# Montana
## Office of Public Instruction

## MACSS Conference

### Leveraging ESSER II & III Funds

Jeff Kirksey, OPI ESSER Program Manager
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# Session Purpose

- Review of time-lines for ESSER Funding
- Provide an overview of ESSER II & ESSER III (ARP) Funds including how they are different.
- Review allowable uses for ESSER II & III funding.
- Dig Deeper into ESSER III plan review requirements
- Explore Frequently Asked Questions specifically related to:
  - Construction and Capital Expenditures including Thresholds and Pre-approval processes
  - Clarifying use of Object Codes
  - Management Requirements for Non-capitalized Electronic Equipment
  - Workforce Stabilization Uses

# Session Details

- The requirements in section 2001(i) of the ARP Act relating to the ARP ESSER funds are published in the Federal Register and also outlined by the Department in the ESSER and GEER FAQ document.

- The OPI has developed a FAQ document to provide LEAs information about the grant, including eligibility, and grant requirements.

- ESSER II and ESSER III guidance documents are available on the OPI website, which outlines allowable uses for the grant.

- **Disclaimer:** Similar to the FAQ document issued by the USED on ESSER and GEER, "the contents of this document do not have the force and effect of law and are not meant to bind the public in any way.  The information is subject to change as additional information is released by the USED.

OPI Presenter Introductions

WELCOME!

# OPI Staff

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# ESSER Summary

Elementary and Secondary School Emergency Relief Fund (ESSER):

- 3 Rounds of ESSER funds have been authorized by Congress in response to COVID-19 pandemic.

**ESSER I**
Elementary and Secondary School Emergency Relief
$41,295,230

**ESSER II**
Elementary and Secondary School Emergency Relief
$170,099,465

**ESSER III**
Elementary and Secondary School Emergency Relief
$382,019,236

**EANS**
Emergency Assistance for Non-Public Schools
$24,679,709

Total Funds= $618,093,640

# Key Dates

- **June 24, 2021.** Districts must make publicly available the **Return to In-Person Instruction and Continuity of Services Plan.**

- **August 24, 2021.** Districts must **submit the ARP ESSER Plan** to the OPI through TEAMS and make plan publicly available.

- **September 1, 2021.** Due date to complete and **submit ESSER II and ESSER III applications** in the E-grants system.

- **September 30, 2022 and November 10, 2022.** All ESSER I funding must be obligated by 9/30/22 and expended by 11/10/22.

- **September 30, 2023 and November 10, 2023.** All ESSER II funding must be obligated by 9/30/23 and expended by 11/10/23.

- **September 30, 2024 and November 10, 2024.** All ESSER I funding must be obligated by 9/30/24 and expended by 11/10/24.

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# Discerning the ESSERs

**What is the biggest difference between ESSER I, ESSER II, and ESSER III funds?**

**Answer:** ESSER III contains **two** planning requirements, a 20% set-aside for funding to be expended for lost instructional time type activities and has the new Maintenance of Equity provisions.

A full ESSER I, II, & III Comparison is available on the OPI website.

# Allowable Use of Funds

**Where can LEAs find information about Allowable Uses for ESSER II & III?**

**Answer:**  Please reference the **Elementary and Secondary School Emergency Relief Funding (ESSER II & ESSER III)** guidance document located on the OPI webpage and the ESSER and GEER FAQ produced by the USED.  The ESSER and GEER Use Funds FAQ developed by the Department provides an overview of how the funds can be used. It emphasizes that the ESSER resources are available for a wide range of activities to address diverse needs arising from and exacerbated by the COVID-19 pandemic, and to emerge strong post pandemic

Reminder:  As is the case with all activities charged to ESSER, costs must be reasonable and necessary to meet the overall purpose of the program, which is **"to prevent, prepare for, and respond to" COVID-19**. (See 2 CFR § § 200.403-200.404.)

# Allowable Use of Funds

**How do you determine if an activity is an allowable use of funds?**

**Answer:** Generally, in determining whether an activity is an allowable use of funds, a State or LEA must determine:

- Is the use of funds intended to **prevent, prepare for, or respond to the COVID-19 pandemic,** including its Impact on the social, emotional, mental health, and academic needs of students?

- Does the use of funds fall under one of the **authorized uses of ESSER funds**?

