.

2302)) and local agencies administering plans under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 or part C of that title (29 U.S.C. 732, 741).

B) The coordination described in subparagraph (A) shall include—

i. consistent with section 232—

I) reviewing the applications to provide adult education and literacy activities under title II for the local area, submitted under such section to the eligible agency by eligible providers, to determine whether such applications are consistent with the local plan; and

II) making recommendations to the eligible agency to promote alignment with such plan; and

ii. replicating cooperative agreements in accordance with subparagraph (B) of section 101(a)(11) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(11)), and implementing cooperative agreements in accordance with that section with the local agencies administering plans under title I of that Act (29 U.S.C. 720 et seq.) (other than section 112 or part C of that title (29 U.S.C. 732, 741) and subject to section 121(f)), with respect to efforts that will enhance the provision of services to individuals with disabilities and other individuals, such as cross training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.

§463.21 requires an eligible agency to establish procedures for Local Board review in its grant or contract application process. This section would also establish the type of documentation that must accompany the application. For example, an applicant would be required to document that the application was submitted to the Local Board and was reviewed within the specified timeframe and that the Local Board made recommendations to promote alignment. The proposed regulations also require the eligible agency to consider the results of the Local Board review in determining the extent to which the application addresses the requirements of the local plan developed in accordance with section 108 of WIOA. The purpose of the proposed regulation is to establish uniform procedures within the State and outlying area for a Local Board to review an application and to ensure that the eligible agency considers the review in its award of grants and contracts for adult education and literacy activities.

§463.21 states the statutory requirements:

- a) An eligible agency must establish, within its grant or contract competition, a process that requires an eligible provider applying for funds under AEFLA to submit its application to its Local Board prior to submission to the eligible agency.
- b) The process must require eligible providers to—
 - 1) Submit the application to the Local Board for its review for consistency with the local plan within the appropriate timeframe; and
 - 2) Provide an opportunity for the Local Board to make recommendations to the eligible agency to promote alignment with the local plan.
- c) 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 §463.20.

What must be included in the eligible provider’s application for a grant or contract?

WIOA retains two of the local application requirements from WIA, and adds five new requirements. As under WIA, an eligible provider must provide the information and assurances required by the eligible agency. Under the new application requirements, the eligible provider must also describe how it will: provide services in alignment with local workforce plans, including promotion of concurrent enrollment with title I services; fulfill one-stop partner responsibilities; meet performance levels based on the newly established primary indicators of performance and collect data to report on performance indicators; and provide services to meet the needs of eligible individuals. Applicants must also provide other information that addresses the 13 considerations outlined in §463.20.

§463.22 states the statutory requirements:

- a) Each eligible provider seeking a grant or contract must submit an application to the eligible agency containing the following information and assurances:
 - 1) A description of how funds awarded under this title will be spent consistent with the requirements of title II of AEFLA;
 - 2) A description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities;
 - 3) A description of how the eligible provider will provide services in alignment with the local workforce development plan, including how such provider will promote concurrent enrollment in programs and activities under title I, as appropriate;
 - 4) A description of how the eligible provider will meet the State-adjusted levels of performance for the primary indicators of performance identified in the State’s Unified or Combined State Plan, including how such provider will collect data to report on such performance indicators;
 - 5) A description of how the eligible provider will fulfill, as appropriate, required one-stop partner responsibilities to—
 - i. Provide access through the one-stop delivery system to adult education and literacy activities;
 - ii. Use a portion of the funds made available under the Act to maintain the one-stop delivery system, including payment of the infrastructure costs of the one-stop centers, in accordance with the methods agreed upon by the Local Board and described in the memorandum of understanding or the determination of the Governor regarding State one-stop infrastructure funding;
 - iii. Enter into a local memorandum of understanding with the Local Board, relating to the operations of the one-stop system;
 - iv. Participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding and the requirements of the Act; and
 - v. Provide representation on the State board;

- 6) A description of how the eligible provider will provide services in a manner that meets the needs of eligible individuals;
- 7) Information that addresses the 13 considerations listed in §463.20;
- 8) Documentation of the activities required by §463.21(b);
- 9) Information, as required under § 463.24, establishing that the eligible provider has demonstrated effectiveness; and
- 10) Any other information required by the eligible agency.

Who is eligible to apply for a grant or contract to provide adult education and literacy activities?

WIOA lists 10 organization types that may be eligible providers, two of which are a consortium or coalition of organization types and a partnership between an employer and eligible entities. WIOA further permits other organization types, even if not specifically listed, to apply as eligible providers if they meet the demonstrated effectiveness requirement.

Finally, WIOA further requires an “eligible provider” to have “demonstrated effectiveness” in providing adult education and literacy services, a requirement that applied only to community-based organizations and volunteer literacy organizations under WIA.

§463.23 states the statutory requirements:

An organization that has demonstrated effectiveness in providing adult education and literacy activities is eligible to apply for a grant or contract. These organizations may include, but are not limited to:

- a) A local educational agency;
- b) A community-based organization or faith-based organization;
- c) A volunteer literacy organization;
- d) An institution of higher education;
- e) A public or private nonprofit agency;
- f) A library;
- g) A public housing authority;
- h) A nonprofit institution that is not described in any of paragraphs (a) through (g) of this section, and has the ability to provide adult education and literacy activities to eligible individuals;
- i) A consortium or coalition of the agencies, organizations, institutions, libraries, or authorities described in any of paragraphs (a) through (h) of this section; and
- j) A partnership between an employer and an entity described in any of paragraphs (a) through (i) of this section.

How must an eligible provider establish that it has demonstrated effectiveness?

To ensure that programs are of high quality, proposed §463.24 clarifies how an organization previously funded under AEFLA, as well as an organization not previously funded under AEFLA, could demonstrate effectiveness by providing performance data in its application.

§463.24 states the statutory requirements:

- a) For the purposes of this section, an eligible provider must demonstrate past effectiveness by providing performance data on its record of improving the skills of eligible individuals, particularly eligible individuals who have low levels of literacy, in the content domains of English language arts, mathematics, English language acquisition, and other subject areas relevant to the proposed services described in the eligible provider's application submitted under § 463.22. An eligible provider must also provide information regarding its outcomes for participants related to employment, high school completion, and transition to postsecondary education and training.
- b) An eligible provider that has been previously funded under AEFLA must provide performance data required under its accountability provisions to demonstrate effectiveness.
- c) An eligible provider that has not been previously funded under AEFLA must provide performance data to demonstrate its effectiveness in serving basic skill deficient eligible individuals, including evidence of its success in achieving the outcomes listed in paragraph (a) of this section.