



Construction with Federal Funds

Elementary and Secondary School Emergency Relief (ESSER) funds can be used to pay for necessary and reasonable construction, renovation, and remodeling projects to prevent, prepare for, or respond to COVID-19. [Cite to B-6 of ED's ESSER/GEER FAQs] LEAs (subrecipients) that propose to use ESSER funds for such projects must comply with all applicable federal requirements, including relevant provisions of the Uniform Grant Guidance, Education Department General Administrative Regulations, and General Education Provisions Act. More information about those requirements can be found in B-6 of [this U.S. Department of Education \(ED\) guidance](#) and [this ED slide deck](#); [ESSER/GEER FAQ](#).

All ESSER new construction and major remodeling projects require ADE's prior approval, and completion of the attached form with assurances is required as part of that process.¹²³

New Construction - construction that involves "breaking ground" or major remodels.

Minor Remodeling/renovation does not need prior approval. Examples include renovations that would permit an LEA to improve air quality, ventilation (e.g. HVAC, air filters), clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g., bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing).d to air quality improvements, repair or replacement of windows and/or doors; social distancing.

¹ These costs could be supported as an Impact Aid activity (CARES, Sec. 18003(d)(1) and CRRSA, Sec. 313(d)(1)), as an activity to address the unique needs of vulnerable student populations (CARES, Sec. 18003(d)(4) and CRRSA, Sec. 313(d)(4)), as an activity to implement procedures and systems to improve LEA preparedness and response efforts (CARES, Sec. 18003(d)(5) and CRRSA, Sec. 313(d)(5)), or as an activity to maintain the operation and continuity of LEA services (CARES, Sec. 18003(d)(12) and CRRSA, Sec. 313(d)(15)).

² Because ESSER funds may be used for "any activity authorized by the ESEA," and construction is an allowable activity under the ESEA's Impact Aid program, an LEA may use ESSER funds for construction, subject to prior written approval by its SEA. See section 18003(d)(1) of the CARES Act, Title VII of the ESEA, and 2 CFR § 200.439(b)(1). Specifically, the Impact Aid definition of "construction" includes remodeling and renovations, under which many activities related to COVID-19 would likely fall.[1] As is the case with all activities charged to the ESSER Fund, construction costs must be reasonable and necessary to meet the overall purpose of the program, which is "to prevent, prepare for, and respond to" the COVID-19 pandemic. See CARES Act Department of Education, Education Stabilization Fund heading and 2 CFR §§ 200.403-200.405. Approved construction projects must comply with applicable Uniform Guidance requirements, as well as the Department's regulations regarding construction at 34 CFR § 76.600. As is the case with all construction contracts using laborers and mechanics financed by federal education funds, an LEA that uses ESSER funds for construction contracts over \$2,000 must meet all DavisBacon prevailing wage requirements and include language in the construction contracts that all 6 contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.)

³ [1] 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." ESEA section 7013(3).



Submit as Related Document

LEA _____

Entity ID _____ CTDS # _____

Charter Holder/Superintendent _____

Print name

Charter Holder/Superintendent* _____

Signature

Date _____

Purpose: Federal regulations require that Arizona Department of Education’s (ADE) prior approval before an LEA (subrecipient) can spend ESSER funds on construction, renovation, or remodeling projects. To facilitate the prior approval process, the LEA shall provide the information as requested on this form.

1. Briefly description of the construction or major remodel project, including the connection to preventing, preparing, or responding to COVID-19.

2. Cost estimate

***A check in each box and signature assures that the LEA will adhere to the assurances.**

Assurances:

- Costs comply with cost Principles in 2 CFR Part 200, subpart E. (e.g., the cost must be “necessary and reasonable” (2 CFR §§200.403-200.404)
- Costs meet the overall purpose of the CARES Act, CRRSA Act or ARP Act programs, to “prevent, prepare for, and respond to” COVID 19
- Project/s comply with applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements; [Davis-Bacon and Related Acts | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/agencies/whd/government-contracts/construction/tools) [Davis-Bacon and Related Acts \(DBRA\) Frequently Asked Questions | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/agencies/whd/government-contracts/construction/tools) <https://www.dol.gov/agencies/whd/government-contracts/construction/tools> and all other applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618; [e-CFR](#)
- The LEA will adhere to 2 CFR §§ 200.317 – 200.327. LEAs, must follow the procurement standards; records will be provided upon request by ADE for monitoring purposes. (see e-CFR link above)

The LEA has read and agrees to adhere to the attached guidance from the Arizona State Facilities Board on locally funded new construction, HVAC systems, roofs and fire alarms and reporting requirements.

[Assurance signature](#)