- Is the **use of funds permissible under** the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, 2 CFR Part 200)? In particular, **is it necessary and reasonable** for the performance of the ESSER or GEER award?

# Allowable Use of Funds

**Do we need to articulate how our proposed budget expenses connect to COVID prevention, preparation, and response?**

**Answer:** Yes, In E-Grants you should make the expenditures connection to COVID clear in your budget descriptions.

- An example could be: "_____ salary to hire specialist to help support students whose learning was adversely impacted by the pandemic in order to help students reach grade level expectations." OR "Purchasing _____ to enable the district to easily transition to online learning as part of our COVID preparation strategy."

# Allowable Use of Funds

**Are there recommended uses of ESSER II & III funds that will assist LEAs to address the impact of the COVID pandemic and disruptions leading lost instructional time?**

**Answer:** The LEA should use their local data, conduct a gap analysis, and a comprehensive needs assessment process to determine the best uses of funds for their students and staff.

# Allowable Use of Funds

**Are there resources available to help LEAs address lost instructional time?**

**Answer:** Yes!

USED Lost Instructional Time Guidance

COVID Relief Playbook

# Allowable Use of Funds

**Can districts innovate on the use of funds?**

**Answer:** Yes, and it is strongly encouraged that districts use these unprecedented funding allocations to innovate and implement the improvements that have been aspirations for your students.

# Return to In-Person Instruction and Continuity of Services Plan

**What is required to maintain the Return to In-Person Instruction and Continuity of Services Plan?**

**Answer**: The LEA's plan must review their plan at least every six months to insure it is maintaining the health and safety of students, educators, and other school and LEA staff, to assess adopted policies effectiveness, and describe of any revisions to such policies on each of the CDC's safety recommendations.

The LEA will assess the plan's effectiveness to ensure continuity of services, including but not limited to services to address students' academic needs and students' and staff social, emotional, mental health and other needs, which may include student health and food services.

# Return to In-Person Instruction and Continuity of Services Plan

**Is it a requirement for a district to adopt CDC guidance as part of the review of the Return to In-Person Instruction and Continuity of Services Plan?**

**Answer:** No, the Interim Final Rule (IFR) clarifies that: "the requirement does not mandate that an LEA adopt the CDC guidance, but only requires that the LEA describe in its plan the extent to which it has adopted the key prevention and mitigation strategies identified in the guidance."

**When and where does the Return to In-Person Instruction and Continuity of Services Plan need to be developed and made publicly available.**

**Answer:** ESSER III requires LEAs to submit a plan to return to in-person instruction, gather public comment on that plan, and post it on the district or school's public website no later than June 24, 2021. The plan must be **reviewed at least every six months** and plan revisions should include stakeholder input.

**LEAs must maintain a current copy of their plan posted to their website**.

# District ARP ESSER Plan

**What is required to maintain the District ARP ESSER (ESSER III) Plan?**

**Answer:** The district ARP ESSER (ESSER III) plans, must include at a minimum:

- The extent to which and how funds have been used by the District to implement prevention and mitigation strategies,

- How the District has used the mandatory 20% set-aside to address the academic impact of "lost instructional time" through the use of evidence-based interventions,

- How the District is using the remaining ARP ESSER funds consistent with statutory requirements,

# District ARP ESSER Plan

## *Continued:* What is required in the District ARP ESSER (ESSER III) Plan?

- How the District is ensuring that the ARP ESSER funded interventions, including but not limited to the 20% set-aside, are responding to the academic, social, emotional, and mental health needs of all students, and particularly those students disproportionately impacted,

- And how the district continues to consultation with a wide variety of stakeholders when revising the plan.

**LEAs must maintain a current copy of their plan posted to their website.**

# District ARP ESSER Plan

**Where will LEAs go to review and revise?**

- **Answer:** LEAs will access their plans through Terms of Employment, Accreditation, and Master Schedule (TEAMS). OPI will email the LEA to let them know when their plans have been loaded in TEAMS for review and updates. OPI anticipates including data request as prescribed by USED in these bi-annual reviews.

*More information to come as USED finalizes the ESSER reporting requirements.*

# Next steps

**What happens after the District ARP ESSER plan is submitted?**

**Answer:**

- The OPI will confirm your submission via the email you provided at the start of your plan.

