

# **Determining Applicant Eligibility When Conducting a State Competition for Adult Education and Family Literacy Act Funds**

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## **TECHNICAL ASSISTANCE GUIDE**

## *Background*

The *Adult Education and Family Literacy Act (AEFLA)*, Title II of the *Workforce Innovation and Opportunity Act (WIOA)*, requires State eligible agencies to award multiyear grants or contracts on a competitive basis to eligible providers within the State or outlying area. These grants or contracts enable eligible providers to develop, implement, and improve adult education and literacy activities within the State. Eligible providers must use *AEFLA* funds to establish or operate programs that provide adult education and literacy activities, including programs that provide these activities concurrently. Additionally, each State eligible agency must conduct a competition that ensures that all eligible providers have direct and equitable access to apply and compete for *AEFLA* funds and that the same grant or contract announcement and application process are used for all eligible providers.

## *Purpose*

*Determining Applicant Eligibility When Conducting a State Competition for Adult Education and Family Literacy Act Funds* provides information about applicant eligibility to apply for federal *AEFLA* funds, as well as information about State responsibilities to evaluate applicant eligibility. The guide clarifies the distinction between evaluating an application for demonstrated effectiveness (an eligibility requirement) and considering an eligible provider's past effectiveness in considering an application for funding (one of 13 considerations in reviewing an application). This technical assistance guide contains the *State Application Review Guide* that may be used by a State to evaluate whether its application for *AEFLA* funds meets federal requirements to determine the eligibility of *AEFLA* applicants. The guide may be useful during the development of the funding application and supporting materials and prior to its release to the public. The guide contains items that may be used to review application materials, as well as items to guide a sound process for reviewing the eligibility of applications received.

## *Applicant Eligibility*

Federal regulations governing *AEFLA* at 34 CFR part 463 (hereafter referred to as "the regulations") clarify that only an organization that has demonstrated effectiveness in providing adult education and literacy services is eligible to apply for *AEFLA* funds. *AEFLA* lists 10 organization types that may be eligible providers and further permits other organization types to apply. A State eligible agency is responsible for determining if an application is from an eligible provider of demonstrated effectiveness and must include in its *AEFLA* application for funding, a process for an applicant to follow when submitting data on demonstrated effectiveness.

## *How an Applicant Establishes Demonstrated Effectiveness*

The regulations address how an applicant establishes that it has demonstrated effectiveness.

An applicant must provide performance data on its record of improving the skills of eligible individuals, particularly eligible individuals who have low levels of literacy. This must be demonstrated in the following content domains:

- reading,
- writing,
- mathematics,
- English language acquisition, and
- other subject areas relevant to the services contained in the State's application for funds.

A State need only require an applicant to provide effectiveness data for the content domains that are relevant to the services in the State's application for funds.

An applicant must also provide information regarding its outcomes for participants related to—

- employment,
- attainment of secondary school diploma or its recognized equivalent, and
- transition to postsecondary education and training.

There are two ways an eligible provider may meet the requirements:

- (1) An applicant that has been previously funded under *AEFLA*, as amended by *WIOA* must submit performance data required under section 116 to demonstrate past effectiveness.
- (2) An applicant that has not been previously funded under *AEFLA*, as amended by *WIOA* must provide performance data to demonstrate its past effectiveness in serving basic skills deficient eligible individuals, including evidence of its success in achieving outcomes listed above.

### *Determining Demonstrated Effectiveness*

The regulations also establish uniformity for how past effectiveness is determined so that all eligible providers are treated fairly in the grant competition. The regulations provide an opportunity for an applicant that does not have performance data under *WIOA* section 116 to demonstrate it has been previously effective in serving basic skill deficient eligible individuals. This provides flexibility to the State in how it obtains information from applicants not previously funded under *WIOA*. While a State has flexibility in deciding how many years of effectiveness data it will require and the level of effectiveness upon which it will screen the application, a State may not add new criteria or data elements to the definition of demonstrated effectiveness set by the regulations. In other words, a State may not further restrict federal applicant eligibility beyond that established in the regulations.

A State may conduct the review of applicant eligibility in a variety of ways. Ultimately, regardless of the review process, a State must clearly determine whether or not an application is from an eligible provider of demonstrated effectiveness. It is not necessary to score and rank applicant eligibility reviews, however, if a State chooses to do so, the review must result in a “yes” or “no” determination. The State

must maintain applicant eligibility determinations, along with other competition materials, consistent with Uniform Guidance records retention requirements found at 2 CFR 200.333.

### *Transparency*

The requirements for a State to determine if an applicant is from an eligible provider of demonstrated effectiveness is an important first step in the process to consider awarding *AEFLA* funds. Application materials should clearly address applicant eligibility, incorporate a method for supplying required data on demonstrated effectiveness, and be transparent in how the State intends to evaluate the information to determine application eligibility. Using a data collection tool for demonstrated effectiveness data that is separate and distinct from ones used to collect past performance data that will be considered later in the review process is recommended. For example, a table labeled “Demonstrated Effectiveness” and containing the exact elements of demonstrated effectiveness identified above may improve an applicant’s understanding of eligibility requirements and help the applicant to distinguish it from the consideration of “past effectiveness” (discussed below). The past effectiveness review occurs later in the application process, after eligibility determinations have been made.

