

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.425 EDUCATION STABILIZATION FUND (ESF) – 2021 Compliance Supplement Addendum

ESF INTRODUCTION

Note: This program is considered a “higher risk” program for 2021, pursuant to 2 CFR section 200.519(c)(2). Refer to the “Programs with Higher Risk Designation” section of Part 8, Appendix IV, Internal Reference Tables, for a discussion of the impact of the “higher risk” designation on the major program determination process.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020 and provides \$30.75 billion for the Education Stabilization Fund (ESF) to prevent, prepare for, and respond to coronavirus, domestically or internationally. The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), was signed into law on December 27, 2020, and provided an additional \$81.88 billion for the ESF programs. Finally, the American Rescue Plan Act of 2021 (ARP Act) was enacted on March 11, 2021 and includes approximately \$165 billion for the ESF.

Although funds from the CARES Act, CRRSA Act, and ARP Act were allocated to the U.S. Department of Education (ED) under a single Federal program (ESF), ED awarded or will award ESF funds to grantees under 22 subprograms (one subprogram, 84.425Q, was awarded only to for-profit institutions and therefore not included in this Compliance Supplement Addendum). An alphabetic character at the end of the 84.425 Assistance Listing Number (ALN) was used to delineate the specific subprogram. Each subprogram has its own funding requirements and compliance requirements.

The 2021 ESF Compliance Supplement was broken down into two sections. Section 1 of the 2021 ESF Compliance Supplement identified the objectives and compliance requirements of the subprograms generally focused on elementary and secondary education. Section 2 identified the objectives and compliance requirements of the subprograms focused on higher education.

The ESF program was included in the original release of the 2021 Compliance Supplement, but Section 1 did not include implications of the ARP Act relevant to 84.425U and 84.425X. This addendum to the 2021 Compliance Supplement provides the needed updates to Section 1 for the ARP Act. Section 2 is not included in this addendum because ARP Act updates were made to Section 2 in the original release of the 2021 Compliance Supplement. Although this addendum includes updates to Section 1 for all other ARP Act revisions, auditors were able to use the original release of the 2021 Compliance Supplement for major program testing of auditees expending funds under Section 2 subprograms or Section 1 subprograms excluding 84.425U or 84.425X. Auditors should document whether they use the 2021 Compliance Supplement or 2021 Compliance Supplement Addendum for the audit.

The table below updates the table included in the 2021 Compliance Supplement to identify the subprograms included in each section by name and Assistance Listing Number with alphabetic character identifier. It also identifies the subprograms that are not included in either the 2021

Compliance Supplement or this ESF Compliance Supplement Addendum. For those subprograms not addressed in the 2021 Compliance Supplement or this ESF Compliance Supplement Addendum, auditors must refer to Part 7 of the 2021 Compliance Supplement, “Guidance for Auditing Programs Not Included In This Compliance Supplement” and, where applicable, Notices Inviting Applications and other award documentation.

ESF Section	Assistance Listing No. with Alpha	Subprogram Name
Section 1		
	84.425A	Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA)
	84.425C	Governor’s Emergency Education Relief (GEER) Fund
	84.425D	Elementary and Secondary School Emergency Relief (ESSER) Fund
	84.425H	Education Stabilization Fund – Governors (Outlying Areas) (ESF-Governor)
	84.425R	Coronavirus Response and Relief Supplemental Appropriations Act, 2021 –Emergency Assistance to Non-Public Schools (CRRSA EANS) program
	84.425U	American Rescue Plan - Elementary and Secondary School Emergency Relief (ARP ESSER)
	84.425X	American Rescue Plan–State Educational Agency (Outlying Areas) (ARP-OA SEA)
Section 2		
	84.425E	Higher Education Emergency Relief Fund (HEERF) Student Aid Portion
	84.425F	HEERF Institutional Aid Portion
	84.425J	HEERF Historically Black Colleges and Universities (HBCUs)
	84.425K	HEERF Tribally Controlled Colleges and Universities (TCCUs)
	84.425L	HEERF Minority Serving Institutions (MSIs)
	84.425M	HEERF Strengthening Institutions Program (SIP)
	84.425N	HEERF Fund for the Improvement of Postsecondary Education (FIPSE) Formula Grant
	84.425S	HEERF Supplemental Assistance to Institutions of Higher Education (SAIHE) program
Neither Section 1 nor Section 2		
	84.425B	Discretionary Grants: Rethink K-12 Education Models Grants
	84.425G	Discretionary Grants: Reimagining Workforce Preparation Grants
	84.425P	Institutional Resilience and Expanded Postsecondary Opportunity (HEERF IREPO)
	84.425V	American Rescue Plan – Emergency Assistance to Non-Public Schools (ARP EANS)
	84.425W	American Rescue Plan – Elementary and Secondary School Emergency Relief –Homeless Children and Youth
	84.425Y	American Rescue Plan – American Indian Resilience in Education (AIRE)

IV. Other Information

Due to the timing of awards under the ARP, an auditee may not have expended, or even been awarded, funds under some ARP subprograms during the audit period covered by this Compliance Supplement Addendum.