- The OPI will reach out with questions and support as needed. Districts will need to set up their own monitoring which needs to be paired with implementation.

- Districts will be able to review their plan every 6 months as prompted by OPI and supply any data required by USED.

- The OPI will use this form to collect best practices to share with other districts.

# Resources

**Are there resources that will aid in revising and adjusting your District Plans?**

**Answer:** Yes!
- Curriculum Selection
- Acceleration Guidance
- ESSA Tiers of Evidence
- Gap Analysis Tool
- U.S. Department of Education FAQ - ESSER/GEERS
- FAQ's of Maintenance of Equity Requirements
- Montana Office of Public Instruction ESSER website
- SEL Priorities

# Construction and Capital Costs

**What is the guidance on construction costs?**

**Answer:** The ESSER and GEER FAQ addresses uses of ESSER and GEER funding for construction. (See section B-6 & B-7).

# Construction and Capital Costs

**Is Construction an allowable use of ESSER Funds?**

**Answer:** Construction is authorized under Title VII of the ESEA (Impact Aid) and therefore is an allowable use of GEER and ESSER funds under sections 18002(c)(3) and 18003(d)(1) of the CARES Act, sections 312(c)(3) and 313(d)(1) of the CRRSA Act and section 2001(e)(2) of the ARP Act.

- The broad Impact Aid definition of "construction" includes new construction as well as remodeling, alterations, renovations, and repairs under which many activities related to COVID-19 would likely fall.

- However, the Department discourages LEAs from using ESSER and GEER funds for new construction. This use of funds may limit an LEA's ability to support other essential needs or initiatives. Remodeling, renovation, and new construction are often time-consuming, which may not be workable under the shorter timelines associated with ESSER and GEER funds. These types of activities are also subject to several additional Federal requirements, as detailed below.

# Construction and Capital Costs

**What is the federal definition for construction?**

**Answer:** The Impact Aid program statute defines "construction" as "(A) the preparation of drawings and specifications for school facilities; (B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (C) inspecting and supervising the construction of school facilities; and (D) debt service for such activities."

- As is the case with all construction contracts using laborers and mechanics financed by Federal education funds, an LEA that uses ESSER or GEER funds for minor remodeling, renovation, repair, or construction contracts over $2,000 must meet all Davis-Bacon prevailing wage requirements.

# Construction and Capital Costs

**Who determines if a construction project is an allowable use of funds?**

**Answer:** While construction is generally allowable, it is the responsibility of a Governor, SEA, LEA, or other subgrantee to assure that individual costs:

1) comply with the Cost Principles in 2 CFR Part 200, subpart E (e.g., the cost must be "necessary and reasonable" (2 CFR §§ 200.403-200.404));

2) meet the overall purpose of the CARES Act, CRRSA Act, or ARP Act programs, which is "to prevent, prepare for, and respond to" COVID-19; and

3) are consistent with the proper and efficient administration of those programs.

Note: Under these general principles, any construction activities, including renovations or remodeling, that are necessary for an LEA to prevent, prepare for, and respond to COVID-19 could be permissible, though the burden remains on grantees and subgrantees to maintain the appropriate documentation that supports the expenditure.

# Construction and Capital Costs

**What capital costs must be pre-approved?**

**Answer:** If your planned ESSER funded capital expenditures meet or exceed these State Asset Thresholds you will need pre-approval. Items less than these thresholds still must meet allowable use criteria.

| Asset Type | Threshold |
| --- | --- |
| Equipment | 5,000 |
| Land | 5,000 |
| Library Materials | 5,000 |
| Museum & Art | 5,000 |
| Museum & Library Collections | 5,000 |
| Other Assets | 5,000 |
| Land Improvements | 25,000 |
| Buildings | 25,000 |
| Building Improvements | 25,000 |
| Land Use Rights – Amortized | 100,000 |
| Land Use Rights – Permanent | 100,000 |
| Other Intangibles | 100,000 |
| Software – Purchased | 100,000 |
| Infrastructure | 500,000 |
| Software – Internally Generated | 500,000 |

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# Construction and Capital Costs

**How does an LEA request preapproval of Construction costs from the OPI?**

**Answer:** The LEA needs to submit the Capital Expenditure Pre-approval Form in E-Grants.  This is a simple google form that includes a review of Federal Requirements and District Specific content.

