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## MEMORANDUM

TO: Superintendents and Business Managers  
FROM: Heather Bouchey, Interim Secretary of Education  
SUBJECT: ARP ESSER Liquidation Extension  
DATE: February 28, 2024

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### Purpose

The purpose of this memo is to provide LEAs with important considerations and an overview of the process to apply for ARP ESSER Liquidation Extension (ALN 84.425U) through the U.S. Department of Education (USED). The liquidation extension process allows LEAs to extend contracted services or the receipt of goods for up to 14 months after the September 30, 2024 deadline (final closeout date of March 28, 2026), as long as the LEA can provide evidence that:

1. a binding written contract or signed purchase order was made by ARP ESSER's obligation deadline of September 30, 2024;
2. the project relates to an allowable activity under ARP ESSER;
3. the additional time to liquidate funds is consistent with all State, local, and federal spending rules;
4. the LEA has received a low-risk determination from the Agency of Education (AOE); and
5. the LEA has received liquidation extension approval from USED.

It is the intention of the Agency of Education to support LEAs in submitting liquidation extension requests beginning in March and ending December 31, 2024.

**Please Note:** liquidation extension is only available for *contracted* goods and services. LEAs may not request liquidation extension for personal services performed by an employee (i.e. those that fall under Object Code 100 in the Uniform Chart of Accounts).

### Background and Overview of Liquidation Extension

To support maximization of ARP ESSER funds, the U.S. Department of Education, in [their FAQ guidance document for states](#), clarifies that:

*...it is the Department's longstanding approach that, under circumstances such as those related to the COVID-19 pandemic, for timely and allowable obligations, services and payments*



*associated with those services may extend through the end of the 120-day liquidation period and, upon request from a grantee, be approved for up to an **additional 14 months beyond this date**, provided a timely and valid obligation had been made pursuant to 34 C.F.R. § 76.707.*

In addition, USED has indicated that they are ready to begin receiving liquidation extension requests, "...as soon as data are available for submission."

## **Application Process**

Prior to March 31, 2024, the AOE will release a more detailed process guide for LEAs to seek approval for liquidation extension along with a simple webform to submit the required documentation. LEAs should be prepared to provide the following documentation for *each* project for which they are requesting liquidation extension:

1. Executed contract demonstrating that timely obligation was met (i.e. contract or purchase order was executed on or before September 30, 2024);
2. Amount of ARP ESSER funds being requested for liquidation extension;
3. Estimated timeline for completion of contracted services or receipt of goods and services;
4. Brief description justifying need for liquidation extension (e.g. unanticipated delay of goods and services and/or need to extension of services to ensure the acceleration of academic success for students, etc); and
5. A brief narrative description of how the request for liquidation extension, "...contributes to the acceleration of academic success for students, including those furthest from opportunity and with the greatest need" ([ARP Liquidation Extension Letter 1.9.24](#)).

USED has specifically requested that LEAs identify liquidation extension request activities aimed at increasing daily student attendance; providing high-quality tutoring; and increasing access to before, after, and summer learning and extended learning time. However, USED has confirmed that this should not be interpreted as limiting the activities that they will approve for liquidation extension.

In addition to the specific activities identified in the previous paragraph, the LEA narrative might also include descriptions of how the liquidation extension will serve, "... other activities that contribute to academic success," including, but not limited to:

- Providing counseling services to address mental health needs;
- Offering professional development and coaching to educators to build math and literacy instructional capacity; or
- Making targeted improvements to school infrastructure, including HVAC investments, to enhance indoor air quality and environmental safety that keep students healthy in school.

The AOE is required by USED to first complete a risk assessment of LEAs or other subrecipients and cannot submit those determined to be at high-risk for liquidation

extension. The AOE intends to use a multi-factor approach to risk determination including:

- Low risk determination during the AOE pre-award risk determination for FY24. Low risk is defined by either level below high risk.
- Low risk determination in the entity's most recent completed single audit as submitted to the Federal Audit Clearinghouse.
- Monitored in the prior three (3) fiscal years with no findings or operating with an approved corrective action plan

**Please Note:** If an LEA is concerned that they may receive a high-risk determination, the AOE strongly recommends that they request a risk determination *prior* to entering into any obligation of ARP ESSER funds that extend beyond the period of performance ending September 30, 2024. This request can be made by contacting [Kate Horton](#).

## Considerations for LEAs

The AOE has identified that the review process required by USED for liquidation extension is misaligned with LEAs' normal grants management practices and the Agency has signaled these issues and has asked for clarification from USED.

To ease some of the concerns that states have raised, USED has stated that, "...the Department would not sustain an audit finding related solely to the continuation of services beyond the carryover period under an approved COVID-relief funding liquidation extension, so long as funds were used consistent with prudent business practices and internal controls for an allowable, reasonable and necessary, and timely-obligated project in the context of State and local procurement rules that permit it," ([U.S. Department of Education General and Technical Frequently Asked Questions \(FAQs\) for CARES ESSER, CARES GEER, CRRSA ESSER, CRRSA GEER, CRRSA EANS, ARP ESSER, and ARP EANS Liquidation Extension Requests](#)).

The AOE also positively affirms that it would not issue state level audit and monitoring findings that meet the requirements outlined above and that LEAs will receive technical support from the AOE should their auditors require clarification on the liquidation process and requirements.

To support LEAs in deciding whether to seek a liquidation extension request, the AOE has identified some key points of consideration in the forthcoming Process Guide and Considerations for ARP ESSER Liquidation Extension.

**Please Note:** The AOE will offer technical assistance to LEAs throughout the review and approval process, but any decisions regarding contract obligations or determination of risk should be made in consultation with LEA legal counsel.

## Next Steps

LEAs should evaluate both their unobligated and obligated ARP ESSER funds to determine whether they will:

- need a liquidation extension because they will be unable to complete their planned activities by September 30, 2024 due to delays in the delivery of contracted services or goods; or
- have specific programs or activities that, "...contributes to the acceleration of academic success for students, including those furthest from opportunity and with the greatest need" and would benefit students through a liquidation extension.

LEAs should consult with their legal counsel and/or auditors, as appropriate, to discuss any additional risks or other considerations and make updates to their ARP ESSER LEA plans in the case that significant changes in ARP ESSER investments are planned.

The AOE plans to submit liquidation extensions on a quarterly basis beginning March 31, 2024 and will release additional guidance and the submission webform by mid-March. In addition, LEAs can expect an overview presentation of this process and considerations in mid-March and additional technical assistance through office hours will be offered through the remainder of 2024.

Questions regarding the liquidation process should be directed to Kate Horton at [katherine.horton@partner.vermont.gov](mailto:katherine.horton@partner.vermont.gov).