ESSER Grants Compliance and Monitoring

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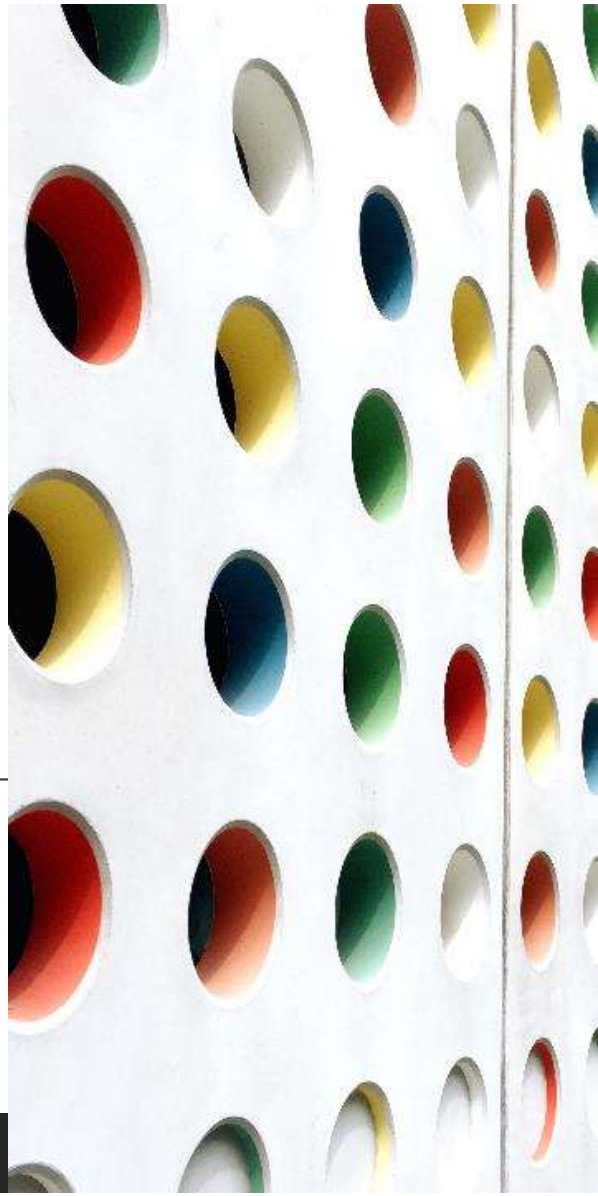

Topics

- ESSER Allowable Uses of Funds
- ESSER Obligations/Liquidation Timelines
- Allowable Uses Examples
- Construction Requirements
- ESSER Monitoring and Recent Findings
- Single Audit Requirements
- OIG Workplan

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Education Stabilization Fund Snapshot

Funded through the CARES Act, the Coronavirus Response and Relief Supplemental Appropriations Act, and the American Rescue Plan

Governor's Emergency Education Relief Fund

Awarded To: Governor's offices to provide to local educational agencies (LEAs), institutions of higher education (IHEs), or other education-related entities the Governor deems essential

Purpose: Support efforts to provide educational services to students and to support ongoing operations. Learn more.

Elementary and Secondary School Emergency Relief Fund

Awarded To: State educational agencies to provide to LEAs and charter schools that are LEAs

Purpose: A wide range of activities, including purchasing and using technology for online learning, coordinating efforts with public health departments, addressing the needs of disadvantaged student populations, planning for school closures, purchasing cleaning supplies, providing mental health services, and implementing summer learning and supplemental after-school programs. Learn more.

Higher Education Emergency Relief Fund

Awarded To: IHEs

Purpose: Assist students affected by the coronavirus pandemic with expenses such as food, housing, technology, healthcare, childcare, and course materials; help Historically Black Colleges and Universities and Minority Serving Institutions to cover expenses related to closures and transitions to distance education, and help institutions of higher education cover lost revenue, technology, or other expenses related to the cost of attendance. Learn more.

Emergency Assistance to Nonpublic Schools

Awarded To: Awarded to Governor's offices ($2.75 million from Governor's Emergency Education Relief Fund)

Purpose: Provide services or assistance to nonpublic schools that enroll a significant percentage of low-income students and are most impacted by the pandemic. Learn more.

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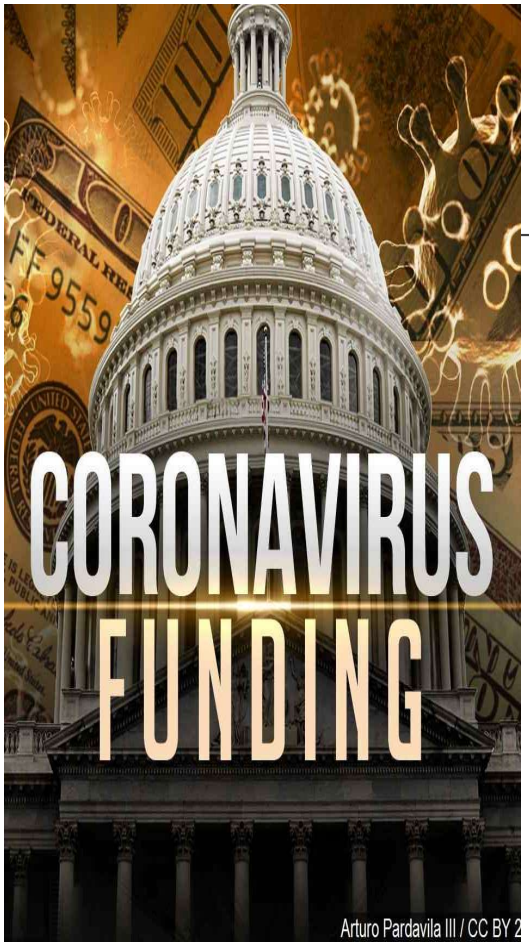

Supplemental Federal Funding

Coronavirus Aid, Relief, and Economic Security (CARES) Act: $30.9 Billion

- Governor's Emergency Education Relief Fund (GEER) - $3B
- Elementary and Secondary Education Relief Fund (ESSER) - $13.5B

Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act: $81.9 Billion

- GEER II - $4.05B; ESSER II - $54.3B

The American Rescue Plan Act: Est 1.9 Trillion

- No GEER funds; ARP ESSER - $130 B
  - 20% Address learning Loss
- Emergency Assistance to Non-public Schools (EANS) - $2.7 B

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Updated ESSER Guidance!