Identifying Subawards on the SEFA and Data Collection Form

For purposes of SEFA and Data Collection Form reporting, auditees should identify the individual subprogram(s) the funds were expended under, including each separate Assistance Listing Number with the applicable alpha character. A total for the ESF in its entirety should also be provided. Auditees may need to determine which subprogram funds were expended through review of grant documents and inquiry of the source agency.

In order to more precisely identify subprogram expenditures, while also incorporating guidance issued by OMB on separately identifying COVID-19 expenditures, ED issued a memo to grantees on August 4, 2021, requesting that auditees include on the Federal Awards page of the Data Collection Form (Form SF-SAC): (1) whether the program is novel coronavirus 2019 (COVID-19) relief assistance; and (2) the subprogram Assistance Listing Number alpha.

Therefore, to apply this requirement to the ESF subprograms, on the Federal Awards page of the Form SF-SAC, under column c with the heading “Additional Award Identification,” include the phrase “COVID-19” to be consistent with OMB’s guidance in Appendix VII of the 2020 and 2021 Compliance Supplements. Then place a comma (,) after COVID-19 and include the full Assistance Listing number and capitalized alpha character (A, B, C, etc.) (see Example below).

Figure: The column to include this information on the SF-SAC Form, Federal Awards page is circled in the figure below:

PART II: FEDERAL AWARDS											
1. Federal Awards Expended During Fiscal Period											
Schedule of Expenditures of Federal Awards											
Row Number (auto-generated)	CFDA #		Additional Award Identification ³	Federal Program Name	Amount Expended (S)	Cluster Name	Federal Program Total ⁴ (auto-generated) (S)	Cluster Total ⁵ (auto-generated) (S)	Loan Programs		
	Federal Awarding Agency Prefix ¹	CFDA Three-Digit Extension ²							Loan/Loan Guarantee (loan) Y/N	If Loan, the End of the Audit Period Outstanding Loan Balance ⁶ (S)	

Example: A grantee listing the program “Higher Education Emergency Relief Fund – Student Aid Portion” (ALN84.425E) on the SEFA would complete the Federal Awards page of the SF-SAC in the following manner:

	A	B	c	d
Row Number (auto generated)	Federal Awarding Agency Prefix	ALN Three-Digit Extension	Additional Award Identification	Federal Program Identification
1	84	425	COVID-19, 84.425E	COVID-19 - Education Stabilization Fund

Note: Please note the inclusion of “COVID-19, 84.425E” in column c for the COVID-19 Higher Education Emergency Relief fund (HEERF) program.

Major Program Determination

Many auditees will have received and expended funds under multiple ESF subprograms. For major program purposes, auditors must evaluate 84.425 in its entirety. All ESF subprogram expenditures, even those expenditures of subprograms not addressed in this ESF Compliance Supplement, must be considered as part of the ESF program for major program determination purposes.

Program Contacts

The 2021 Compliance Supplement was published without a Federal Agency Program Contact for ESF. For programmatic questions related to the subprograms covered in Section 1, contact the Office of State and Grantee Relations in the Office of Elementary and Secondary Education, at SGR@ed.gov. For programmatic questions related to the subprograms covered in Section 2, email HEERF@ed.gov.

ESF SECTION 1 – ELEMENTARY AND SECONDARY EDUCATION**ASSISTANCE LISTING 84.425A EDUCATION STABILIZATION FUND – STATE EDUCATIONAL AGENCY (OUTLYING AREAS)****ASSISTANCE LISTING 84.425C GOVERNOR’S EMERGENCY EDUCATION RELIEF FUND****ASSISTANCE LISTING 84.425D ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND****ASSISTANCE LISTING 84.425H EDUCATION STABILIZATION FUND – GOVERNORS (OUTLYING AREAS)****ASSISTANCE LISTING 84.425R CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT, 2021 – EMERGENCY ASSISTANCE TO NON-PUBLIC SCHOOLS (CRRSA EANS)****ASSISTANCE LISTING 84.425U AMERICAN RESCUE PLAN – ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF (ARP ESSER)****ASSISTANCE LISTING 84.425X AMERICAN RESCUE PLAN – OUTLYING AREAS STATE EDUCATIONAL AGENCY (ARP -OA-SEA)****I. PROGRAM OBJECTIVES***CARES Act*

For each of the subprograms under the CARES Act, a recipient submitted a unique application in the form of a Certification and Agreement for Funding applicable to the program (see “Source of Governing Requirements”).

The objective of the GEER Fund (84.425C) is to provide local educational agencies (LEAs), institutions of higher education (IHEs), and other education-related entities with emergency assistance as a result of the Coronavirus Disease 2019 (COVID-19).

The objective of the ESSER Fund (84.425D) is to provide state educational agencies (SEAs) and LEAs, including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

The objective of the ESF-SEA (84.425A) and ESF-Governor Funds (84.425H) is to allocate funds to the Outlying Areas—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands—for the purpose of providing SEAs, LEAs, IHEs, and other education-related entities with emergency assistance to address the impact of COVID-19.

