

DATE:	June 27, 2024
SUBJECT:	ESSER III Closeout, ARP Liquidation Extension, and Pre-Payment Flexibility
CATEGORY:	ESSER Grant Compliance
NEXT STEPS:	Share information with program, grant, and business staff.

This letter provides an overview of the American Rescue Plan (ARP) Act Elementary and Secondary Schools Emergency Relief (ESSER III) closeout procedures and related compliance requirements, ARP liquidation extension process, and guidance related to the U.S. Department of Education’s (USDE) pre-payment flexibility for software-based subscriptions under ESSER III.

As described in the August 11, 2022, TAA letter, *Planning and Use of ESSER Funds*, ESSER funding was one-time in nature but included unprecedented flexibility to allow local educational agencies (LEAs) to plan an effective transition in support of their students. *The flexibilities offered by USDE under ESSER do not apply to other federal grant programs and represent an uncommon opportunity to maximize the use of state, local, and federal funding.* As your LEA assured TEA in the applications for funding for ESSER III, your local board is aware that the ESSER funds will not be replaced by any future state dollars.

Reclassifying Allowable Costs to ESSER III Grants

To prevent lapsing of ESSER III formula funds, LEAs that are not going to expend their full award within the grant period are strongly encouraged to reclassify expenditures from other allowable federal and state sources. To be eligible for reclassification, the original expense must:

1. Have occurred between March 13, 2020, and September 30, 2024;
2. Be reasonable and necessary as per federal guidelines;
3. Be an allowable ESSER expenditure; and
4. Meet the intent of the ESSER statute (must be directly tied to the pandemic).

The following funds may be considered for reclassification to spend down the LEA’s ESSER III grant allocation.

- Previously coded **state and/or local** funds expenditures may be classified to ESSER III funds for allowable activities, such as teacher salaries, to free up local maintenance and operations funds that can be used after ESSER III funds are no longer available.
- Previously coded **other federal** grant funds may be classified to ESSER III funds which will free up federal funds in the original source. Since any allowable activity under ESSA, IDEA, McKinney-Vento, or Perkins is also allowable under ESSER, any such activity may be considered for reclassification if it was pandemic related.

Note the possible impact on federal maintenance of effort requirements if pursuing any of these options.

ESSER III Standard Liquidation Period

Liquidation is the draw-down and expenditure of funds by the subgrantee (the LEA) for obligations legally incurred during the grant's obligation period (March 13, 2020, through September 30, 2024). Timely liquidation occurs during the grant period and the first 90 days after its end.

This means all costs under ESSER III must be fully obligated (in accordance with 34 CFR 76.707) for allowable grant uses by Monday, September 30, 2024. Goods and services obligated by the deadline may continue to be received and paid during the normal 90-day liquidation period (October 1, 2024, through December 29, 2024). TEA then has 30 days to liquidate and closeout all funds for the state.

ARP Liquidation Extension

USDE has offered a 14-month extension in addition to the standard 120-day liquidation period. LEAs may request a liquidation extension for certain obligated contracted services costs. Approval would allow the contracted service to continue to be received and paid during the liquidation period extension. Please note that the liquidation extension does not cover all types of costs (e.g., indirect costs, staff salary, or travel) due to the federal rules defining when an obligation was made.

TEA will request the extension for 14 additional months after the standard liquidation period (until February 28, 2026) on behalf of LEAs that need it. TEA will then have one additional month to liquidate and closeout all LEA grant funds. The LEA may request a liquidation extension of the following programs for allowable contracted services:

- ARP ESSER III Formula Grant
- ARP Homeless
- TCLAS Federally funded Projects
- Other ESSER III funded projects

Who Should Request the Liquidation Extension

Any LEA that legally obligates ESSER III funds by September 30, 2024, and has a portion of those funds for distinct types of contracted services that will not be fully liquidated (services not received and costs not paid) by December 29, 2024 (the grant's standard liquidation period) may request the extension. The LEA must be able to describe the contracted service and provide an acceptable justification for needing the extension. Note that needing additional time to expend the funds is not an allowable justification. Allowable justifications include supply chain delays, delays in receiving services, or procurement delays.

How to Access and Submit the ESSER III Liquidation Extension Data Collection Tool

An LEA that wishes to request an ESSER III Liquidation Extension from USDE must complete and submit a liquidation extension request form to TEA by November 30, 2024, through the [ESSER Compliance WorkApp](#). **NOTE: the LEA cannot submit the request before November 2024 due to the data required in the submission.**

LEAs will see pre-populated data (LEA Name, Grant Award, etc.) and fields that require data to be entered by the LEA. LEAs are required to submit all required information in the data collection tool for the request to be approved by TEA and forwarded to USDE for final review and acceptance. LEAs submitting a request must be available to consult with TEA staff during December 2024.

Limited ESSER Extended Service Pre-payment of Costs Flexibility

USDE has offered unusual flexibility, which may allow for pre-payment for services not yet received where the LEA is unable to liquidate some limited contracted service costs (which were properly and timely obligated by September 30, 2024) during the standard 120-day or extended 14-month liquidation periods. This flexibility is limited to instructional software subscription services that can be justified through internal controls as a prudent business decision to extend beyond the liquidation extension period.

The LEA is required to request the liquidation extension period and liquidate as much of the funding through the extension period as possible before requesting any additional flexibility. Pre-payment of services not received is usually unallowable with federal funds; this potential allowance elevates the LEA's risk of lapsing funds if the vendor cannot fulfill the pre-paid obligation. With the pre-payment of funds, the LEA cannot re-obligate any lapsed funds and would be required to refund the lapsed amount to TEA for return to USDE.

TEA must pre-approve any such pre-payment requests. Those LEAs that have already done a pre-payment must request retroactive approval from TEA.

If an amendment is needed for the ESSER III grant application due to this flexibility, please email Nick Davis (nick.davis@tea.texas.gov) with the subject line "Amend ESSER III for Pre-Payment." This amendment request will be sent to the appropriate grant staff to reopen the application to allow for an amendment.

How to Access and Submit the ESSER Pre-Payment Costs Flexibility Prior Approval Form

This prior approval form can be accessed through the [ESSER Compliance WorkApp](#).

LEAs are strongly encouraged to submit these prior approval requests by September 15, 2024, to receive appropriate approval before the obligation deadline and end of performance period on September 30, 2024.

For Further Information

For information and guidance on information contained in this letter, please contact GrantSupport@tea.texas.gov.