Published 12/29/21: https://oese.ed.gov/files/2021/12/Fact-Sheet_COVID_connection_12.29.21_Final.pdf

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What may ESSER funds be used on?

Any of the ESSER funds may be used to support all of the allowable uses of funds listed in any of the ESSER Programs (A-1)

ESSER FAQs – May 26, 2021: https://oese.ed.gov/files/2021/05/ESSER.GEER_.FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf

- Also in ARP ESSER Fact Sheet (March 2021)
- https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf

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ESSER Allowable Uses of funds

1. Any activity allowed under ESEA, IDEA, AEFLA, Perkins, or McKinney-Vento Title VIIB (ESSER 3 does not include McKinney-Vento)
2. Coordination of preparedness and response efforts
3. (Listed in ESSER 1 and 2) Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
4. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth
5. Improve the preparedness and response efforts of LEAs
6. Training and professional development for LEA staff on sanitation and minimizing the spread of infectious diseases

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ESSER Allowable Uses of funds (cont.)

7. Purchasing sanitization and cleaning supplies for LEA-operated buildings
8. Planning for and coordinating during long-term closures, including for how to provide meals, technology
9. Purchasing educational technology
10. Providing mental health services and supports
11. Summer learning and supplemental afterschool programs
12. (Listed in ESSER 2 and 3) Addressing learning loss among students

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ESSER Allowable Uses of funds (cont.)

13. (Listed in ESSER 2 and 3) School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards
14. (Listed in ESSER 2 and 3) Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities
15. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency

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Mandatory Use of Funds
ARP ESSER (ESSER 3) – Learning Loss

LEA Use of Funds

- Must reserve at least 20% for learning loss mitigation, including through:
  - Afterschool, summer school, extended day/year programs
  - Targeted to ESEA subgroups, students experiencing homelessness, and children and youth in foster care
- To "***address to academic impact of lost instructional time***" through evidence-based interventions.
  - Evidence based defined in FAQ A-10 and provides additional materials and links.

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Do all ESSER funds have to be related to COVID?

Yes. "To prevent, prepare for, and respond to coronavirus"

- The overall purpose of the CARES Act, CRRSA Act, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19 (ESSER FAQs B-6).

Remains standard in OMB Compliance Supplement

Stated in all prior guidance and recent ARP guidance.

- **Updated Guidance:** **For needs arising from or exacerbated by the COVID-19 pandemic, or to emerge stronger post-pandemic (to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic)** (12/29/21 ESSER FAQs).

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Updated Guidance: ESSER Tie to COVID

The Department encourages SEAs and LEAs to think holistically about their response to COVID-19 in order to address the impact of lost instructional time from the pandemic on all students **and to address pre-existing challenges that, if left unaddressed, will impede recovery from the pandemic**.

These Federal emergency resources are available for a wide range of activities to address diverse **needs arising from or exacerbated by the COVID-19 pandemic**, **or to emerge stronger post-pandemic**, including responding to students' social, emotional, mental health, and academic needs and continuing to provide educational services as States, LEAs, and schools respond to and recover from the pandemic" [*emphasis added*].

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So, can I use my ESSER funds on…(cont.)

It depends!

All Allowable Use Questions Must Meet 3 Requirements!

1. **Prevent, Prepare and Respond to Coronavirus** (ESER FAQ B-6)
2. **Be an allowable use of ESSER funds**
   - Any of the ESSER funds may be used to support all of the allowable uses of funds listed in any of the ESSER Programs (ESSER FAQ A-1)
3. **Be allowable under EDGAR (including in approved plan with prior approvals, as necessary).**

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Timely Spending

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ESSER Funding Breakdown

	CARES – ESSER 1 $13.2 Billion	CRRSA – ESSER 2 $54.3 Billion	ARP – ESSER 3 $122 Billion
Enacted	March 2020	December 2020	March 2021
Start date	March 13, 2020	March 13, 2020	March 13, 2020
Statutory end	September 30, 2021	September 30, 2022	September 30, 2023
Tydings period	September 30, 2022	September 30, 2023	September 30, 2024
Liquidation Period	No later than January 30, 2023	No later than January 29, 2024	No later than January 28, 2025

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Period of Performance

"The total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods."

- "Identification of the Period of Performance in the Federal award per §200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period."

2 CFR 200.1

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Period of Performance (cont.)

Funds must be *obligated* within the period of performance.

What does it mean to obligate funds?

- "Financial obligations, when referencing a recipient's or subrecipient's use of funds under a Federal award, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment." 2 CFR 200.1
- When funds obligate depends on the type of cost.
- Obligate ≠ liquidate

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When Obligations Are Made

Type of Obligation	When Obligation Occurs
Acquisition of Property	Date of binding written commitment
Personal Services by Employee	When services are performed
Personal Services by Contractor	Date of binding written commitment
Travel	When travel is taken
Approved Pre-Agreement Cost	On the first day of the grant or subgrant performance period.

34 CFR 76.707

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Extensions to the obligation/liquidation period?

Obligation extension?

- Not likely

Liquidation extension?

- Possible
- ED will provide guidance "this summer" on applying for a liquidation extension up to the first 14 months (for CARES only) but it cannot be sought until after the end of the obligation period.
  - CRRSA and ARP extensions not be addressed until the summer prior to expiration.
- Traditionally these requests include documentation of timely obligations, allowability of costs, part performance, single audit compliance, etc.