CRRSA Act

For each of the subprograms funded under the CRRSA Act (ESSER II, GEER II, ESF II-SEA and ESF II-Governor), ED made awards as supplements to the CARES Act awards, and recipients were not required to submit another Certification and Agreement. ED made CRRSA EANS awards to each Governor with an approved Certification and Agreement. CRRSA EANS does not apply to the Outlying Areas.

The objective of the CRRSA EANS (84.425R) subprogram is to provide governors with a reservation of funds under the CRRSA Act to provide services or assistance to eligible non-public schools to address the impact that COVID-19 has had, and continues to have, on non-public school students and teachers in the State. The SEA administers the CRRSA EANS subprogram on behalf of the Governor.

ARP Act

For each of the subprograms funded under the ARP Act (ARP ESSER and ARP-OA SEA), ED made new awards and included additional terms and conditions for the use of those funds.

The objectives of the ARP ESSER Fund (84.425U) and of the ARP-OA SEA Fund (84.425X) are to provide SEAs and LEAs with emergency relief funds to help schools return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic on the Nation's students.

Note: For purposes of this Section 1 of the 2021 Compliance Supplement Addendum, references to the ESF are to the subprograms generally focused on elementary and secondary education, which are identified on page 1 of this Section.

Note: For purposes of this document, ESSER refers to ESSER I, ESSER II, and ARP ESSER funds, while ESSER I refers only to funds under the CARES Act; ESSER II refers only to funds under the CRRSA Act; and ARP ESSER refers only to funds under the ARP Act. ESF-SEA refers to ESF I-SEA and ESF II-SEA funds, while ESF I-SEA refers only to funds under the CARES Act; ESF II-SEA refers only to funds under the CRRSA Act; and ARP-OA SEA refers only to funds under the ARP Act. Finally, GEER refers to both GEER I and GEER II funds, while GEER I refers only to funds under the CARES Act and GEER II refers only to funds under the CRRSA Act. Similarly, ESF-Governor refers to both ESF I-Governor and ESF II-Governor funds, while ESF I-Governor refers only to funds under the CARES Act and ESF II-Governor refers only to funds under the CRRSA Act.

II. PROGRAM PROCEDURES

GEER Fund and CRRSA EANS

Under the GEER Fund, ED allocated funds to governors, as well as the mayor of the District of Columbia; 60 percent was based on each state's population of individuals ages 5 through 24 and 40 percent was based on the number of children counted under section 1124(c) (indicators of poverty) of the Elementary and Secondary Education Act of 1965 (ESEA). The governor or

mayor uses GEER funds to: (1) provide emergency support through grants to LEAs that the SEA deems to have been most significantly impacted by COVID-19; (2) provide emergency support through grants to IHEs serving students within the state that the governor determines have been most significantly impacted by COVID-19; and (3) provide support to any other IHE, LEA, or education-related entity within the state that the governor or mayor deems essential for carrying out emergency educational services. In order to receive GEER funds under the CARES Act, a governor submitted to ED a completed “Certification and Agreement.” The CRRSA Act authorized additional funding for the GEER Fund, which ED distributed as supplemental awards (GEER II). GEER I and GEER II are subject to all of the same requirements (with the exception of equitable services for LEAs under GEER II).

Under the CRRSA EANS program, ED awarded grants by formula to each governor (or the mayor of the District of Columbia) with an approved “Certification and Agreement” to provide services or assistance to eligible non-public schools¹ to address the impact that COVID-19 has had, and continues to have, on non-public school students and teachers in the State. A non-public school that participates in the CRRSA EANS program is not a recipient of Federal financial assistance, and therefore is not subject to requirements that apply to subrecipients (e.g. single audit requirements, SEFA reporting).

ESSER Fund

Under ESSER I, ED allocated funds to each SEA by a formula based on the state’s fiscal year (FY) 2019 share of funds under Title I, Part A (84.010) of the ESEA. An SEA, in turn, allocated ESSER I funds to LEAs by formula based on FY 2019 Title I, Part A allocations. In order to receive an ESSER I allocation under the CARES Act, an SEA submitted to the Department a completed “Certification and Agreement.”

The CRSSA Act provided an additional \$54.3 billion for the ESSER Fund, which ED distributed as supplemental awards (ESSER II). These ESSER II awards to SEAs are in the same proportion as each State received funds under Title I, Part A of the ESEA for FY 2020. The SEA, in turn, allocated ESSER II funds to LEAs by formula based on FY 2020 Title I, Part A allocations.

ESSER I and ESSER II have the same Assistance Listing alpha number and are subject to virtually all of the same requirements, except for one main difference: an LEA that receives ESSER I funds under the CARES Act (Section 18005) must provide equitable services to students and teachers in the same manner as provided under section 1117 of Title I, Part A of the ESEA. ESSER II is not subject to the equitable services requirement; rather the CRRSA Act included \$2.75 billion for the separate CRRSA EANS program.

