

§ 461.23

§ 461.23 How does the Secretary approve State plans and amendments?

(a) The Secretary approves, within 60 days of receipt, a State plan or amendment that the Secretary determines complies with the applicable provisions of the Act and the regulations in this part.

(b) In approving a State plan or amendment, the Secretary considers any information submitted in accordance with § 461.13 (b) and (c).

(c) The Secretary notifies the SEA, in writing, of the granting or withholding of approval.

(d) The Secretary does not finally disapprove a State plan or amendment without first affording the State reasonable notice and opportunity for a hearing.

(Authority: 20 U.S.C. 1206(b), 1206a(a)(3), and 1207(b))

Subpart D—How Does a State Make an Award to an Eligible Recipient?

§ 461.30 Who is eligible for a subgrant or contract?

(a) The following public or private nonprofit entities are eligible to apply to the SEA for an award:

- (1) A local educational agency (LEA).
- (2) A public or private nonprofit agency.
- (3) A correctional education agency.
- (4) A community-based organization.
- (5) A postsecondary educational institution.
- (6) An institution that serves educationally disadvantaged adults.
- (7) Any other institution that has the ability to provide literacy services to adults and families.

(b) A public or private nonprofit entity listed in paragraph (a) of this section may apply on behalf of a consortium that includes a for-profit agency, organization, or institution that can make a significant contribution to attaining the objectives of the Act.

(c)(1) Each State shall also use an amount of funds provided under this part, as determined by the State given the State's needs and resources for adult education, for competitive 2-year grants to public housing authorities for literacy programs and related activi-

34 CFR Ch. IV (7-1-00 Edition)

ties. Any public housing authority that receives a grant under this paragraph shall consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this paragraph is referred to as a "Gateway Grant."

(2) For the purposes of this part, "public housing authority" means a public housing agency, as defined in 42 U.S.C. 1437a(b)(6), that participates in public housing, as defined in 42 U.S.C. 1437a(b)(1).

(Authority: 20 U.S.C. 1203a(a)(1), (2), (3)(A))

§ 461.31 How does a State award funds?

(a) In selecting local recipients, an SEA shall give preference to those local applicants that have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults, particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent.

(b) An SEA shall award funds on the basis of applications submitted by eligible recipients.

(c) In reviewing a local application, an SEA shall determine that the application contains the following:

(1) A description of current programs, activities, and services receiving assistance from Federal, State, and local sources that provide adult education in the geographic area proposed to be served by the applicant.

(2) A description of cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults.

(3) Assurances that the adult educational programs, services, or activities that the applicant proposes to provide are coordinated with and do not duplicate programs, services, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act

of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

(4) The projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals.

(5) Any other information the SEA considers necessary.

(d) In determining which programs receive assistance, the SEA shall consider—

(1) The past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by those adults);

(2) The degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

(3) The commitment of the applicant to serve individuals in the community who are most in need of literacy services.

(e) In reviewing a local application, an SEA may consider the extent to which the application—

(1) Identifies the needs of the population proposed to be served by the applicant;

(2) Proposes activities that are designed to reach educationally disadvantaged adults;

(3) Describes a project that gives special emphasis to adult basic education;

(4) Describes adequate outreach activities, such as—

(i) Flexible schedules to accommodate the greatest number of adults who are educationally disadvantaged;

(ii) Location of facilities offering programs that are convenient to large concentrations of the adult populations identified by the State in its four-year State plan or how the locations of facilities will be convenient to public transportation; and

(iii) The availability of day care and transportation services to participants in the project;

(5) Describes proposed programs, activities, and services that address the identified needs;

(6) Describes the resources available to the applicant—other than Federal and State adult education funds—to meet those needs (for example, funds provided under the Job Training Partnership Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Indian Education Act, the Higher Education Act of 1965, or the Domestic Volunteer Service Act, and local cash or in-kind contributions); and

(7) Describes project objectives that can be accomplished within the amount of the applicant's budget request.

(f) An SEA may not approve an application for a consortium that includes a for-profit agency, organization or institution unless the State has first determined that—

(1) The for-profit entity can make a significant contribution to attaining the objectives of the Act; and

(2) The public or private nonprofit agency, organization, or institution will enter into a contract with the for-profit agency, organization, or institution for the establishment or expansion of programs.

(g) If an SEA awards funds to a consortium that includes a for-profit agency, organization, or institution, the award must be made directly to the public or private nonprofit agency, organization, or institution that applies on behalf of the consortium.

(Approved by the Office of Management and Budget under control number 1830-0501)

(Authority: 20 U.S.C. 1203a(a) and 1206a(c)(4))

§ 461.32 What are programs for corrections education and education for other institutionalized adults?

(a) An SEA shall use not less than 10 percent of its grant for educational programs for criminal offenders in corrections institutions and for other institutionalized adults. Those programs may include—

(1) Academic programs for—(i) Basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

(ii) Special education, as defined by State law;

§ 461.33

34 CFR Ch. IV (7-1-00 Edition)

- (iii) Bilingual education or English-as-a-second-language instruction; and
- (iv) Secondary school credit;
- (2) Vocational training programs;
- (3) Library development and library service programs;
- (4) Corrections education programs, including training for teacher personnel specializing in corrections education, such as courses in social education, basis skills instruction, and abnormal psychology;
- (5) Guidance and counseling programs;
- (6) Supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and
- (7) Cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, that are designed to provide education and training.

(b)(1) An SEA shall establish its own statewide criteria and priorities for administering programs for corrections education and education for other institutionalized adults.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains the information in § 461.31(c) and any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1203a(b)(1) and 1204)

§ 461.33 What are special experimental demonstration projects and teacher training projects?

(a) In accordance with paragraph (b) of this section, an SEA shall use at least 15 percent of its grant for—

- (1) Special projects that—
 - (i) Will be carried out in furtherance of the purposes of the Act;
 - (ii) Will be coordinated with other programs funded under the Act; and
 - (iii)(A) Involve the use of innovative methods (including methods for educating adults with disabilities, homeless adults, and adults of limited English proficiency), systems, materials, or programs that may have national significance or will be of special value in promoting effective programs under the Act; or

(B) Involve programs of adult education, including education for adults with disabilities, homeless adults, and adults of limited English proficiency, that are part of community school programs, carried out in cooperation with other Federal, State, or local programs that have unusual promise in promoting a comprehensive or coordinated approach to the problems of adults with educational deficiencies; and

(2)(i) Training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act; and

(ii) Training professional teachers, volunteers, and administrators, with particular emphasis on—

(A) Training— (1) Full-time professional adult educators;

(2) Minority adult educators; and

(3) Educators of adults with limited English proficiency; and

(B) Training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have reading ability below the fifth grade level.

(b) An SEA shall use at least—

(1) 10 percent of its grant for the purposes in paragraph (a)(2) of this section; and

(2) Five percent of its grant for the purposes in paragraph (a)(1) or (a)(2) of this section, or both.

(c)(1) An SEA shall establish its own statewide criteria and priorities for providing and administering special experimental demonstration projects and teacher training projects.

(2) The SEA shall determine that an application proposing a project under paragraph (a) of this section contains—

- (i) The information in § 461.31(c); and
- (ii) Any other information the SEA considers necessary.

(Authority: 20 U.S.C. 1208)

Subpart E—What Conditions Must be Met by a State?

§ 461.40 What are the State and local administrative costs requirements?

(a)(1) Beginning with the fiscal year 1991 grant (a grant that is awarded on or after July 1, 1991 from funds appropriated in the fiscal year 1991 appropriation), an SEA may use no more than 5 percent of its grant or \$50,000—