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CARES Act Programs Late Liquidation Requests (From U.S. Department of Education)

Program	Obligation deadline	(Automatic) 120-day liquidation deadline	(Up to) 14-month liquidation extension
ESSER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
ESSER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP ESSER	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026
GEER I	Sep. 30, 2022	Jan. 30, 2023	Apr. 1, 2024
GEER II	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
CRRSA EANS	Sep. 30, 2023	Jan. 29, 2024	Mar. 31, 2025
ARP EANS	Sep. 30, 2024	Jan. 28, 2025	Mar. 31, 2026

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Just Keep Spending… ESSER Allowable Uses of Funds

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Current difficulty… how to timely spend the funds?

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Can ESSER funds pay for projects that were planned/started prior to March 13, 2020?

Maybe.

- If it is a pre-existing challenge that, if left unaddressed, will impede recovery from the pandemic, then yes (i.e. assists SEA/LEA to "emerge stronger").; **or**
- If additional costs or changes are made due to COVID, then yes, but must:
  - Demonstrate allowability;
  - Obtain required prior approvals, as required;
  - Meet Davis-Bacon Wage, as applicable; etc.

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Is ESSER I, II or III subject to supplement not supplant?

No! There is not a supplement not supplant provision in ESSER/GEER

- But, keep in mind:
  - The general purposes of CARES/CRRSAA: "to prevent, prepare for and respond to the Coronavirus"
  - The MEQ requirement in ARP; and
  - Other programmatic MOE requirements!

(ESSER FAQs A-18)

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Buses and Other Transportation Costs

Buses, Specialized Buses, Transportation Reimbursement, Municipal transit costs, etc.

- ✓COVID connection
- ✓General cost principles (2 CFR 200.403)
- ✓Procurement requirements (2 CFR 200.319 –.327)
- ✓Prior written approval from SEA (2 CFR 200.439)

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Staff and teacher stipends/bonuses?

Recruitment/Relocation Bonuses, Overtime, Premium Pay

- Must have the link to COVID
- Be reasonable and necessary
- Pursuant to an established plan (in response to pandemic)
  - Consistent with applicable collective bargaining agreements (2 CFR 200.430(f))
- https://www2.ed.gov/documents/coronavirus/arp-teacher-shortages.pdf https://www2.ed.gov/documents/coronavirus/arp-staff-shortages.pdf

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Cleaning Robots

Meet all the applicable requirements:

- ✓COVID connection
- ✓General cost principles (2 CFR 200.403)
- ✓Procurement requirements (2 CFR 200.319 – .327)
- ✓Prior written approval from SEA (2 CFR 200.439)

? Floor Cleaners ($2,000 - $10,000 each)

? UV Light Robots ($15,000 - $20,000 each)

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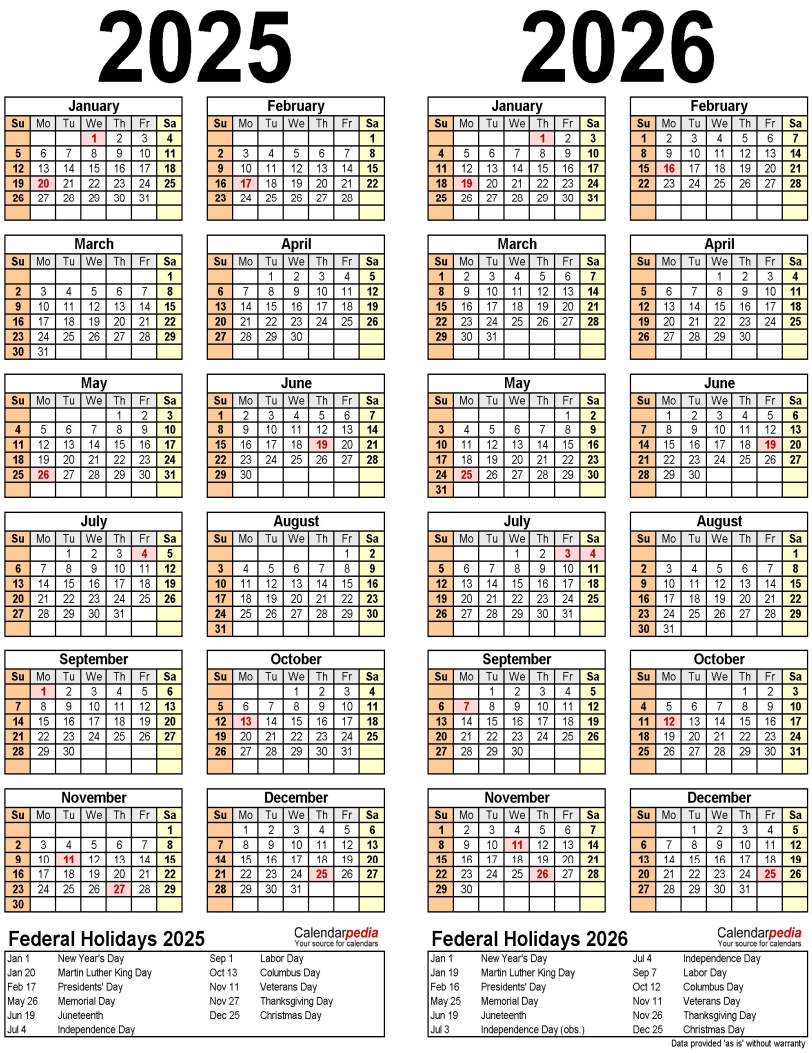

Multi-year Subscriptions

Grant activities carried out through a valid obligation of funds may continue beyond that date; must be liquidated within 120 calendar days after the end of the performance period (ESSER FAQs E-1).