The ARP Act provided \$122 billion for the ESSER Fund, providing funds to SEAs and LEAs to meet the urgent needs of schools and students. On March 17, the Department awarded each

¹ For purposes of the CRRSA EANS program, an eligible non-public school is an elementary or secondary school that—

- Is non-profit;
- Is accredited, licensed, or otherwise operates in accordance with State law;
- Was in existence prior to March 13, 2020, the date COVID-19 was declared a national emergency; and
- Did not, and will not, apply for and receive a loan under the Small Business Administration’s Paycheck Protection Program (PPP) (15 U.S.C. 636(a)(37)) that is made on or after December 27, 2020. This limitation applies for as long as the non-public school is a participant in the CRRSA EANS program.

State the first two-thirds of its ARP ESSER allocation. On April 21, ED released a State Plan template for the ARP ESSER Fund, which is designed to promote comprehensive planning by SEAs and LEAs. Once ED has approved an SEA's plan, it will make the SEA's remaining ARP ESSER allocation available to the SEA.

ARP ESSER allocations were based on the proportion that each State received under Title I, Part A of the ESEA for FY 2020. While ARP ESSER has a different alpha character (84.425U), it is subject to most of the same requirements as ESSER II except for the following: an SEA must reserve certain amounts of its ARP ESSER state-level funds for specific purposes, and an LEA that receives ARP ESSER funds must submit to the SEA an ARP LEA plan for the use of funds, must engage in meaningful stakeholder consultation when developing its ARP LEA plan, must submit and make publicly available a plan for the safe return to in-person instruction and continuity of services, and must reserve at least 20 percent of its ARP ESSER award to address learning loss.

ESF-SEA and ESF-Governor (Outlying Areas)

Under the ESF-SEA Fund, ED allocated funds to SEAs in the Outlying Areas based on the same proportion that each Outlying Area received under Title I, Part A of the ESEA in the most recent fiscal year. By statute, ED used this same formula to make allocations to states under the ESSER Fund. In order to receive ESF I-SEA funds, an SEA submitted to ED a completed "Certification and Agreement." The ESF II-SEA funds were awarded to each Outlying Area under the same grant terms and conditions that applied to the ESF I-SEA funds.

Under the ESF-Governor Fund, ED allocated funds to governors in the Outlying Areas, with 60 percent of the award based on population ages 5 to 24 and 40 percent of the award based on the relative number of children counted under section 1124(c) (indicators of poverty) of the ESEA. By statute, ED used this same formula to make allocations to governors under the GEER Fund. In order to receive ESF I-Governor funds, governors submitted to ED a completed "Certification and Agreement." The ESF II-Governor funds were awarded to each Outlying Area under the same grant terms and conditions that applied to the ESF I-Governor funds.

Under ARP-OA SEA, ED allocated funds to the SEAs in the Outlying Areas based on the same proportion as each State received under Title I, Part A of the ESEA for 2020. ARP-OA SEA grant terms and conditions were attached to each SEA's grant award notification. Each SEA received its full ARP-OA SEA allocation within 30 days of enactment of the ARP Act.

Source of Governing Requirements

These programs are authorized, as applicable, by the CARES Act, Pub. L. 116-136, 134 Stat. 281 (Mar. 27, 2020), the CRRSA Act, Pub L. 116-260 (December 27, 2020), and the ARP Act, Public Law 117-2, (March 11, 2021). The regulations in 34 CFR Part 76 (State-Administered Programs), 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and 31 CFR Part 205 (Cash Management Improvement Act) apply to these programs.

On April 22, ED established interim final requirements for the ARP ESSER Fund under section 2001 of the ARP Act. The requirements cover meaningful stakeholder consultation, LEA ARP

ESSER plan requirements, and LEA plans for the safe return to in-person instruction and continuity of services. (<https://www.federalregister.gov/documents/2021/04/22/2021-08359/american-rescue-plan-act-elementary-and-secondary-school-emergency-relief-fund>)

Additionally, the certification and agreements each SEA or governor completed and signed prior to receiving a grant award also form the basis of the governing requirements for those programs for which ED required Certification and Agreements:

1. Certification and Agreement for Funding under the Education Stabilization Fund Program Elementary and Secondary School Emergency Relief Fund (ESSER I Fund) (<https://oese.ed.gov/files/2020/04/ESSERF-Certification-and-Agreement-2.pdf>)
2. Certification and Agreement for Funding under the Education Stabilization Fund Program Governor's Emergency Education Relief Fund (GEER I Fund) (<https://oese.ed.gov/files/2020/04/GEER-Certification-and-Agreement.pdf>)
3. Certification and Agreement for Funding under the CRRSA Act Emergency Assistance to Non-Public Schools program (CRRSA EANS) (https://oese.ed.gov/files/2021/01/Final_EANS_CertificationandAgreement_FY21_1.11.21.pdf)
4. Certification and Agreement for Funding under the Education Stabilization Fund-State Educational Agency Fund (ESF-SEA) (<https://oese.ed.gov/files/2020/05/SEA-ESF-OA-Certification-and-Agreement.pdf>)
5. Certification and Agreement for Funding under the Education Stabilization Fund-Governors Fund (ESF-Governor Fund) (<https://oese.ed.gov/files/2020/05/Governors-ESF-OA-Certification-and-Agreement.pdf>)

Availability of Other Program Information

A number of documents posted on ED's website provide clarity regarding the GEER Fund, ESSER Fund, EANS program, ESF-SEA Fund, and ESF-Governor Fund requirements in this Compliance Supplement Addendum.