# Construction and Capital Costs



opi.mt.gov

**Where can I find the ESSER Capital Expenditure Pre-approval form?**

**Answer:** The form can be found on the Property and Equipment Budget page in E-Grants (show below) or you can access the link directly.

**Property and Equipment**

Click for Instructions

All Property and Equipment requests require the submission of a ESSER Capital Expenditure Pre-approval Form. The form and directions for submission can be found here: ESSER Capital Expenditure Pre-approval Form.

Amount Budgeted for Property and Equipment under Object Code 700: 150,000

For each item costing $5000 or more, enter the description of the item(s), the quantity of the item(s), and the unit cost of the item(s).

| Description of Item | Quantity | Unit Cost | Total Cost |
|---|---|---|---|
| Replace old carpet in three elementary classrooms and two office areas | 5 | 5,001 | 25,005 |
| Replace all dirt and old flooring in bus garage | 1 | 100,000 | 100,000 |

# Construction and Capital Costs

## What are the primary elements of the pre-approval form?

Answer :

Please check the following boxes to indicate that your capital or construction individual costs meet the following conditions. You must check ALL boxes. *

☐ Proposal complies with the Cost Principles in 2 CFR Part 200, subpart E (e.g. the cost must be necessary and reasonable). See: https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1.5&rgn=div6

☐ Proposal meets the overall purpose of the CARES, CRRSA, or ARP Acts programs, which is "to prevent, prepare for, and respond to" COVID-19; and

☐ Proposal is consistent with the proper and efficient administration of the above programs.

LEAs using ESSER or GEER funds for remodeling, renovations, construction must comply with federal requirements. You must check ALL boxes. Please check ALL boxes to indicate that your planned capital expenditure(s) complies with the following: *

☐ Applicable Uniform Guidance Requirements. See: https://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

☐ Davis-Bacon Prevailing Wage Requirements. See: https://www.dol.gov/agencies/whd/government-contracts/construction

☐ OMB Standard Forms 24 B and D. See: SF424B and SF424D at https://www.grants.gov/forms/sf-424-family.html

☐ Property Standards as described in Title 2 Grants and Agreements. See: https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR8feb98c2e3e5ad2?toc=1

LEAs using ESSER or GEER funds for remodeling, renovations, or construction must comply with additional Department of Education regulations regarding construction (See: https://ecfr.federalregister.gov/current/title-34/subtitle-A/part-75/subpart-E?toc=1 ). You must check ALL boxes. Please check ALL boxes to indicate that your planned capital expenditure(s) complies with the following: *

☐ Grantee has completed an environmental impact assessment before initiating the construction and fully considered any potential environmental ramifications before proceeding with the project. (34 CFR sec 75.601)

☐ Grantee has considered the probable effect of proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Resister of Historic Places. (34 CFR sec 75.602)

☐ Grantee has title or other interest in the site, including right to access, that is sufficient to ensure that grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer. (34 CFR sec 75.603)

☐ Grantee can begin the approved construction in a reasonable time period and have the final plans been approved before the construction is advertised or placed on the market for bidding. (34 CFR sec. 75.605)

☐ Grantee can complete the project in a reasonable time period and consistent with the approved plans and specifications. (34 CFR sec. 75.606)

☐ The construction is fuctional, economical, and not elaborate in design or extravagant in the use of materials as compared to other facilities in the State or other applicable geographic area. (34 CFR sec. 75.607)

☐ Grantee's plans and designs for the facilities comply with applicable Federal, State and local health and safety standards, as well as Federal requirements regarding access by persons with disabilities. (34 CFR secs. 75.609 and75.610)

☐ Grantee has sufficient operational fuds to operate and maintain the facility once the construction is complete and will grantee operate and maintain the facility in accordance with all applicable Federal, State, and local requirements. (34 CFR secs. 75.614 and 75.615)

# Construction and Capital Costs

## What are the primary elements of the pre-approval form (cont.)?

**Answer:**

Please select your preferred disposition for property and equipment when the grant term ends or in the event property or equipment is no longer needed. Please select ONLY ONE option. *

☐ I wish to retain the equipment and/or property without further obligation to the State of Montana or the Federal Government.

☐ I will assign this asset to another Federal grant program.

☐ I will liquidate the equipment and/or property and return those funds to the Federal Government.