### *Considerations for Funding*

Once a State has completed its process to evaluate each application’s data on demonstrated effectiveness, it may advance only those applications that passed the eligibility screening for review and consideration of funding. Applications that did not result in a determination that the application was from an organization of demonstrated effectiveness cannot be further considered for funding.

In awarding grants or contracts a State must consider 13 factors stipulated in *AEFLA* section 231(e) and 34 CFR 463.20(d). These factors are commonly referred to as the “13 considerations”. States generally “score” these factors to demonstrate that they were considered in the competitive process. One of the factors addresses the past effectiveness of the eligible provider in improving the literacy of eligible individuals and meeting the State-adjusted levels of performance in section 116 especially with regard to eligible individuals with low levels of literacy. Rating an application on the “past effectiveness” consideration cannot be used in lieu of the State conducting an applicant eligibility screening to determine if the application is from an eligible provider of demonstrated effectiveness. An initial application eligibility determination must be conducted separate and distinct from evaluating applications from eligible providers on the 13 considerations, including the “past effectiveness” consideration. It is possible that an application can be determined to have met the demonstrated effectiveness requirement for the purpose of applicant eligibility, advance to the rating or scoring phase of the competition and subsequently score poorly on the past effectiveness consideration. In this example, depending on how much weight is placed on the past effectiveness consideration, an application may prove to be non-competitive.

## State Application Review Guide: Determining an Eligible Provider of Demonstrated Effectiveness

The following guide may be used by States to evaluate whether its application for *AEFLA* funds meets federal requirements to determine the eligibility of *AEFLA* applicants. The guide may be useful during the development of the funding application and supporting materials and prior to its release to the public. The guide contains items that may be used to review application materials, as well as items to guide a sound process for reviewing the eligibility of applications received.

### PART I: APPLICATION MATERIALS

- ✚ The application materials direct applicants to provide data on improving skills of eligible individuals in the following content domains, as appropriate to the services being sought in the application:
  - Reading
  - Writing
  - Mathematics
  - English language acquisition
  - Other subject areas relevant to the application for funds
- ✚ The application materials direct the applicants to provide information on outcomes of participants for:
  - Employment
  - Attainment of a secondary school diploma or its recognized equivalent, and
  - Transition to postsecondary education and training
- ✚ The application requires applicants that have been previously funded under *WIOA* to provide performance data under section 116 to demonstrate effectiveness in the areas listed above.
- ✚ The application requires applicants that have not been previously funded under *WIOA* to provide performance data to demonstrate effectiveness in the areas listed above.
- ✚ The application materials clearly identify how many years of demonstrated effectiveness data an applicant must submit in its application.
- ✚ The application materials clearly identify how the State will determine if an applicant's demonstrated effectiveness data meets an acceptable level of performance.
- ✚ The application materials do not narrow or further restrict who can apply for federal *AEFLA* funds beyond federal criteria established in *AEFLA* section 203(5) and 34 CFR §§463.23-24.
- ✚ The application materials clearly state that each application will be screened to determine if it is from an eligible provider of demonstrated effectiveness and that "demonstrated effectiveness" is part of the eligibility determination.

- ✦ The application materials clearly indicate, in the case of applicants applying as a consortium, that each member of a consortium must provide performance data to demonstrate effectiveness in the areas listed above.
- ✦ The application materials clearly state that only applications that have been determined to be from an eligible provider that is an organization of demonstrated effectiveness will be reviewed, scored, and considered for funding.
- ✦ The application materials are organized in such a manner that the data used to determine if the application is from an eligible provider of demonstrated effectiveness can be easily reviewed before the application is reviewed, scored, and considered for funding.
- ✦ All materials in the application package, including the notice of availability of funds and application review materials, contain consistent language describing applicant eligibility based on demonstrated effectiveness. Supporting documents, such as webinars and frequently asked questions, are consistent with the descriptions provided in the application materials.

## **PART II: THE PROCESS FOR DETERMINING DEMONSTRATED EFFECTIVENESS**

- ✦ The State eligible agency screens each application to determine if it is from an eligible provider of demonstrated effectiveness before the application is reviewed, scored, and considered for funding.
- ✦ The same process is used to determine if an application is from an eligible provider of demonstrated effectiveness.
- ✦ Only applications that are determined to be from eligible providers of demonstrated effectiveness are forwarded for review, scoring, and consideration for funding.
- ✦ In the case of applicants applying as a consortium, demonstrated effectiveness data from each member of the consortium is evaluated to determine if each member is an eligible provider of demonstrated effectiveness. All consortium members must be determined to be an eligible provider of demonstrated effectiveness in order for the consortium application to be forwarded for review, scoring and consideration for funding.
- ✦ Applicants that are determined to be ineligible for funding because they were not determined to be eligible providers of demonstrated effectiveness are notified.
- ✦ The State maintains complete records of the eligibility screening review. Records may include, for example, a list of all applicants received, documents used to determine if an application is from an eligible provider of demonstrated effectiveness, and notifications to applicants informing them of the status of the application.