ESF

1. Education Stabilization Fund Website (<https://oese.ed.gov/offices/education-stabilization-fund/>)
2. American Rescue Plan Website (<https://oese.ed.gov/offices/american-rescue-plan/>)
3. Frequently Asked Questions on the Maintenance of Effort Requirements Applicable to the CARES Act Programs – May 2020 (<https://oese.ed.gov/files/2020/06/CARES-Act-Programs-Maintenance-of-Effort-FAQ.pdf>)
4. Guidance on Maintenance of Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund (https://oese.ed.gov/files/2021/04/MOE-Chart_with-waiver-FAQs_FINAL_4.21.21Update.pdf)
5. Frequently Asked Questions - Elementary and Secondary School Emergency Relief Programs Governor's Emergency Education Relief Programs Use of Funds (https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf)

GEER Fund

1. Frequently Asked Questions about the Governor’s Emergency Education Relief Fund (GEER Fund) (<https://oese.ed.gov/files/2020/05/FAQs-GEER-Fund.pdf>) Website: <https://oese.ed.gov/offices/education-stabilization-fund/governors-emergency-education-relief-fund/>
2. Fact Sheet for GEER II (https://oese.ed.gov/files/2021/01/FINAL_-GEER_FactSheet_1.8.21.pdf)

EANS Program

Frequently Asked Questions for the Emergency Assistance to Non-Public Schools program (EANS) (<https://oese.ed.gov/files/2021/03/Final-EANS-FAQ-2.0-3.19.21.pdf>)

ESSER Fund

1. Frequently Asked Questions about the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (<https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf>)
2. Fact Sheet for ESSER II (https://oese.ed.gov/files/2021/01/Final_ESSERII_Factsheet_1.5.21.pdf)
3. Fact Sheet for ARP ESSER (https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf)
4. Assurances for American Rescue Plan – Elementary and Secondary School Emergency Relief (ARP ESSER) Grant Award (https://oese.ed.gov/files/2021/03/ARP-ESSER-Grant-Award-Assurances_FINAL2.pdf)
5. ARP ESSER Methodology and Allocation Table – March 17, 2021 (https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-Methodology-and-Table.pdf)
6. ARP ESSER Methodology and Allocation Table Revised – June 25, 2021 (https://oese.ed.gov/files/2021/06/Revised-ARP-ESSER-Methodology-and-Allocation-Table_6.25.21_FINAL.pdf)
7. Frequently Asked Questions – American Rescue Plan Elementary and Secondary School Emergency Relief (ESSER) Program – Maintenance of Equity (MOEquity) Requirements (https://oese.ed.gov/files/2021/04/MOE-Chart_with-waiver-FAQs_FINAL_4.21.21Update.pdf)
8. A Resources page, which includes links to Frequently Asked Questions documents as well as to materials used during technical assistance meetings or Office Hours: (<https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief/resources/>)

ESF-SEA, ESF-Governor, and ARP OA-SEA

1. Website: <https://oese.ed.gov/offices/education-stabilization-fund/outlying-areas/>
2. Frequently Asked Questions – Education Stabilization Fund-State Educational Agency (ESF-SEA) (<https://oese.ed.gov/files/2020/09/ESF-SEA-Final-FAQs.pdf>)
3. Frequently Asked Questions – Education Stabilization Fund-Governors (ESF-Governor) (<https://oese.ed.gov/files/2020/09/ESF-Governor-Final-FAQs.pdf>)

4. ARP OA-SEA Allocation Table – (<https://oese.ed.gov/files/2021/04/ARP-OAs-Methodology-and-Table.docx>)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.”** See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	N	N	N	N	Y	Y	Y

A. Activities Allowed or Unallowed

See Part 3, Section A, “Activities Allowed or Unallowed” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

Governors and SEAs must demonstrate that costs incurred by governors, SEAs, and subrecipients are allowable under the relevant statutory and regulatory provisions, assurances, and Certification and Agreement, and consistent with the purpose of the ESF, which is “to prevent, prepare for, and respond to COVID-19.” The Outlying Areas must ensure that expenditures under ESF-SEA and ESF-Governor are consistent with the allowable uses of funds set forth in the signed Certification and Agreement and that expenditures under ARP-OASEA are consistent with the grant conditions and assurances attached to the ARP-OA SEA Grant Award Notification (GAN).

GEER Funds

Under section 18002(c) of the CARES Act and Section 312 of the CRRSA Act, GEER I and GEER II funds may be used to:

1. Provide emergency support through grants to LEAs that the SEA deems have been most significantly impacted by coronavirus to support the ability of such LEAs to continue to provide educational services to their students and to support the on-going functionality of the LEA;
2. Provide emergency support through grants to IHEs serving students within the state that the governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue to provide educational services and support the on-going functionality of the institution; and
3. Provide support to any other institution of higher education, LEA, or education-related entity within the state that the governor deems essential for carrying out emergency educational services to students for authorized activities described in section 18003(d)(1) of the CARES Act or the HEA, the provision of childcare and early childhood education, social and emotional support, and the protection of education-related jobs.