Please describe your capital expenditure and how this project is helping prepare for, respond to, or prevent COVID-19. Note: You may copy and paste this content from another document. *

Your answer

Please articulate your budget showing total approximate costs for this capital expenditure/project and what portion of the cost will be paid for with ESSER funds. Note: You may copy and paste this content from another document. *

Your answer

Did you acquire meaningful stakeholder input on this capital expenditure? *

Choose ▾

Please provide documentation that demonstrates that your Board is supportive of this capital expenditure if it is over $50,000. Note: You may copy and paste this content from another document or provide a link (i.e. Board minutes). If this request is under $50,000 please put "N/A" in the box below. *

Your answer

I understand by submitting this pre-approval request that the LEA I represent is responsible to comply with all Federal and State guidelines governing capital expenditures including but not limited to the items listed in this form? *

Choose ▾

Back    Submit

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# Construction and Capital Costs

**Can ESSER Funds be used for new construction?**

**Answer:** YES, provided that pre-approval and all the federal guidelines are met in the project and that the new construction meets the primary purposes of the ESSER funding.

# Construction and Capital Costs

**Can ESSER Funds be used for renovations?**

**Answer:** Yes, provided that the renovations meet the primary purposes of the ESSER funding (i.e., prepare, prevent and respond to COVID-19.)

**What object codes should/shouldn't I use for capital expenditures?**

**Answer:**

**Object Codes**

100  Personal Service Salaries – Salaries

200  Employee Benefits – Benefits

300  Purchased Professional and Technical Services – Contracted services for administrative, professional, educational, technical, and cooperative services.

400  Purchased Property Services – Utilities, building usage charges, repairs and maintenance services, rent, minor construction.

500  Other Purchased Services – Student travel, employee travel, professional development, registrations, communications, printing.

600  Supplies – Instructional supplies and materials, textbooks, library materials software, minor equipment

700  Property – Capital outlay, including major construction and equipment usually>5000 (Requires Pre-Approval by the OPI)

800  Other Objects – Rare-Dues, fees, student organization costs

# Managing Non-Capital Assets

**Do we have to do any special tracking for non-capital assets?**

**Answer:** Yes, specifically technology purchased with ESSER dollars must be inventoried and tabbed.

**Can ESSER dollars be used to recruit and retain employees?**

**Answer:** Yes. An LEA may use ESSER funds to stabilize and support the educator workforce and to support the conditions that will allow schools to return to in-person instruction. This may include using funds to pay teacher salaries and avoid layoffs. Funds may also be used to address educator shortages exacerbated by the pandemic by hiring new teachers, including expanding student access to a well-prepared and diverse educator workforce.

# Workforce Stabilization

**What are some examples of workforce stabilization strategies?**

**Answer:**

- Supporting partnerships with educator preparation programs to expand opportunities for extensive clinical experience to teaching candidates, including leveraging candidates to provide additional support to students and address the impact of lost instructional time as students return to in-person instruction;

- Providing ongoing support to recruit, hire, and retain a diverse school staff, including through high-quality induction and mentoring programs;

- Offering supplemental financial support for educators who commit to working in a high-need field or school for a minimum number of years (e.g., four years);

- Providing teachers professional learning opportunities on strategies for the effective use of technology for remote, hybrid, and accelerating learning; or

- Creating and/or supporting educational assistance programs that pay off student loans on behalf of staff as a component of recruitment and retention efforts in response to the pandemic.

# Workforce Stabilization

**Can ESSER dollars be used to provide additional pay (premium pay) to employees?**

**Answer:** Yes. Premium pay must be reasonable and necessary and consistent with 2 CFR § 200.430(f), and given pursuant to an established plan (which could be established in response to the COVID-19 pandemic), consistent with applicable collective bargaining agreements and other relevant policies and requirements.

# Workforce Stabilization

**Where can I find more information on using ESSER fund for workforce stabilization?**

**Answer:** The ESSER and GEER FAQ addresses uses of ESSER and GEER funding for construction. (See section D).

# Open Questions

- What questions do you have?

- Do you have any clarifying questions about the responses provided here today?

# Resources

OPI Website:

==opi.mt.gov==

# Thank you!

For questions or additional information please contact
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**Montana**
**Office of Public Instruction**
opi.mt.gov **Elsie Arntzen, Superintendent**