

School Construction Project - CARES, CRRSA, and APR ESSER

Definition of School Construction Project from Maine state statute:

"School construction project" means:

- On-site additions to existing schools;
- New schools;
- The cost of land acquired in conjunction with projects otherwise defined by this subsection;
- The building of or acquisition of other facilities related to the operation of school administrative units;
- The complete restoration of existing school buildings in lieu of replacement when in the judgment of the commissioner the action is in the best interest of the State and local unit;
- Off-site construction only if, in the judgment of the commissioner, it is economically in the best interests of the State or there is no other practical way to complete a project.

"School construction project" does not mean the purchase, lease-purchase or construction of portable temporary classroom space, as defined in section 15672, subsection 21-B, the lease-purchase of bus garage and maintenance facilities or a permanent space lease-purchase project as defined in Maine Revised Statute, Title 20-A, Section 15901, subsection 4-B.

Retrieved at <https://www.mainelegislature.org/legis/statutes/20-A/title20-Asec15901.html>

Definition of School Construction Project from US CODE:

(3) Construction, the term "construction" means—

- (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), 20 U.S.C. § 7713(3)

<https://www.govinfo.gov/content/pkg/USCODE-2010-title20/html/>

Contact Karen Kusiak at karen.kusiak@maine.gov (mailto:karen.kusiak@maine.gov) or 207-592-2499 if you have questions about this School Construction Project form.

* Required

Information about the School Construction Project and SAU

1.Name and Address of school facility the SAU is proposing to construct: *

2.Name of SAU contact person for the project: *

3. Email address of SAU contact for the project: *

- 4. Phone number of SAU contact for the project: *
- 5. Proposed amount of funding from CARES, ESSER I *
- 6. Proposed amount of funding from CRRSA, ESSER II: *
- 7. Proposed amount of funding from ARP, ESSER III: *

State and Local Approval

Approval process for nonstate funded projects; requirements from Maine statute:

- 1. Approval authority. The commissioner must approve each nonstate funded project.
- 2. Rules. The commissioner may adopt or amend rules relating to the approval of nonstate funded projects.
- 3. Local vote. Prior to approval by the commissioner, each nonstate funded project, except a municipal school construction project pursuant to subsection 4, must receive a favorable vote in accordance with section 15904, except that section 15904, subsection 4 does not apply.
- 4. Municipal schools. In a municipal school unit where the responsibility for final adoption of the school budget is vested in the municipal council by municipal charter, a nonstate funded project may be approved without a referendum vote if the charter does not require a referendum.

Maine Revised Statute, Title 20-A, Section 15905-A.

<https://www.mainelegislature.org/legis/statutes/20-A/title20-Asec15905-A.html>

- 8. Please provide information about the steps the SAU took to obtain the approval of the Commissioner and local voters or municipal officials. Include dates of pertinent letters and of any votes. *

Response

Federal Guidance for School Construction Project with ESSER Funds

The US Department of Education published a Frequently Asked Questions document regarding the use of ARP ESSER funds. Section B-6 in the FAQ document addresses the use of funds for construction. The URL for the ESSER/GEER FAQ document is at the end of this section of the form.

B-6. May ESSER and GEER funds be used for construction?

Yes. Construction is authorized under Title VII of the ESEA (Impact Aid) and therefore is an allowable use of GEER and ESSER funds under sections 18002(c)(3) and 18003(d)(1) of the CARES Act, sections 312(c)(3) and 313(d)(1) of the CRRSA Act, and section 2001(e)(2) of the ARP Act. The broad Impact Aid definition of “construction” includes new construction as well

as remodeling, alterations, renovations, and repairs under which many activities related to COVID-19 would likely fall. However, the [US] Department discourages LEAs from using ESSER and GEER funds for new construction because this use of funds may limit an LEA's ability to support other essential needs or initiatives. Remodeling, renovation, and new construction are often time consuming, which may not be workable under the shorter timelines associated with ESSER and GEER funds. These types of activities are also subject to a number of additional Federal requirements, as detailed below. While construction is generally allowable, it is the responsibility of a Governor, SEA, LEA, or other subgrantee to assure that individual costs:

- comply with the Cost Principles in 2 CFR Part 200, subpart E (e.g., the cost must be “necessary and reasonable” (2 CFR §§ 200.403-200.404));
- meet the overall purpose of the CARES Act, CRRSA Act, or ARP Act programs, which is “to prevent, prepare for, and respond to” COVID-19; and
- are consistent with the proper and efficient administration of those programs.