CRRSA EANS Funds

The CRRSA Act, Pub. L. No. 116-260 (December 27, 2020) authorizes the CRRSA EANS program. A non-public school may apply to receive services and assistance from the SEA to address educational disruptions resulting from COVID-19 for:

1. Supplies to sanitize, disinfect, and clean school facilities;
2. Personal protective equipment (PPE);
3. Improving ventilation systems, including windows or portable air purification systems;
4. Training and professional development for staff on sanitization, the use of PPE, and minimizing the spread of infectious diseases;
5. Physical barriers to facilitate social distancing;
6. Other materials, supplies, or equipment to implement public health protocols, including guidelines and recommendations from the Centers for Disease Control for reopening and operation of school facilities to effectively maintain health and safety of students, educators, and other staff;

7. Expanding capacity to administer coronavirus testing to effectively monitor and suppress the virus, to conduct surveillance and contact tracing activities, and to support other activities related to coronavirus testing for students, teachers, and staff;
8. Educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning;
9. Redeveloping instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss;
10. Leasing sites or spaces to ensure safe social distancing;
11. Reasonable transportation costs;
12. Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss; or
13. Reimbursement for the expenses of any services or assistance described above that a non-public school incurred on or after March 13, 2020, except for the following:
 - Improvements to ventilation systems (including windows), except for portable air purification systems, which may be reimbursed.
 - Any expenses reimbursed through a loan guaranteed under the Paycheck Protection Program (15 U.S.C. 636(a)) prior to December 27, 2020.
 - Staff training and professional development on sanitization, the use of PPE, and minimizing the spread of COVID-19.
 - Developing instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss.
 - Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss.

An SEA may provide these services or assistance directly to a nonpublic school or through a contract with an individual, association, agency, or organization.

Control of funds for services or assistance provided to a non-public school under the CRRSA EANS program and title to materials, equipment, and property purchased with CRRSA EANS funds, must be in a public agency, and a public agency must administer such funds, services, assistance, materials, equipment, and property. In addition, all services or assistance provided under the CRRSA EANS program must be secular, neutral, and non-ideological.

ESSER Funds

LEAs may use ESSER funds for a wide range of activities to address needs arising from the coronavirus pandemic. Section 18003(d) of the CARES Act provides a list of allowable LEA ESSER I activities. Section 313(3) of the CRRSA Act includes “additional” LEA allowable uses of funds under ESSER II, in particular addressing learning loss; preparing schools for reopening; and testing, repairing, and upgrading projects to improve air quality in school buildings; however, all of these uses already are permitted under the CARES Act even though not explicitly listed. Section 2001(e) of the ARP Act further expands LEA allowable uses of funds under ARP ESSER to include providing mental health supports, including through the implementation of evidence-based full-service community schools; and developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention (CDC) on reopening and operating schools to effectively maintain the health and safety of students, educators, and other staff. ED has clarified that SEAs, LEAs and schools may use funding under ESSER I, ESSER II, and ARP ESSER to support a very wide range of activities, including activities indirectly linked to the impact of COVID-19, as outlined in the ED Volume 2 COVID Handbook, available at <https://www2.ed.gov/documents/coronavirus/reopening-2.pdf>, provided such uses are consistent with statutory requirements and the Uniform Guidance in 2 CFR Part 200.

LEAs may use ESSER funds to support:

1. Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 USC 6301 et seq.), the Individuals with Disabilities Education Act (20 USC 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 USC 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.) (“the Perkins Act”), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.).
2. Coordination of preparedness and response efforts of LEAs with state, local, tribal, and territorial public health departments, and other relevant agencies to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
3. 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, including how outreach and service delivery will meet the needs of each population.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.

6. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
7. Purchasing supplies to sanitize and clean the facilities of an LEA, including buildings operated by such agency.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the IDEA (20 USC 1401 et seq.), and how to ensure other educational services can continue to be provided consistent with all federal, state, and local requirements.
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
10. Providing mental health services and supports.
11. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
12. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care, of the local educational agency, including by—
 - a. Administering and using high-quality assessments that are valid and reliable, to accurately assess students' academic progress and assist educators in meeting students' academic needs, including through differentiating instruction.
 - b. Implementing evidence-based activities to meet the comprehensive needs of students.
 - c. Providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment.
 - d. Tracking student attendance and improving student engagement in distance education.

13. School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
14. Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.
15. Developing strategies and implementing public health protocols including, to the greatest extent practicable, policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.
16. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

Note: For comprehensive information about allowable uses of funds under ESSER and GEER, please see Frequently Asked Questions Elementary and Secondary School Emergency Relief (ESSER) Programs Governor’s Emergency Education Relief (GEER) available at

https://oese.ed.gov/files/2021/05/ESSER.GEER_FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf.