- Considerations: how far past the period would the subscription last?
- Is the cost still allocable to the program (related to the prevention/response to coronavirus)?
- Recent OIG Findings

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Can I fix or replace broken windows, doors or a roof?

Maybe?

- Tie to COVID
- May need prior approval depending on extent of repairs, replacement.
- Must be reasonable and necessary.
  - If repairing / fixing the windows is more cost effective and gets to the same result, then that would be the more "reasonable" way forward.

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Can I repave our school parking lots?

Probably no…

- How does this expense tie out to overall purpose: "to prevent, prepare for and respond to the coronavirus"?

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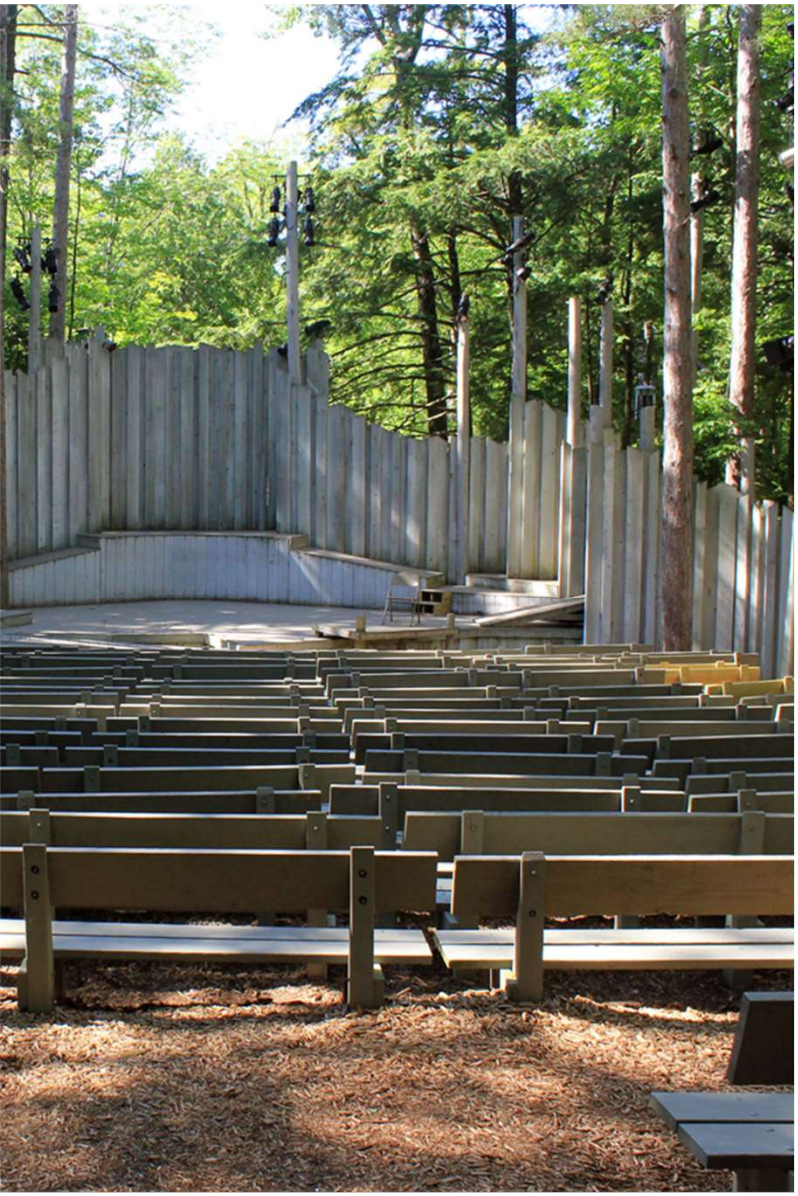

Can I convert an outdated outdoor space for other sports use (i.e replace flooring, weather appropriate equipment, etc.)?

Probably yes!

- Needs prior approval (equipment; capital expenditures)
- Reasonable and necessary? More cost-effective alternatives?

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Can I upgrade the lights in school buildings to be more cost efficient?

Probably no…

- Is the light upgrade responsive to the pandemic? Are there environmental hazards? Safety of students at risk?
- No tie to pandemic, unallowable

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Can we construct new waiting room areas for visitors in school lobbies so that .....

1. Guests may be screened prior to being admitted into the main school building?
   - Probably yes … Clear tie to the pandemic; unbudgeted expense in response to COVID.
2. We increase the security at our school and prevent outsiders from getting into the building without approval?
   - Probably no… no tie to COVID, but other funds are allowable!

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Can ESSER funds be used for COVID testing, vaccinations, and incentives?

- Testing? / Vaccinations? / Vaccination outreach efforts? / Clinics? Yes
- Incentives to teachers? Yes
  - May include paid time off and administrative fees required to obtain the vaccination as long as reasonable.
- Incentives to students and their families? Yes
  - Incentives must be reasonable.
  - https://oese.ed.gov/files/2021/07/FAQ-21.pdf

(ESSER FAQs B-2; B-3)

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Future Needs

- ✓<u>COVID connection</u>
  - ✓Hard to demonstrate how future needs prepare, respond and prevent COVID-19.
- ✓General cost principles (2 CFR 200.403)
- ✓Procurement requirements (2 CFR 200.319 -.327)

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Watch out for Other MOE Program Requirements!

- Maintenance of effort may apply at the State and/or local level depending on the program.
- MOE consequences can include reduction of funds or repayment depending on the federal program requirements.

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ESSA Maintenance of Effort (MOE) Sec. 1118(a) and 8521; 34 CFR 299.5

- The combined fiscal effort per student or the aggregate expenditures of the LEA
- from *state and local* funds
- from preceding year must not be less than 90% of the second preceding year.