Under these general principles, any construction activities, including renovations or remodeling, that are necessary for an LEA to prevent, prepare for, and respond to COVID-19 could be permissible, though the burden remains on grantees and sub-grantees to maintain the appropriate documentation that supports the expenditure. As noted above, an LEA using ESSER or GEER funds for remodeling, renovation, and new construction must comply with additional federal requirements. For example, these projects require prior written approval by an LEA's Governor or SEA (or the Department for State projects). (See Title VII of the ESEA and 2 CFR §200.439(b).) Approved construction projects (i.e., remodeling, renovation, and new construction) also must comply with applicable Uniform Guidance requirements, Davis-Bacon prevailing wage requirements, and all of the Department's applicable regulations regarding construction at 34 CFR §§ 76.600 and 75.600-75.618. Some of the relevant part 75 requirements that must be considered before a new construction project is initiated include items 1-8 in B.6 and are addressed in the assurances in Section 4 of this form.

Source: ESSER/GEER FAQ, US Department of Education, May 26, 2021
https://oese.ed.gov/files/2021/05/ESSER.GEER_.FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff9_53260028045f9ef3b18ea602db4b32b1d99.pdf

9. Our SAU has and will maintain appropriate documentation that supports expenditures for the proposed School Construction Project including Davis-Bacon prevailing wage requirements. (34 CFR §§ 76.600 and 75.600-75.618) *

- Yes
- No

Assurances

The following assurances are from section B.6. of ESSER/GEER FAQ, US Department of Education, May 26, 2021

10. Has the SAU completed an environmental impact assessment before initiating the construction and fully considered any potential environmental ramifications before proceeding with the project? (B.6, 1.) (34 CFR § 75.601) *

- Yes
- No

11. Has the SAU considered the probable effects of proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Register of Historic Places? (B.6, 2.) (34 CFR § 75.602) *

- Yes
- No

12. Does the SAU have title or other interest in the site, including right of access, that is sufficient to ensure that the grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer? (B.6, 3.) (34 CFR § 75.603) *

- Yes
- No

13. Can the SAU complete the approved construction in a reasonable time period and have the final plans been approved before the construction is advertised or placed on the market for bidding? (B.6, 4.) (34 CFR § 75.605); *

- Yes
- No

14. Can a grantee complete the project in a reasonable time period and consistent with the approved plans and specifications? (B.6, 5.) (34 CFR § 75.606)

*Note: Any expenses after September 30, 2022 cannot be invoiced in CARES ESSER funding, expenses after September 30, 2023 cannot be invoiced in CRRSA ESSER, and any expenses after September 30, 2024 cannot be invoiced in ARP ESSER. **

- Yes
- No

15. Did the SAU procure a qualified individual or firm, for example a licensed architect or professional engineer, through a Request for Qualifications Process (RFQ)? *

- Yes
- No

16. Is the construction functional, economical, and not elaborate in design or extravagant in the use of materials as compared to other facilities in the State or other applicable geographic area? (B.6, 6.) (34 CFR § 75.607) *

- Yes
- No

17. Explain how the SAU determined that the proposed school construction project is functional, economical, and not elaborate in design or extravagant in the use of materials: *

- Yes

No

18. Do the SAU's plans and designs for the facilities comply with applicable Federal, State and local health and safety standards and codes, as well as Federal requirements regarding access by persons with disabilities? (B.6, 7.) (34 CFR §§75.609 and 75.610) *

Yes

No

19. Does the SAU have sufficient operational funds to operate and maintain the facility once the construction is complete and will the SAU operate and maintain the facility in accordance with all applicable Federal, State, and local requirements? (B.6, 8.) (34 CFR §§ 75.614 and 75.615) *

Yes

No

20. Explain how the SAU will maintain the facility and/or has the support of the community to continue the maintenance of the facility. *

Response

21. Optional: Add any notes about the school construction project below:

Response
