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# 2023 FALL ASBO CONFERENCE

SEPTEMBER 27, 2023



**south dakota**  
DEPARTMENT OF EDUCATION

Learning. Leadership. Service.

## WHAT'S COMING UP IN FY 2024 (SCHOOL YEAR 23-24)

- Year 4 of ESSER reporting (FY23 expenditures)
- General Fund Cash Balance
- Teacher Compensation Accountability
- Legislative Session

## FY24 (SCHOOL YEAR 23-24)

- Year 4 of ESSER reporting (FY23 expenditures)
  - Spring 2024
  - SharePoint
  - Start early

## FY24 (SCHOOL YEAR 23-24)

- General Fund Cash Balance
  - Waiver ended June 30<sup>th</sup>
  - FY23 data under waiver
  - Possible actions

## FY24 (SCHOOL YEAR 23-24)

- Teacher Compensation Accountability
  - SDCL 13-13-73.6
  - FY24 sunset
  - Teacher Compensation Review Board

# FY24 (SCHOOL YEAR 23-24)

- Legislative Session
  - Stay informed
  - Ask questions

# FY23 GMS PROGRAMS CLOSE OUTS

- Closeout reports for School Year 2022-23 grants are due 90 days after the end of the grant period.
  - IDEA, Consolidated Application Programs, Perkins, School Improvement, etc.
  - If you have not already submitted, get them in by Friday September 29, 2023.
  - The GMS needs to have FY 2023 programs closed out in order to correctly carryover funds and make payments in FY 2024.

# EDUCATION PROGRAMS AND CARRYOVER

- Generally, Federal education formula grants are available for up to 27 months.
- Funds are allocated for the 1<sup>st</sup> year period – July 1 to June 30.
- Funds may be carried over into a 2<sup>nd</sup> program year – July 1 to June 30
- Federal fiscal year ends on September 30<sup>th</sup>, so if needed an LEA may request to carryover funds into first three months of the 3<sup>rd</sup> year – July 1 to September 30
  - It should be rare that an LEA would need the final 3 months.
  - The LEA would need to inform and request instructions from SDDOE that it desires to use 3<sup>rd</sup> year.
- One notable exception to this general rule – **Title I carryover limit.**



# TITLE I PART CARRYOVER LIMITS

- Title I Part A Carryover Limit
  - Limits carryover to no more than 15% of your annual allocation.
    - Any funds Title II A or IV A funds that are Transferred into Title I are added to the allocation base when calculating the limit.
  - Do not include prior year's carryover or any reallocated amounts when calculating the 15% limit.
  - LEAs that receive allocations of less than \$50,000 are exempt from the Title I carryover limit.
  - LEAs may count SY 2023-24 obligations up until the end of the Federal Fiscal Year – September 30, 2023.
    - The LEA will need to submit a reimbursement request indicating for obligations incurred from July 1 to September 30, 2023.

# 15% CARRY OVER LIMIT OPTIONS

- First step is to submit a reimbursement request on GMS for expenses incurred July 1 to September 30, 2023.
- If the LEA is still exceeding the 15% carryover limit after September 30, 2023, you have two options:
  - Submit a waiver application with a reasonable plan to use the funds in excess of the limit.
  - Release the carryover funds back to SD DOE for reallocation.
- A district can only have **one** Title I waiver request approved within a 3 year period.
- Grants Management staff are monitoring Title I closeouts for compliance with the 15% carry over limit.
  - We will be contacting LEAs that are exceeding the 15% carry over limit to discuss options.
  - Providing carryover waiver applications forms.

# ESSER PROGRAM ENDING DATES

<b>Congressional Act</b>	<b>Final Obligation Date</b>	<b>Final LEA Liquidation Date</b>
CARES Act (ESSER I)	September 2022	December 28, 2022
CRRSA (ESSER II)	September 2023	December 28, 2023
American Rescue Plan (ESSER III)	September 2024	December 28, 2024

# ESSER II OBLIGATION & LIQUIDATION PERIOD

- ESSER II obligation period ends on Saturday September 30, 2023.
- Obligations incurred after this date will not be allowable expenses to the ESSER II program.
- There is a 90 day period for LEAs to liquidate outstanding obligations incurred during the grant period.
- Valid obligations must be performed, accounting completed, and the draw downs finalized within the liquidation period.

## ESSER II FUND BALANCES AS OF SEPTEMBER 2023

Total LEA Awards	Payments	Amount Remaining
169,248,970	141,208,811	28,040,159

- ESSER II grant funds can only be used to cover obligations incurred by September 30, 2023.
- The 90 day liquidation period ends December 29, 2023.

