

particular applicant would improve the geographical distribution of projects funded under this program.

(b) *Variety of approaches.* The Secretary may consider whether funding a particular applicant would contribute to the funding of a variety of approaches to assisting States in evaluating the status and progress of their adult education programs.

(Authority: 20 U.S.C. 1213b(a)).

PART 489—FUNCTIONAL LITERACY FOR STATE AND LOCAL PRISONERS PROGRAM

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AUTHORITY: 20 U.S.C. 1211-2, unless otherwise noted.

SOURCE: 57 FR 24105, June 5, 1992, unless otherwise noted.

Subpart A—General

§ 489.1 What is the Functional Literacy for State and Local Prisoners Program?

(a) The Secretary makes grants to eligible entities that elect to establish a demonstration or system-wide functional literacy program for adult prisoners, as described § 489.3.

(b) Grants under this part may be used for establishing, improving, ex-

panding, or carrying out a program, and for developing the plans and submitting the reports required by this part.

(Authority: 20 U.S.C. 1211-2(a), (d)(1))

§ 489.2 Who is eligible for a grant?

A State correctional agency, a local correctional agency, a State correctional education agency, or a local correctional education agency is eligible for a grant under this part.

(Authority: 20 U.S.C. 1211-2(f)(1))

§ 489.3 What activities may the Secretary fund?

(a) To qualify for funding under § 489.1, a functional literacy program must—

(1) To the extent possible, make use of advanced technologies, such as interactive video- and computer-based adult literacy learning; and

(2) Include—

(i) A requirement that each person incarcerated in the system, prison, jail, or detention center who is not functionally literate, except a person described in paragraph (b) of this section, shall participate in the program until the person—

(A) Achieves functional literacy, or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(B) Is granted parole;

(C) Completes his or her sentence; or

(D) Is released pursuant to court order; and

(ii) A prohibition on granting parole to any person described in paragraph (a)(2)(i) of this section who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) Adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the prison, jail, or detention center.

(b) The requirement of paragraph (a)(2)(i) does not apply to a person who—

§ 489.4

- (1) Is serving a life sentence without possibility of parole;
- (2) Is terminally ill; or
- (3) Is under a sentence of death.

(Authority: 20 U.S.C. 1211-2(b))

§ 489.4 What regulations apply?

The following regulations apply to the Functional Literacy for State and Local Prisoners Program:

- (a) The regulations in this part 489.
- (b) The regulations in 34 CFR 460.3.

(Authority: 20 U.S.C. 1211-2)

§ 489.5 What definitions apply?

(a) The definitions in 34 CFR 460.4 apply to this part.

(b) As used in this part—

Functional literacy means at least an eighth grade equivalence, or a functional criterion score, on a nationally recognized literacy assessment.

Local correctional agency means any agency of local government that provides corrections services to incarcerated adults.

Local correctional education agency means any agency of local government, other than a local correctional agency, that provides educational services to incarcerated adults.

State correctional agency means any agency of State government that provides corrections services to incarcerated adults.

State correctional education agency means any agency of State government, other than a State correctional agency, that provides educational services to incarcerated adults.

(Authority: 20 U.S.C. 1211-2(f)(2))

Subpart B—How Does One Apply for a Grant?

§ 489.10 How does an eligible entity apply for a grant?

An eligible entity may receive a grant under this part if the entity submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, but not limited to, the following:

(a) An assurance that the entity will provide the Secretary such data as the Secretary may request concerning the

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cost and feasibility of operating the functional literacy programs authorized by § 489.1(a), including the annual reports required by § 489.30.

(b) A detailed plan outlining the methods by which the provisions of §§ 489.1 and 489.3 will be met, including specific goals and timetables. (Approved by the Office of Management and Budget under control number 1830-0512.)

(Authority: 20 U.S.C. 1211-2(d)(2))

Subpart C—How Does the Secretary Make an Award?

§ 489.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 489.21.

(b) The Secretary awards up to 100 points for these criteria, including 15 points that the Secretary assigns in accordance with paragraph (d) of this section.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) For each competition under this part, the Secretary, in a notice published in the FEDERAL REGISTER, assigns 15 points among the criteria in § 489.21.

(Authority: 20 U.S.C. 1211-2)

§ 489.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Program factors.* (15 points) The Secretary reviews the application to determine the quality of the proposed project, including the extent to which the application includes—

(1) A clear description of the services to be offered;

(2) A complete description of the methodology to be used, including a thorough assessment of all offenders in the system and assessments necessary to identify offenders with disabilities affecting functional literacy;

(3) Flexibility in the manner that services are offered, including the provision of accessible class schedules;

(4) A strong relationship between skills taught and the literacy and skill