Note: An LEA that receives ESSER I funds under the CARES Act (Section 18005) must provide equitable services to students and teachers in the same manner as provided under section 1117 of Title I, Part A of the ESEA. ESSER II and ARP ESSER are not subject to the equitable services requirement; rather the CRRSA Act includes the separate EANS program to address the needs of non-public school students and teachers. For more information about the major similarities and differences between ESSER I and ESSER II, see the Fact Sheet for ESSER II, available at

https://oese.ed.gov/files/2021/01/Final_ESSERII_Factsheet_1.5.21.pdf and differences among ESSER I, ESSERII and ARP ESSER available at:

https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf.

B. Allowable Costs/Cost Principles

See Part 3, Section B, “Allowable Costs/Cost Principles” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

1. For ESSER I, ESSER II, ARP ESSER, ESF I-SEA, ESF II-SEA, and ARP OA-SEA Funds, auditors should refer to the Cost Principles for States, Local Governments, and Indian Tribes.

2. For GEER I, GEER II, ESF I-Governor, and ESF II-Governor Funds, a Governor (or the Mayor of the District of Columbia) has broad discretion for awarding funds under these subprograms to states, local governments and Indian tribes, educational institutions, or nonprofit organizations. In order to determine which requirements apply, auditors should examine how each respective governor allocated the funds to subrecipients to determine which cost principles apply for each subrecipient.
3. The requirements in the Uniform Guidance apply to expenditures of ESSER funds, including the requirements related to documenting personnel expenses in 2 CFR section 200.430(i). This would mean, for example, that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status as permitted under CARES Act Section 18003(d)(12), except that an LEA must maintain time distribution records (sometimes called “time and effort” reporting) if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER. However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic (Section 18003(d)(12)).

CARES Act Section 18003(d)(12) and CRRSA Act Section 315 authorize grantees to continue to pay employees and Section 18002(c)(3) of the CARES Act allows LEAs, SEAs, IHEs, and other subrecipients to use funds to protect education-related jobs; the authority includes paying staff who are on leave because schools are closed due to COVID-19. Accordingly, ESSER and GEER funds may be used for that purpose even in the absence of a policy that specifically addresses these circumstances.

C. Cash Management

See Part 3, Section C, “Cash Management” for any ED program in which the entity being audited is a subrecipient (i.e., federal funds are received through a pass-through grant from a grantee).

See Part 3, Section C, “Cash Management” and this section when the entity being audited is a governor and his or her designated state agency or an SEA (this includes the Outlying Areas).

US Department of the Treasury (Treasury) regulations at 31 CFR Part 205 implement the Cash Management Improvement Act of 1990 (CMIA), as amended (Pub. L. No. 101-453; 31 USC 6501 et seq.). Subpart A of those regulations requires state recipients to enter into Treasury-state agreements that prescribe specific methods of drawing down federal funds (funding techniques) for federal programs listed in the Catalog of Federal Domestic Assistance that meet the funding threshold for a major federal assistance program under

the CMIA. Treasury-state agreements also specify the terms and conditions under which an interest liability would be incurred. Programs not covered by a Treasury-state agreement are subject to procedures prescribed by Treasury in Subpart B of 31 CFR Part 205, which at 31 CFR section 205.33(a) include the requirement for a state to minimize the time between the drawdown of federal funds and their disbursement for federal program purposes, described in greater detail below.

A state must minimize the time between the drawdown of federal funds from the federal government and their disbursement for federal program purposes. A federal program agency must limit a funds transfer to a state to the minimum amounts needed by the state and must time the disbursement to be in accord with the actual, immediate cash requirements of the state in carrying out a federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a state's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs.

F. Equipment/Real Property Management

See Part 3, Section F, "Equipment/Real Property Management" for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

Consistent with 2 CFR section 200.311 (real property), section 200.313 (equipment), and section 200.439 (equipment and other capital expenditures), ESF funds may be used for these purposes. Recipients and subrecipients may use ESF funds to purchase equipment. Capital expenditures for general and special purpose equipment purchases are subject to prior approval by ED or the pass-through entity. In addition, with prior approval by the ED or the pass-through entity, recipients and subrecipients may use ESF funds to purchase real property and perform construction for improvements to land, buildings, or equipment that meet the overall purpose of the ESF program, which is "to prevent, prepare for, and respond to" the COVID-19 pandemic.

If governors (or the Mayor of the District of Columbia), SEAs, and subrecipients propose to use ESF funds for construction they must comply with applicable requirements in 34 CFR section 76.600 and 34 CFR sections 75.600–75.617. Approved construction projects must comply with all applicable Uniform Guidance requirements, as well as the ED's regulations regarding construction, as applicable, at 34 CFR section 76.600. As is the case with all construction contracts using laborers and mechanics financed by federal education funds, recipients and subrecipients that use ESF funds for construction contracts over \$2,000 must meet Davis-Bacon prevailing wage requirements. For information about the prevailing wages in the applicable region, see the Department of Labor (DOL) regional office: <https://www.dol.gov/agencies/whd/government-contracts/construction/regions>. Please note that recipients and subrecipients may use ESF funds for minor remodeling without triggering these requirements. Minor remodeling means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the

previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repairs. See 34 CFR Part 77.1(b). For more information on requirements and flexibilities with regard to utilizing ESF funds for construction please see: https://oese.ed.gov/files/2021/06/HVAC_Use-of-funds-F06-17-2021.pdf and <https://oese.ed.gov/files/2021/06/ARP-ESSER-Plan-Office-Hours-6.3.21.pdf>.