## ARP ESSER III FUND BALANCES AS OF SEPTEMBER 2023

Total LEA Awards	Payments	Amount Remaining
343,817,305	123,698,852	220,118,453

- ARP ESSER III grant funds must be obligated by September 30, 2024.
- The 90 day liquidation period ends December 29, 2024.

If the obligation is for -	The obligation is made
a) Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
b) Personal services by an employee of the State or subgrantee	When the services are performed.
c) Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
e) Public utility services	When the State or subgrantee receives the services
f) Travel	When the travel is taken
g) Rental of real or personal property	When the State or subgrantee uses the property
h) A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E - Cost Principles	On the first day of the grant or subgrant performance period

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# OBLIGATION & LIQUIDATIONS CLOSE OUTS

- LEAs should submit the ESSER II closeout reports as soon as possible to allow sufficient time for SDDOE to review and verify the allowability of the expenses.
- When you submit your closeout reports the LEA will need to upload in GMS review:
  - Account inquiry for EVERY fiscal year with expenditures.
  - Updated inventory and real property lists.
- If your LEA is not going to use all of your ESSER II funding, please let SDDOE know.
  - SDDOE may be able to reallocate to other LEAs to cover valid obligations.



# ESSER II LATE LIQUIDATIONS REQUESTS

- Obligation Extensions- NOT AVAILABLE
- Liquidation Extension – Up to 14 months possible with US ED approval.
  - ESSER II - March 31, 2025.
  - ESSER III – March 31, 2026
- Can only be requested for valid obligations incurred before the end of the grant's obligation period.
- States must submit requests to US ED on behalf of its LEAs.
- If you may need to request a late liquidation, let SDDOE know as soon as possible.

# LATE LIQUIDATION REQUESTS

- State Education Agencies must submit requests to US ED on behalf of its LEAs.
  - Verify the LEAs are “low risk” (as defined by the State).
  - Ensure that funds were obligated within the grant period.
  - Provide and maintain supporting documentation. (purchase orders, contracts, communications regarding delays)
  - Need reasonable justification, not just “ran out of time”.
  - What measures were taken to liquidate on time.
  - Must be a reasonable and necessary activity in response to COVID.

# PROCUREMENT WITH FEDERAL FUNDS

- Districts must use documented procurement procedures which reflect applicable State and local regulations, provided that the procurements conform to applicable Federal laws and the Uniform Grant Guidance 2 CFR § 200.318
- Districts must use the more restrictive of either the local, State, or Federal requirements.
  - Example: State rules requiring bidding equipment over \$50,000. Federal rules use Simplified Acquisition up to \$250,000.
  - In this case must follow State rules for equipment over \$50,000 and Federal rules under \$50,000
- To determine if State Rules are more restrictive please refer to:
  - **SD Local Government Guide For Acquisitions, Disposals And Exchanges-(Bid Booklet)**

# FEDERAL PROCUREMENT METHODS

- 2 CFR Part 200.320
- Micro-purchase – aggregate < \$10,000
- Small Purchase – up to \$250,000 - Simplified Acquisition threshold
  - Adequate Number of Quotes.
- Formal Procurement - sealed bids for purchases over \$250,000, or competitive proposals when sealed bids are not feasible
- Noncompetitive proposals – Single Source available (RARE)

## USING ANOTHER LEA'S OR PURCHASING AGENCY'S BID

- A purchase utilizing another entity's bid has to mirror a purchase from a contract that was "awarded" by the original bidding entity.
- Don't just take the Vendor's word for it.
- When purchasing utilizing another LEA's competitive sealed bid contract, documents such as the following should be obtained directly from the original bidding LEA prior to the purchase:
  - A copy of the specs;
  - A copy of the affidavit of publication;
  - A copy of the minutes containing the bid award;
  - A copy of the bid invitations.

# PURCHASING COOP EXAMPLE DOCUMENTS

- Verify Purchasing Cooperatives Documentation

## Documents

### Contract Documentation

[Contract](#)

### Competitive Solicitation Documentation

[Request for Proposal \(RFP\)](#)

[Proof of Publication](#)

[Proposal Opening Record](#)

[Proposal Evaluation](#)

[Comment & Review](#)

[Board Resolutions](#)

### Pricing Documentation

Information in this file is subject to change

[Contract 063020-BBB- Price Information](#)

# WHAT IF LEA DIDN'T FOLLOW PROCUREMENT REQUIREMENTS

- Activity or items purchased may be unallowable and require repayment.
- The LEA should do research to support what fair competitive market cost or price would have been at time of purchase.