ESSA MOE applies to:

- Title I, Part A (Improving Basic Programs)
- Title I, Part D (Neglected & Delinquent)
- Title II, Part A (Improving Teacher Quality)
- Title III, Part A (English Language)
- Title IV, Part B (21st Century Learning Centers)
- Title V, Part B (Subpart 2, Rural Education Programs)

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MOE Calculation Sec. 1118(a) and 8521

LEAs demonstrate MOE by either:

The combined fiscal effort per student

OR

The aggregate expenditures (of non-federal funds i.e. state and local funds) of the LEA for preceding year was not be less than 90% of the second preceding year.

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MOE Waiver Sec. 8521(c)

Secretary of Education may waive MOE if "equitable":

- Exceptional or uncontrollable circumstances, such as a natural disaster; or
- A change in the organizational structure of the LEA; or
- A precipitous decline in the financial resources of the LEA.

Waiver = meeting MOE!

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MOE Consequences Sec. 8521(b)

5 Year Penalty-Free

- LEA is not subject to sanctions for failing to maintain 90% effort for one year (either combined fiscal per student or aggregate State and agency expenditures) provided it has not failed to meet MOE for one or more of five immediately preceding fiscal years.

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Construction and Renovation

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Can we use ESSER funds for construction and renovation?

Yes, but must meet all the applicable requirements:

- ✓General cost principles (reasonable, necessary, allocable) (2 CFR 200.403)
- ✓Procurement requirements
  - ✓Sole sourcing exceptions may apply (2 CFR 200.319 – 200.327)
- ✓Timely implementation!! (ESSER FAQs B-6).
- ✓Prior written approval from SEA (2 CFR 200.439)
- ✓Construction regulations (34 CFR 76.600/75.600)
  - ✓Davis-Bacon Act: https://www.dol.gov/agencies/whd/government-contracts/construction

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What rules apply to construction?

76.600 – Where to find construction regulations

- A state or subgrantee shall comply with the rules on construction that apply to applications and grantees under 34 CFR 75.600 – 75.617.
- State performs functions of Secretary (Sec. 75.602 (preservation of historic sites)

75.600 – Use of a grant for construction

- Sections 75.601 – 75.615 apply
- *However, ED has since said that 75.601 (assessment of environmental impact) and 75.605 (approval by Secretary of final drawings before beginning) do not apply!*

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Construction Performance Monitoring

Must monitor performance of construction projects!

To ensure performance, use:

- onsite technical inspections
- certified percentage of completion data

  2 CFR 200.329(d)

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In/Out of State/ American Preferences

- Domestic Preference - *should*, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (2 CFR 200.322).
- Geographical Preference Prohibition - Must prohibit the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposal, except where applicable Federal statutes expressly mandate or encourage geographic preference.
  - Exception: architectural and engineering services (2 CFR 200.319(c)).

(ESSER FAQs A-20)

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Does the Buy American Act apply to ESSER?

The Buy American Act does not apply to the ESSER or GEER grants. (ESSER FAQs A-20) **BUT…**

- USDOE has identified both ESSER and ARP-ESSER as infrastructure programs subject to the Buy America preference within the infrastructure program list: https://www2.ed.gov/about/offices/list/ofo/oaga/infrastructureprogramslist2022.pdf

- OMB Memorandum 22-11 indicates that new federal awards and financial modifications to existing federal awards will be covered. https://www.whitehouse.gov/wp-content/uploads/2022/04/M-22-11.pdf

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Can we sole source out construction and other ESSER projects?

Maybe.

SEAs – If flexibility under its State procurement procedures

LEAs – An LEA may determine that its response to the COVID-19 pandemic qualifies as a public exigency or emergency that does not permit the delay that would result from competitive bidding. (ESSER FAQs C-27).

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IS IT CONSTRUCTION?

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Replacing carpet with hardwood floors

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New fence around outdoor area

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Installation of new HVAC system

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Touchless toilets and sinks

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Purchasing modular units or a trailer to implement social distancing

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What Other Rules Must We Consider?

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Basic Factors of Allowability

To be allowable, a cost *must*:

- Be **necessary**, **reasonable** and **allocable**
- Comply with the cost principles and federal award
- Be consistent with policies and procedures applying uniformly to federal and non-federal activities and costs
- Be consistently treated as either direct or indirect costs
- Be determined in accordance with GAAP
- Not be included or used to meet cost sharing / match requirements
- Be adequately **documented**
- **Be incurred during approved budget period (NEW)** 2 CFR 200.403

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Capital Expenditures Defined

Capital expenditures

Expenditures to acquire capital assets or to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. 2 CFR 200.1

Equipment & Other Capital Expenditures

Expenditures for equipment, buildings, and land are **unallowable** as direct charges without prior written approval

- Includes improvements to land, building & equipment

For equipment with per-unit cost of $5000 or more—may be directly charged with prior written approval. 2 CFR 200.439

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Contract Administration

Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract

2 CFR 200.318(b)

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Appendix II to Part 200

Contracts *must* contain applicable provisions in Part 200 Appendix II

What's in appendix II?

- Davis-Bacon Act
- Contract Work Hours and Safety Standards Act
- Clean Air Act
- Federal Water Pollution Control Act
- Byrd Anti-lobbying Amendment

2 CFR 200.327

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Davis-Bacon Act

- DBA requirements apply to those federally-funded contracts valued greater than $2,000 for the actual construction, alteration, and/or repair, including painting and decorating, of a public building or public work. 29 C.F.R. Part 5, subpart A § 5.5.
  - Must pay workers no less than the locally prevailing wage & fringe benefits for corresponding work in the area.
  - Requires certification of weekly payroll reports, among other requirements. ESSER FAQ B-6

https://www.dol.gov/agencies/whd/government-contracts/construction

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What's Next?

Monitoring, audits, and more!

