TEXAS WORKFORCE COMMISSION
Adult Education and Literacy Letter

To: Adult Education and Literacy Grant Recipients
    Adult Education and Literacy Special Project Grantees
    Local Workforce Development Board Executive Directors
    Commission Executive Offices
    Integrated Service Area Managers

From: Courtney Arbour, Director, Workforce Development Division

Subject: Modifications to Grants Awarded under TWC RFP 320-18-01, Adult Education and Literacy Service Provider Grant

PURPOSE:
The purpose of this AEL Letter is to provide Adult Education and Literacy (AEL) grantees\(^1\) with information and guidance on modifications to grants awarded under the Texas Workforce Commission's (TWC) Request for Proposal (RFP) 320-18-01, Adult Education and Literacy Service Provider Grant, relating to:

- the definition of eligible individual; and
- the removal of a cost limitation for certain computing devices.

BACKGROUND:
On October 7 and 8, 2019, the Office of Career, Technical, and Adult Education (OCTAE) conducted a virtual monitoring review of the statewide grant competition for RFP 320-18-01 for grants awarded starting July 1, 2018. OCTAE sent the final monitoring report to AEL on January 22, 2020, and outlined four findings in noncompliant areas, which require corrective action from AEL. This letter addresses two of these findings and provides AEL grantees with notice that grants awarded under the RFP are modified with this letter and a subsequent contract amendment.

\(^1\) For the purposes of this AEL Letter, AEL grantees are entities that receive AEL funds through TWC.
OCTAE’s report stated that “TWC used an incorrect definition of eligible individual in their competition materials,” as TWC modified the definition from Workforce Innovation and Opportunity Act (WIOA) §203(4) for “eligible individual.”

The other finding addressed in this letter relates to a cost limitation on certain computing devices. Section 16.9 of RFP 320-18-01 states, “No more than fifteen percent of the funds awarded under this grant may be used to purchase laptops, computers, tablets or similar items.” OCTAE’s report stated that this limitation is not consistent with cost principles found in 2 CFR Part 200.

**PROCEDURES:**

**No Local Flexibility (NLF):** This rating indicates that AEL entities must comply with the federal and state laws, rules, policies, and required procedures set forth in this AEL Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF):** This rating indicates that AEL entities have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this AEL Letter. All information with an LF rating is indicated by “may” or “recommend.”

**Eligible Individuals to Be Served**

**NLF:** AEL grantees must be aware that Section 11 of RFP 320-18-01, Eligible Population to Be Served with AEFLA Funds, and the corresponding language in Section 4 of the grants awarded under this RFP are modified to remove “individuals with disabilities, including eligible individuals with learning disabilities” as a distinct population. The edits to the RFP are as follows:

“an out-of-school individual who has attained sixteen (16) years of age and who is not enrolled or required to be enrolled in secondary school under state law and who:

- lacks sufficient mastery of basic educational skills to enable the individual to function effectively in society is basic skills deficient;
- does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education; or
- is an English language learner.
- individuals with disabilities, including eligible individuals with learning disabilities. (34 C.F.R. § 463.20 (b)(2))”

Individual eligibility for services using Adult Education and Family Literacy Act (AEFLA) funds under these grants is adjusted as written in WIOA §203(4) to mean an individual who has attained sixteen 16 years of age and who is not enrolled or required to be enrolled in secondary school under state law and who:

- is basic skills deficient;
- does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education; or
- is an English language learner.
Individuals with disabilities, including eligible individuals with learning disabilities, remain eligible for services but must meet the WIOA eligibility criteria described in §203(4).

Grant award language will be amended to remove 4.1.1.4, which is 11.1.4 of RFP 320-18-01, so that it aligns with WIOA §203(4).

**NLF:** AEL grantees must be aware that TWC will still consider the ability of providers to serve individuals with disabilities, including learning disabilities, when reviewing services under grants awarded under RFP 320-18-01, as required under AEFLA §231(e)(2), 29 USC §3321(e)(2).

**Cost Limitation Removed**

**NLF:** AEL grantees must be aware that the following expenditure limitation listed under §16.9 of RFP 320-18-01, Expenditure Limitations, is null and void:

“No more than fifteen percent (15%) of the funds awarded under this grant award may be used to purchase laptops, computers, tablets or similar items.”

TWC will subsequently amend grant awards issued under RFP 320-18-01 to remove the limitation. The remainder of §16.9 of RFP 320-18-01—which reads, “Any such purchases must be necessary and reasonable for the performance of the award”—continues to apply, as do all other grant requirements, including the requirement that costs must also be allocable to the award in accordance with the cost principles cited in the General Terms and Conditions of the grant award.

**NLF:** AEL grantees must be aware that the prior approval requirement regarding equipment having a per-unit acquisition cost of $5,000 or more continues to apply.

“Equipment” means “tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity [TWC grantee] for financial statement purposes, or $5,000.” (2 CFR §200.33; FMGC, Attachment A: Glossary)

Under the prior approval requirement for equipment, a grantee must submit TWC Form 7100 to the assigned TWC grant manager before purchasing tangible personal property that has both a useful life greater than one year and a per-unit acquisition cost of $5,000 or more. Accordingly, use of grant funds to purchase laptops, computers, tablets, and similar items that have a useful life greater than one year and a per-unit acquisition cost of $5,000 or more requires prior approval. When a laptop, computer, tablet, or similar device is included as part of the purchase of an information technology system (or another asset) that as a whole has a useful life greater than one year and system cost of $5,000 or more, the asset purchase as a whole requires prior approval. Information technology system means “computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources” that function as a system. (2 CFR §200.58)
An example of a purchase that functions as a system would be a computer lab with a cost of more than $5,000 and that has interconnected computers networked to a monitoring proctor station that controls the content on each computer. On the contrary, a purchase of 20 laptops that have no connectivity to a system would not be considered as “functioning as a system.”

The basic prior approval requirement for equipment purchases is discussed in the Acquisition & Use of Equipment section of Chapter 13, Property, in TWC’s Financial Manual for Grants and Contracts. The prior approval requirement for equipment applies pursuant to federal cost principles for equipment and other capital expenditures costs. (2 CFR §200.439)

INQUIRIES:
Send inquiries regarding this AEL Letter to AELTA@twc.state.tx.us.

REFERENCES:
Workforce Innovation and Opportunity Act, Title II, Adult Education and Family Literacy Act
TWC Request for Proposal 320-18-01, Adult Education and Literacy Service Provider Grant
TWC Financial Manual for Grants and Contracts, Chapter 13, Property