# DAVIS BACON ACT REQUIREMENTS

- The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in **excess of \$2,000** for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.
- DBA applies to projects funded in whole or in part by federal funds.
- DBA applies to the installation of equipment purchased with federal funds even if the LEA uses nonfederal funds for the installation.



## DBA REQUIREMENTS FOR LEAS

- Ensure contract includes the Davis-Bacon Act provisions and determine prevailing wage rate schedule applicable.
- Include language in the contracts that all contractors or subcontractors must pay wages not less than the established prevailing wage rates.
- Ensure payroll records are received and worker's wages align with the prevailing wage rates.
- Confirm Davis-Bacon poster is displayed on job site where they can be easily seen by workers.

# DBA CORRECTIONS

- Collect back certifications and payroll records to determine if prevailing wages were paid.
- Amend the contract to incorporate DBA requirements retroactive to the beginning of the contract.
- Include wage determination and provide additional funds to contractor to flow through to employees if they were paid less than prevailing wage rates.
- Audit findings and failure to comply with DBA may require US Department of Labor involvement.

# EQUIPMENT MANAGEMENT

- An Inventory Management System is needed for all federally funded capitalized equipment.
  - Ex. floor scrubbers, buses, vans, kitchen, playground, etc.
- Items must be individually listed
- A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.
- *Equipment* means tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.



## ESSER EQUIPMENT USE

- Continue to use for original purpose authorized by ESSER until no longer needed for that purpose.
- Use the equipment for other federal programs under which the LEA participates. (ex. Title I or IDEA)
- If acquiring replacement equipment may use the trade in value towards the purchase of replacement equipment.
  - The LEA will need to recalculate the federal share and maintain inventory records for the replacement equipment.
- Inventory must be maintained until disposition.

## ESSER EQUIPMENT DISPOSITION >\$5000

- If no longer needed for ESSER or other Federal program purposes.
  - Equipment with a current per unit fair market value of more than \$5,000 may be retained or sold by the LEA.
  - In either case, the US Department of Education is entitled to an amount calculated by multiplying the current fair market value, or the proceeds from the sale, by the federal ESSER proportion of the cost of the original purchase.
  - The LEA should contact the SDDOE for disposition instructions for items with a fair market value exceeding \$5000.

# FIRST REAL PROPERTY REQUIREMENTS

- REAL PROPERTY – Buildings (including improvements) attached to the Land
  - Record the Federal interest in the title of the real property at the County offices.
  - Include a covenant in the title of the real property acquired in whole or in part with ESSER funds to assure nondiscrimination during the useful life.
  - Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency.
  - The SDDOE will be sending a template to LEAs that acquired real property.
  - Federal interest will still apply even if LEA fails to record it.

# REAL PROPERTY USE

- Uniform Grant Guidance Requirements in 2 CFR 200.311
  - Title – will vest in the LEA, subject to the conditions set forth
  - Use – the property will be used for the originally authorized purpose as long as needed for that purpose, during which time the LEA must not dispose of or encumber its title or other interests.
  - Disposition – When no longer needed for the originally authorized purpose, the LEA must obtain disposition instructions from the awarding agency.
    - Retain title after compensating the Federal agency for the property
    - Sell the property and compensate the Federal agency



# REAL PROPERTY REPORTING REQUIREMENT

- LEAs must report annually to the State Education Agency on the status of the real property for at least 15 years.
- Annual Report will ask for information such as:
  - Continued usage for original purpose
  - Property legal description and address
  - Required insurance coverage maintained
  - Condition of property

# ESSER PROGRAM MONITORING

- The SDDOE is required to monitor subrecipients. *2 CFR Part 200.332(d)*
- All Reimbursement Requests are monitored.
- Ensure that sub awards are used for authorized purposes, and in compliance with the program's requirements, Federal statutes and regulations
- Ensure expenditures are allowable and consistent with the approved application.
  - Subrecipients are expected to follow the activities and budgets in the application, as amended, that was approved.
- LEA's accounting records are reviewed to verify that expenditures reported match activities included in the approved application budget.

# ESSER MONITORING

- LEAs will be sent self risk assessments to complete and return to SDDOE.
- LEAs may be selected for additional desk or onsite monitoring reviews base on assessment of risk.
  - Risks - large awards, construction/HVAC projects, large equipment purchases, audit findings, prior experience, etc.
- Additional supporting documentation may be requested and reviewed for compliance issue
- LEAs may receive onsite visits to verify equipment inventory and real property improvement or acquisitions.
- Single Audit Act - Audit Reports come to SDDOE to review
  - SD DOE must issue a management decision on any findings related to programs it administers.

# QUESTIONS