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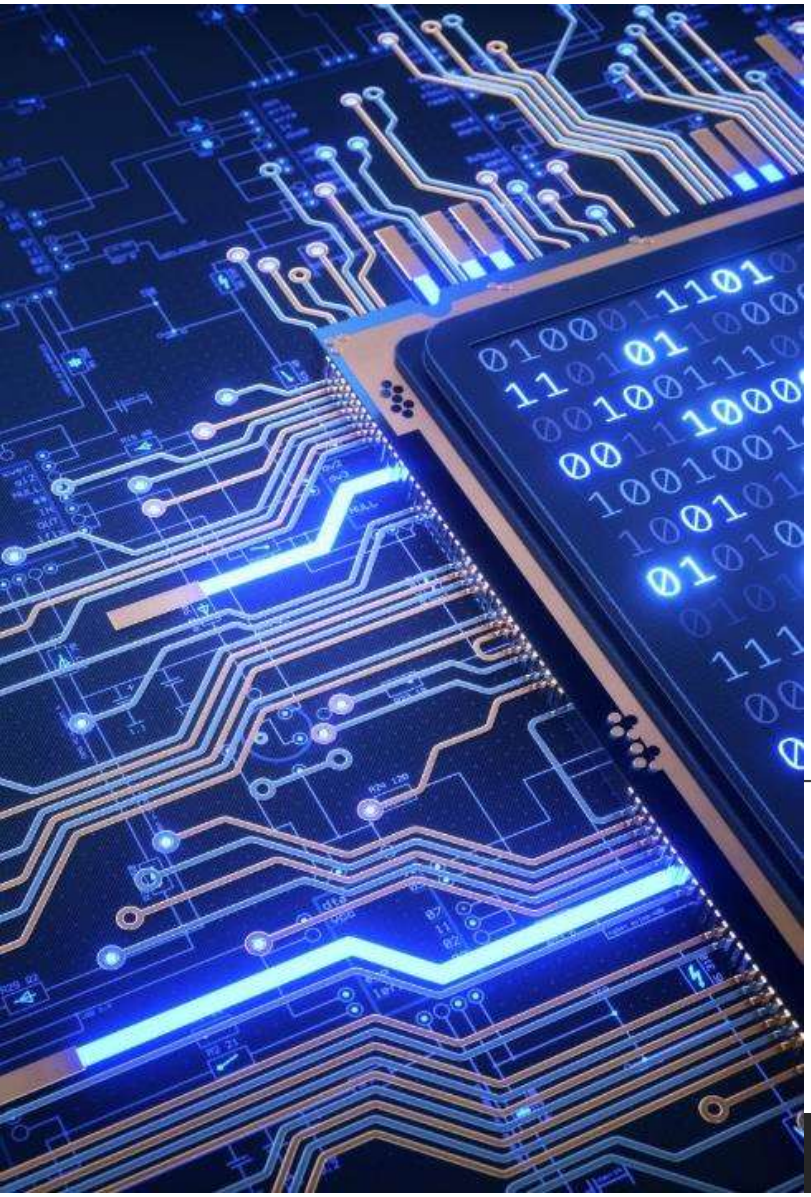

ED's ESSER Comprehensive Monitoring

HTTPS://OESE.ED.GOV/OFFICES/EDUCATION-STABILIZATION-FUND/ELEMENTARY-SECONDARY-SCHOOL-EMERGENCY-RELIEF-FUND/ESSER-COMPREHENSIVE-MONITORING-PROTOCOLS/

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LEA: ESSER Program Fiscal and Program Requirement Domains – Comprehensive Monitoring Subrecipient Self-Assessment

A. Budgeting and Subawards

Subtopics:

- Support for Development of LEA (OR OTHER SUBRECIPIENT) Budgets/Plans
- Budget Development Process

B. Award Process

Subtopics:

- Grant Award Notice
- Subaward Information Submission

C. Subrecipient Monitoring

Subtopics:

- Pre-Monitoring Process
- Monitoring Activities
- Post-Monitoring Process

D. Maintenance of Equity (MOEq)

Subtopics:

- MOEq Calculation/Review Process

E. Equitable Services – ESSER I only (for LEAs only)

Subtopics:

- Provision of Equitable Services
- Equitable Services Oversight and Guidance

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SEA/LEA: Fiscal Self-Assessment and On-site/Desk Review Protocol

A. Accounting Systems and Fiscal Controls
B. Cash Management and Payment Systems
C. Period of Availability and Carryover
D. Internal Controls
E. Audit Requirements
F. Records and Information Management
G. Personnel
H. Procurement
I. Equipment and Supplies Management
J. Indirect Costs
K. Charter School Authorization and Oversight
SEA Self-Evaluation

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Recent ESSER And GEER Monitoring Findings

STATUS KEY

Met requirements with commendation	Met requirements	Met requirements with recommendation	Action required
High quality implementation & compliance	No instances of noncompliance identified	Satisfactory compliance with quality concerns	Significant compliance & quality concerns

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State	Date	Report Link	Closeout Letter
Tennessee	April 2020	PDF, PDF	PDF
Kentucky	August 2020	PDF	No findings
Indiana	October 2021	PDF	Pending
Iowa	October 2020	PDF	Pending
Texas	November 2020	PDF	PDF
Montana	December 2020	PDF	PDF
North Carolina	January 2021	PDF	PDF
Nevada	January 2021	PDF	PDF
Oklahoma	February 2021	PDF	Pending
West Virginia	February 2021	PDF	PDF
Maine	November 2021	PDF	Pending

GEER and ESSER Monitoring Reports

https://oese.ed.gov/offices/american-rescue-plan/performance-and-reporting/

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Nevada Consolidated Performance Review Report FY 2021

Required Action Internal Controls: Lack of internal risk identification and assessment process, and a process for monitoring the operation of an organization's internal controls.

- 60 days to create a process to identify and review internal controls of the agency.

Required Action Audit Requirements: NDE staff stated that they do not provide determination letters to subrecipients when NDE identifies an audit finding.

