

Frequently Asked Questions on Adult Basic Education State Grant Administration

1. Question: What does AEFLA say about supplanting state or local public funds?

Answer: The Adult Education and Family Literacy Act (AEFLA) states that federal adult education funds must supplement and not supplant other state or local public funds expended for adult education and literacy activities. (Section 241(a) of AEFLA)

2. Question: How do we compute Maintenance of Effort (MOE)?

Answer: AEFLA states that an eligible agency may receive federal adult education funds for any fiscal year if the state maintains its fiscal effort, comprised of both state and local expenditures for adult education. To determine MOE, the law asks OVAE to compare the fiscal effort per student or the aggregate expenditures that each eligible agency makes for adult education in the second preceding fiscal year to those of the third preceding fiscal year. Expenditures for adult education in the second preceding year must not be less than 90 percent of the fiscal effort per student or the aggregate expenditures in the third preceding fiscal year. DAEL maintains and reviews the Financial Status Report (FSR) for each state's prior non-federal share of outlays to ensure that it meets the requirements for maintenance of effort level expenditures. This requirement is reviewed by DAEL, and information also is included in the OMB A-133 Compliance Supplement criteria reviewed by agency auditors. (Section 241(b)(1)(A) of AEFLA)

3. Question: What happens if a state cannot meet the required MOE level?

Answer: There is a time delay before reductions in state and local spending are initiated, and the reduced year becomes the comparison year for maintenance of effort calculations discussed above. A reduction in the level of state and local expenditures for adult education beyond the ten percent threshold triggers an automatic pro-rata reduction in the federal allocation to the state. For example, if state and local spending for adult education were 85 percent of the comparison year's level, the state allotment would be reduced by five percent - the difference between 90 and 85 percent. For the following year, the required maintenance of effort returns to the level reported on the FSR for the prior fiscal year. (Section 241(b)(1)(B) of AEFLA)

4. Question: What costs and contributions are acceptable to meet the state eligible agency matching requirements?

Answer: States should be able to identify matching costs that meet program requirements for reporting and auditing purposes. Examples of allowable matching or cost-sharing requirement criteria follow:

- Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement;

- The value of the third party in-kind contributions applicable to the period to which the cost sharing or matching requirements apply;
- Valuation of donated services provided to a grantee or subgrantee by individuals must be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization;
- Employees of other organizations; and
- Valuation of third party donated supplies and loaned equipment or space.

Neither costs nor the values of third party in-kind contributions may count toward satisfying a cost-sharing or matching requirement of a grant agreement if they have been or will be counted toward satisfying a cost-sharing or matching requirement of another federal grant agreement, federal procurement contract, or any other award of federal funds. Only allowable expenditures can be used to match. For example, a state could not match with funds from gardening, cooking or automotive repair classes it offers to adults through community education programs. (34 CFR Part 80.24)

5. Question: What are the non-federal audit requirements for the eligible state or local subgrantees?

Answer: Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133. On July 28, 2003, the new threshold requirement for states, local governments, and non-profit organizations was increased to \$500,000 from \$300,000 according to the recent amendments to OMB Circular No. A-133. Those audit requirements apply to a state and its subgrantees that expend \$500,000 or more in federal awards in a fiscal year. This provision is only one of many monitoring tools available to the agency. Grantee monitoring should occur throughout the year rather than relying solely on a once-a-year audit. Other monitoring tools include reviewing grantees' financial and performance reports and performing site visits to review programmatic records and observe operations. (OMB Circular A-133; 34 CFR Part 80.26)

6. Question: Can revisions be made to a state plan?

Answer: When changes in conditions or other factors require substantial revisions to an approved state plan, the eligible agency shall submit the revisions to the state plan to the Secretary. Prior to submitting the revisions, the eligible agency must submit the state plan and any revisions to the Governor for review and comment. Copies of the Governor's comments must be forwarded to OVAE. Also, if the Governor has no comments, please notify us of that decision in writing.

(Sections 224(c) and (d) of AEFLA)

Comment [TC1]: Do we need a cite from EDGAR too? Has the EDGAR cite been revised yet?

7. Question: Will states be penalized if they don't meet their projected performance outcomes? Can these be renegotiated?

Answer: States will not be penalized if they do not meet their projected performance outcomes. However, they will not be eligible for incentive grants (Section 503) because

incentive grants go only to states that exceed the state adjusted levels of performance for WIA Title I, Title II, and vocational education (Public Law 88-210 as amended). If unanticipated circumstances arise in a state resulting in a significant change in factors described in Section 212, the eligible agency may request an opportunity to renegotiate adjusted levels of performance. (Section 212(b)(3)(A)(iv) of AEFLA)

8. Question: What are the requirements concerning copyright provisions?

Answer: The federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes the copyright in any work developed under a federal grant, subgrant, or contract under a grant, or subgrant. (34 CFR Part 80.34)

9. Question: What can the awarding agency do if a grantee or subgrantee fails to comply with the terms of an award?

Answer: If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a federal statute or regulation, an assurance, in a state plan or application, a notice of award or elsewhere, the awarding agency may temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee. The agency may take more severe enforcement action, or wholly or partly suspend, or terminate the current award for the grantee's or subgrantee's program. (34 CFR Part 80.43)

