

ARP ESSER LIQUIDATION EXTENSION

FACT SHEET

APRIL 2024

The U.S. Department of Education (ED) has announced that it [will consider requests](#) to extend the timeline for liquidating American Rescue Plan (ARP) Elementary and Secondary School Emergency Relief (ESSER) funds “to ensure every possible resource is available to continue our collective work to address the pandemic’s impacts upon our students, schools, and families.” ED’s liquidation extension process is technical, nuanced and subject to a variety of legal and practical considerations, therefore, it may not be a viable option in all cases. CCSSO provides this document as a resource to summarize key considerations states may consider when evaluating whether to request an extension. This is not legal advice, and readers should not take any action based on the information in this document without first consulting legal counsel familiar with their circumstances.

- **A liquidation deadline does not extend the timeline for obligating ARP ESSER funds.** The last day to obligate ARP ESSER funds is September 30, 2024. This date was set by Congress, and ED does not have the authority to change it. This means states and their subgrantees may not use ARP ESSER funds to pay for contracts executed after that date, for work performed by an employee after that date, for travel taken after that date or for [any other transaction obligated](#) after that date.
- **Liquidation extensions are not automatic.** States must apply to ED for an extension for themselves and/or for their subgrantees. ED will grant an extension if warranted by the circumstances.
- **A liquidation extension might extend the timeline for receiving goods and delivering services under binding written contracts made by September 30, 2024, but there are issues to consider.**
 - **PERFORMANCE PERIOD.** Typically, grant-funded services must be delivered during a grant’s period of performance. ARP ESSER’s period of [performance ends on September 30, 2024](#),

but [ED advised](#) that states and subgrantees may continue to carry out properly obligated activities during the extended liquidation period. Some auditors have expressed concerns about this based on other [federal regulations](#), but [ED advised](#) it would not sustain an audit finding related solely to period of performance concerns where ED approved a liquidation extension.

- **STATE AND LOCAL RULES.** Many states and districts have procurement, budget and accounting rules that will affect their ability to contract for ongoing services past September 30, 2024. Liquidation extension requests must “[be consistent with all State, local, and federal spending rules.](#)”
- **CONTRACT CHANGES.** If a contractor cannot perform during the extended liquidation period, states and their subgrantees [cannot enter into new contracts with ARP ESSER](#) and the funds will lapse. In addition, it is unclear to what extent states and their subgrantees can modify contracts during the extended liquidation period.
- **The request process is complex and lengthy.** States must submit a [spreadsheet](#) to ED identifying the expenses that will be covered by the liquidation extension, what the expenses are for and why they cannot be liquidated on time. States must [attest](#) that, among other things, all the information and data in the request is complete and accurate and that each individual expense is allowable and timely obligated. States must also “[collect, review, and maintain all documentation to support](#)” the request. ED has [monitoring protocols](#) to verify state compliance with these requirements.
- **States and subgrantees may not use ARP ESSER funds to compensate employees during the extended liquidation period.** States and subgrantees will need to find alternate sources of funds to pay employees managing grant functions during the extended liquidation period.
- **The liquidation extension request process is distinct from prepaying contracts with ESSER funds.** A primary goal of extending the liquidation deadline is to give states and their subgrantees additional time to pay for ESSER services. Alternatively, [ED has suggested](#) that in very limited circumstances a state or subgrantee might be able to pay for services before the standard liquidation deadline and have those services delivered after the deadline. In that case, a liquidation extension would not be needed. For example, a state or subgrantee might pay the full cost of a software license before the standard liquidation deadline with services that continue for some period of time after the funds have been liquidated. Although ED suggested this could be allowable in limited circumstances if certain conditions are met, ED also cautioned that it is [generally poor practice to prepay for services](#) and that prepayment is subject to audit scrutiny.

FOR FURTHER INFORMATION

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