- 60 days to provide standard operating procedures for identifying and tracking LEA audit findings.

Required Action Procurement: Lack of policies and procedures and conflict of interest procedures.

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CARES Act - GEER Funds Targeted Monitoring Report: Office of the West Virginia Governor

Required Action Cash Management: Rather than advance the entire subaward to subrecipients, OOG must limit advance payments to actual and immediate cash requirements.

- Return unexpended advance payments; remind subrecipients of CMIA and "immediate cash needs"; calculation of required interest on cash advances and return over $500.

Required Action Financial Management: Lack of required financial allowability and reconciliation procedures. (60 days to submit procedures)

Required Action Internal Controls: Lack of internal risk identification and assessment process, and a process for monitoring the operation of an organization's internal controls.

- 60 days to create a process to identify and review internal controls of the agency.

Required Action Subrecipient Monitoring: No subrecipient monitoring process. (60 days to create a plan)

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Maine Comprehensive Performance Review Report FY 2020 ESSER and GEER

Recommended Action Debarment/Suspension Review: have a process in place to verify vendor debarment and suspension at the state level as part of their internal control system as part of the risk assessment process.

Required Action Subrecipient Monitoring: MDE noted that, while they have informal monitoring and review activities with LEAs, its subrecipient monitoring process had not been fully developed and implemented.

- Within 60 business days, MDE must provide a plan and timeline to implement a post-award fiscal monitoring process.

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Recent Audit Findings

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ED OIG GEER Audit: Oklahoma

Findings:

1. OK did not award all of its GEER funds in accordance with the CARES Act.
2. GEER monitoring process needs strengthening as it did not include a review of supporting documentation for information contained in weekly statute reports resulting in unallowable costs of a GEER initiative including TVs, air conditioners, and Christmas Trees.
3. Did not follow cash management requirements–drew down its entire GEER award without any immediate cash need at the time of the draw down. .

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ED OIG GEER Audit: Oklahoma OIG Recommendations

Examples of OIG recommendations:

- Monitoring procedures for reviewing supporting documentation for GEER grant expenditures
- Return $652,720 in questionable expenditures or provide show that the expenditures are education-related
- Perform a 100-percent review, or review a statistical sample, of the $5,473,894 to determine whether the expenditures were allowable, and if applicable, return the funds for any unallowable expenditures to ED

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ED OIG HEERF Audit: Lincoln College

Findings:

1. Did not adequately document eligibility determinations for a small number of students.
2. Improperly applied $700K of institutional grant funds to credit 461 students' accounts for rent the students paid to third party landlords during campus closure*.
3. Improperly used $9K for software subscriptions that extended beyond the 1-year period of performance*.
4. Did not follow cash management requirements–did not minimize time between drawing down and disbursing HEERF funds, nor deposit excess funds in an interest-bearing account.

*Note: After the Department presented its findings, Lincoln reallocated the questioned costs to other expenditures they believed were eligible.

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Lincoln College: Period of Availability Finding

Questioned a software subscription that extended past the grant performance period:

"While the dollar amount of costs we questioned was small, it is critical that grantees not prepay costs that extend beyond the grant performance period. Properly allocating costs to the grant performance period helps to protect taxpayer dollars; minimize the risk of fraud, waste, and abuse; and ensure Federal funds are used for allowable and intended purposes."

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ED OIG HEERF Audit: Remington College

Findings:

1. Improperly used $80K of institutional funds to purchase multiyear software subscriptions that extend beyond the grant period.
2. May have improperly used $64K of institutional grant funds to cover costs associated with its purchase of student computers.
3. Did not always use a competitive procurement process for institutional grant purchases over $10K.
4. Did not follow cash management requirements–did not minimize time between drawing down and disbursing HEERF funds, nor deposit excess funds in an interest-bearing account.

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Remington College: Period of Availability Finding

Auditors argue that online subscription costs could not extend past the close of the grant, even just to finish the semester:

"However, to comply with 2 C.F.R. § 200.309, Remington College should have charged to the Institutional grant only those subscription costs through May 19, 2022. Subscription costs after that date should be paid for with other (non-HEERF) school funds."

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Remington College: Procurement Finding

Finding: College failed to follow federal procurement for its contracts with HEERF

Corrective action:

"Determine whether the $639,400 that Remington College charged to its Institutional grant for contracts awarded without a competitive procurement process was reasonable when compared to the quality and costs of suitable alternatives, and if not, require appropriate corrective actions."

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Single Audit Review 200.501

2022 Compliance Supplement: https://www.whitehouse.gov/wp-content/uploads/2022/05/2022-Compliance-Supplement_PDF_Rev_05.11.22.pdf

Released April 2022

1,968 Pages

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OMB Compliance Supplement Compliance Requirements

1. Activities Allowed or Unallowed
2. Allowable Costs/Costs Principles
3. Cash Management
4. Eligibility
5. Equipment & Real Property Management
6. Matching, Level of Effort, Earmarking
7. Period of Performance
8. Procurement and Suspension & Debarment
9. Program Income
10. Reporting
11. Subrecipient Monitoring
12. Special Tests & Provisions

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ESSER Allowable Costs/ Cost Principles

References Part 3 general cross-cutting allowability requirements under 2 CFR Part 200.

Demonstrate costs are consistent with the purpose of the ESF, which is "to prevent, prepare for, and respond to COVID-19."

ED has clarified that SEAs, LEAs and schools may use ESSER funding to support a very wide range of activities, including activities indirectly linked to the impact of COVID-19

CARES and CRRSA authorize grantees to continue to pay employees and use funds to protect education-related jobs; including paying staff who are on leave because schools are closed due to COVID-19. May be used for that purpose even in the absence of a policy that specifically addresses these circumstances.

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ESSER Equipment/Real Property Management

The governor or SEA pass-through agency must provide prior approval to subrecipients.