10. Question: How long must grantees keep programmatic and fiscal records?

Answer: Records must be retained for three years from the date the final Financial Status Report (FSR) is submitted. When grant support is continued or renewed, the retention period for each funding period starts on the date the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later. (34 CFR Part 80.42)

11. Question: When are FSR's required to be submitted?

Answer: There are two FSR's required under AEFLA. The Initial FSR for the first 15 months of the grant is due 90 days after the initial program year terminates (resulting in a December 31 deadline for submission). The Final FSR for all expenditures including the final 12 month-period of the grant, is due 90 days after the grant's ending date (resulting in a December 31 deadline for submission). This report will cover the entire 27 months allowed for obligation of federal adult education funds (for example, July 1, 2007 through September 30, 2009).

We review reports to ensure that:

- Expenditures for local grants are not less than 82.5 percent of the state's total AEFLA allotment;
- Costs for corrections and other institutionalized populations do not exceed 10 percent of that 82.5 percent;
- State administrative expenses are not more than five percent of the state's allotment or \$65,000, whichever is greater;
- State leadership activities do not exceed 12.5 percent of the state's allotment; and
- Maintenance of effort and matching requirements are met. (34 CFR Parts 76.720)

12. Question: When are Annual Program Reports (NRS) and Financial Status Reports (FSR) required to be submitted?

Answer: Reports are required to be submitted to the Division of Adult Education and Literacy (DAEL) 90 days after the close of the program year, or December 31. The required reports include Narrative, Statistical, Financial Status Reports (Initial and Final), and a separate FSR that breaks out EL/Civics. Key tables in the statistical report include Table 4 - Educational Gains and Attendance by Educational Functional Level, and Table 5 - Core Follow-up Outcome Achievement. (*Measures and Methods for National Reporting System for Adult Education*; 34 CFR Parts 76.720)

13. Question: What happens to funds that are not obligated during the first year of the grant?

Answer: If a state does not obligate all of its grant funds during the first fiscal year for which Congress appropriated the funds, it may obligate the funds during the carryover period of one additional year. For example, for the grant year from July 1, 2007 to September 30, 2008, under the provisions of the Tydings Amendment, the period for obligation and expenditure of funds continues for the succeeding year ending on September 30, 2009. This amendment applies both to the state agency and to the secondary recipient. The state agency has 27 months to obligate those funds and any carryover funds not obligated during that period must be returned to the federal Government. (34 CFR Part 76.709)

14. Question: What annual certifications are required?

Answer: The annual combined certification form *Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements* (ED 80-0013) must be signed by your State Agency Head before your Program Year allocation can be released. Likewise, your State Agency Head must also sign a *Three-Tiered Program Certifications and Assurances for AEFLA* (Appendix A). Also made available to states are the following:

- *Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower-Tier Covered Transactions* (Form ED 80-0014). This form is

used by the Department's lower-tier recipients. Lower tier certification forms should be signed by **local** grant recipients and kept on **file** in your office.

- *Disclosure of Lobbying Activities (Standard Form LLL)*. This form should be used only to report lobbying activities. If you have lobbying activities to report, please mail the disclosure forms to this office:
(34 CFR Part 82 and 34 CFR Part 85)

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15. Question: How do states manage the transfer of funds from the federal government and the amount of cash on hand for disbursement?

Answer: The transfer of funds from the federal government to the state agency is conducted through the Grants Administration and Payments System (GAPS). Provisions for the drawdown of federal funds are provided in the Cash Management Improvement Act (CMIA) of 1990. This Act minimizes the time between the transfer of funds to the states and the payout for program purposes. Drawn funds must be expended within three business days after they are deposited in your bank account. If this is not possible, the excess cash could be allocated to a different award or returned to the Department.

States should be using a similar financial payment system with local providers to ensure funds are obligated within time limits. Funds must be drawn down only to meet the grantee's immediate cash needs for each individual grant. Expenditure patterns should be included in program monitoring activities to ensure subgrantees do not have excessive amounts of cash on hand. A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the program. (34 CFR Part 80.23; OMB Circular A-110, Part 52)

16. Question: What is program income and how is it reported?

Program income is defined by EDGAR in 34 CFR 80.25 (b) as "gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period." Using special language in the annual grant award, OVAE has allowed states to use the "addition" option described in 34 CFR 80.25 (g)(2) so that funds so earned may be added to the grant and "used for the purposes and under the conditions of the grant agreement." Under this language, local providers charging fees must use the program income generated by federal adult education funds for allowable costs to the federal adult education program, expanding available resources for adult education, workplace literacy, English language acquisition and adult secondary education. OVAE's language in the grant award requires fees established by states or local programs to be necessary and reasonable and not impose a barrier to the participation of disadvantaged persons that the program was

designed to serve. You should be aware that 34 CFR 76.534 prohibits state or local programs from counting “tuition and fees collected from students toward meeting matching, cost-sharing or maintenance of effort requirements of a program.”