Any purchases with ESF funds in this category are subject to applicable inventory control, log maintenance, and disposition requirements consistent with Part 3, Section F, “Equipment/Real Property Management” of the July 2021 Compliance Supplement (officially issued August 12, 2021: https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-2021-Compliance-Supplement_Final_V2.pdf).

Governors, SEAs, and subrecipients must receive prior approval for capital expenditures for equipment acquisition or improvements to land, buildings, or equipment.

1. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the governor (or Mayor of the District of Columbia) or SEA must receive prior approval from ED.
2. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the governor or SEA, as the pass-through entity, must provide prior approval to subrecipients.
3. For construction, the pass-through entity must have considered applicable ED construction requirements as part of the pass-through entity’s prior approval process for construction. For example, if an LEA proposed renovating a school building to increase the filters or ventilation to its HVAC system, the pass-through entity must ensure compliance with applicable construction regulations (such as 34 CFR 75.609 (Safety and Health standards) and 75.616 (Energy Conservation))?

L. Reporting

1. Financial Reporting

Not Applicable

2. Performance Reporting

See Special Reporting below

3. Special Reporting

- a. *Federal Funding Accountability and Transparency Act (FFATA) – SEA/Governor (See Part 3.L of the 2021 Compliance Supplement)*
- b. *Annual Reporting – SEA/Governor*

Direct recipients of ESSER I and ESSER II grants must submit an annual report (OMB No. 1810-0749) with data for the following categories:

- Overall ESSER I and ESSER II Fund Grant for SEA;
- SEA Reserve (up to 10 percent of total allocation);
- Mandatory Subgrants to LEAs, Section 18003(c) of the CARES Act and Section 313(c) of the CRRSA Act
- Student Participation and Engagement; and
- Full-Time Equivalent (FTE) Positions.

Direct recipients of GEER grants must submit an annual report (OMB No. 1810-0748) with data for the following categories:

- Types of entities within the State that were awarded GEER funds;
- Funding conditions or requirements on GEER awards for LEAs and IHEs to ensure that the funds were spent on specific purposes or activities;
- Amounts expended and the purposes for which the funds were expended by an LEA;
- For each IHE awarded GEER funds from the State, the amount expended and additional information if GEER funds were used by the IHE to provide financial aid to students at the IHE;
- The amount awarded and expended by each education-related entity, including:
 - Which populations of students were or will be served by the entity?
 - Did the funding awarded to the entity support distance-learning and remote education or provide financial support to students?
- FTE positions for LEAs, IHEs, or Educational Entities; and
- The number of K-12 schools (public and non-public) that received GEER funds or received services paid for with GEER funds.

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.

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

M. Subrecipient Monitoring

See Part 3, Section M, “Subrecipient Monitoring” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

N. Special Tests and Provisions

1. Wage Rate Requirements

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section and Part 3, Section F, “Equipment/Real Property Management” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

2. Participation of Private School Children

See Part 4, 84.000 ED Cross-Cutting Section for requirements applicable to the participation of private school students under GEER I and ESSER I.

3. Prioritizing Services or Assistance to Non-Public Schools under the CRRSA EANS Program

Compliance Requirements Under section 312(d)(3)(C) of the CRRSA Act, an SEA receiving funds under the EANS program must prioritize services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19. An SEA generally has flexibility with regard to how it considers these criteria. An SEA might, for example, target non-public schools that enroll significant numbers of low-income students or meet a minimum threshold of low-income students. Factors that an SEA might consider in determining non-public schools that are most impacted by COVID-19 include but are not limited to: (1) rate of community infection; (2) number of COVID-19-related deaths per capita; (3) loss of tuition revenue due to decrease in enrollment; (4) lack of capacity to provide remote learning due to insufficient technological support, and (5) data documenting the extent of learning loss or the social, emotional, or mental health impact attributable to the disruption of instruction caused by COVID-19. For more information, see questions C-14 and C-15 in Frequently Asked Questions for the Emergency Assistance to Non-Public Schools (EANS) Program as authorized by the Coronavirus Response and Relief Supplemental Appropriations Act,

2021 (CRRSA Act) (<https://oese.ed.gov/files/2021/03/Final-EANS-FAQ-2.0-3.19.21.pdf>).

Audit Objectives Determine whether SEAs have established and implemented criteria for prioritizing services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19.

Suggested Audit Procedures

- a. Ascertain that the SEA established criteria to prioritize services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19.
- b. Verify that the SEA implemented the relevant criteria to prioritize services or assistance to non-public schools that enroll low-income students and are most impacted by COVID-19.