Approved construction projects must comply with all applicable Uniform Guidance requirements, and ED's regulations at 34 CFR section 76.600 - 76.617, as applicable.

- Please note that recipients and subrecipients may use ESF funds for minor remodeling without triggering these requirements.

Comply with Davis-Bacon requirements ($2,000 or more, as applicable)

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Matching, Level of Effort, Earmarking

MOE – SEA MOE Requirements

- Auditors should separately corroborate the amounts reported for state support for elementary and secondary education and for higher education for FY 2022 and FY 2023 with data representing either actual state expenditure data or data representing final appropriated or allocated amounts.

Earmarking – ESSER I and II and ARP ESSER

- Auditors will review set-asides (both mandatory and optional) and ensure allowable uses of funds are met.

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ESSER Reporting

Review annual and quarterly performance reporting (including FFATA reporting)

- Depending on the time the audit is conducted, auditors should examine the annual report and reconcile that reported data with underlying documentation and the public quarterly reporting amounts to ensure accuracy.
- Also references Part 3 FFATA reporting for audit guidance.

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ESSER Subrecipient Monitoring

Defers to Part 3 cross-cutting section on subrecipient monitoring requirements.

- Obtain an understanding of internal control, assess risk, and test internal control as required by 2 CFR section 200.514(c).
- Determine whether the PTE identified the subaward and applicable requirements at the time of the subaward (or subsequent subaward modification) in the terms and conditions of the subaward and other award documents sufficient for the PTE to comply with federal statutes, regulations, and the terms and conditions of the federal award.
- Determine whether the PTE monitored subrecipient activities to provide reasonable assurance that the subrecipient administered the subaward in compliance with the terms and conditions of the subaward.

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ESSER Special Tests and Provisions

Wage Rate Requirements (refers to Part 4 and Part 3 requirements)

Equitable services

- Defers to Part 4 equitable services – follow equitable services under Title I,A

EANS: Identifying Non-Public Schools under ARP EANS that Enroll a Significant Percentage of Students from Low-Income Families and are Most Impacted by the COVID-19 Emergency

- Auditors will verify that the SEA implemented the relevant criteria to determine eligibility.

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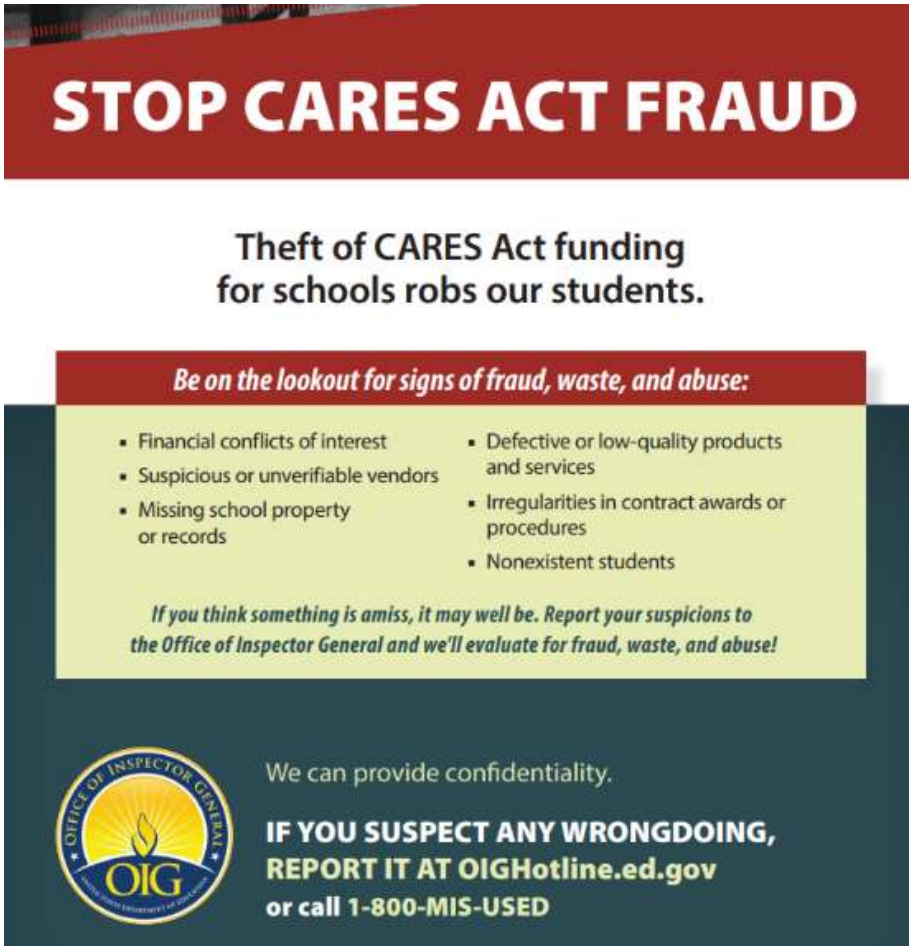
OIG Specialized Work Coronavirus Response and Relief Oversight & Disaster Recovery Oversight

Coronavirus Response and Relief Aid Oversight

https://www2.ed.gov/about/offices/list/oig/disasterrecovery.html



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ED OIG Pandemic Relief Oversight Workplan

OIG auditors anticipate performing a series of audits, inspections, and quick response reviews of programs, grants, requirements, and flexibilities established and funded under the three measures described above.

State and Local Programs Department Focus

- Department's oversight of ESSER funds External Focus (i.e., States, SEAs, LEAs, schools)
- Use of ESSER funds, with a focus on activities to address learning loss
- Use of ESSER funds for technology purposes
- Allocation and use of American Rescue Plan Homeless Children and Youth funds
- Processes for awarding and monitoring GEER funds
- Plans for allocating GEER funds to eligible entities
- Processes for administering Emergency Assistance to Nonpublic Schools funds

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Questions??

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