

DEPARTMENT OF EDUCATION

CFDA 84.425 EDUCATION STABILIZATION FUND UNDER THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT

PROGRAM INTRODUCTION

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), passed March 25, 2020, includes \$30.75 billion for an Education Stabilization Fund (ESF) to prevent, prepare for, and respond to coronavirus, domestically or internationally. For purposes of this document, the ESF includes the Governor’s Emergency Education Relief (GEER) Fund, the Elementary and Secondary School Emergency Relief Fund (ESSER Fund), the Education Stabilization Fund–State Educational Agency (ESF-SEA), and the Education Stabilization Fund–Governors (ESF-Governor) further defined in Section 1. The CARES Act ESF also authorized the Higher Education Emergency Relief Fund (HEERF) program, which is addressed in Section 2 of the compliance supplement addendum. Each grant award type (denoted by separate CFDA alpha) has specific funding requirements, as described further below.

This program is divided into grant types or subprograms designated by letters (84.425A–84.425P). The subprograms are further grouped into two sections. Section 1 comprises those governed by the ESF and Section 2 comprises those governed by the HEERF. The table below shows the names and number of the subprograms and the respective section to which compliance guidance applies. In addition, there are three subprograms (84.425B, 84.425G, and 84.425P) for which neither fund applies. Instructions for these three programs follow the table.

CFDA No.	Program Name
ESF	See Section 1 (ESF) for compliance requirements and auditor guidance. See also other information below this table.
84.425A	Education Stabilization Fund–State Educational Agency (Outlying Areas) (ESF-SEA)
84.425C	Governor’s Emergency Education Relief (GEER) Fund
84.425D	Elementary and Secondary School Emergency Relief (ESSER) Fund
84.425H	Education Stabilization Fund–Governors (Outlying Areas) (ESF-Governors)
HEERF	See Section 2 (HEERF) for compliance requirements and auditor guidance. See also other information below this table.
84.425E	Higher Education Emergency Relief Fund (HEERF) Student Aid Portion
84.425F	HEERF Institutional Portion
84.425J	HEERF Historically Black Colleges and Universities (HBCUs)
84.425K	HEERF Tribally Controlled Colleges and Universities (TCCUs)
84.425L	HEERF Minority Serving Institutions (MSIs)
84.425M	HEERF Strengthening Institutions Program (SIP)
84.425N	HEERF Fund for the Improvement of Postsecondary Education (FIPSE) Formula Grant
Not Applicable	Neither Section 1 nor Section 2 include discussion of this program. See other information below this table.
84.425B	Discretionary Grants: Rethink K-12 Education Models Grants
84.425G	Discretionary Grants: Reimagining Workforce Preparation Grants
84.425P	Institutional Resilience and Expanded Postsecondary Opportunity

IV. Other Information

Funds under the ESF were distributed using an alpha character at the end of the CFDA number to delineate the specific program(s) being provided to recipients and compliance requirements vary among programs. Some recipients will have received and expended funds under multiple programs. For major program purposes, auditors must evaluate 84.425 in its entirety. However, this ESF portion of the Supplement addendum is broken down into two sections. For testing purposes, auditors must consider the guidance in Section 1 for CFDA numbers 84.425 A, C, D, and H and Section 2 for CFDA numbers 84.425 E, F, J, K, L, M, and N.

Expenditures under CFDA 84.425 B and G are not subject to audit this year.

When there are expenditures under CFDA 84.425 P, auditors must refer to Part 7 of this Supplement, “Guidance for Auditing Programs Not Included In This Compliance Supplement” and the “Notice Inviting Applications” for this program and grant documents.

When these suffixes or programs are not clearly identified, the auditor will need to determine which program funds were expended through review of grant documents and inquiry of the auditee or grant/subgrant source agency.

While for major program determination purposes 84.425 is evaluated based on the total amount of ESF expenditures, for purposes of SEFA reporting recipients should identify the individual program(s) the funds were expended under, including each separate CFDA with the applicable alpha character. A total for the ESF in its entirety should also be provided.

SECTION 1 – EDUCATION STABILIZATION FUND (ESF)

CFDA 84.425A EDUCATION STABILIZATION FUND – STATE EDUCATIONAL AGENCY (OUTLYING AREAS)

CFDA 84.425C GOVERNOR’S EMERGENCY EDUCATION RELIEF FUND

CFDA 84.425D ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND

CFDA 84.425H EDUCATION STABILIZATION FUND – GOVERNORS (OUTLYING AREAS)

I. PROGRAM OBJECTIVES

For each of these ESF programs, a recipient submitted a unique application in the form of a Certification and Agreement for Funding applicable to the program (see “Source of Governing Requirements”). ESF grant awards were made in late spring and early summer 2020; accordingly, this compliance supplement addendum covers only a brief period for most recipients.

The objective of the GEER Fund is to provide local educational agencies (LEAs), institutions of higher education (IHEs), and other education-related entities with emergency assistance as a result of Novel Coronavirus Disease 2019 (COVID-19).

The objective of the ESSER Fund is to provide state educational agencies (SEAs) and LEAs, including charter schools that are LEAs, with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

The objective of the ESF-SEA and ESF-Governor Funds is to allocate funds to the Outlying Areas—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands—for the purpose of providing SEAs, LEAs, IHEs, and other education-related entities with emergency assistance to address the impact of COVID-19.

II. PROGRAM PROCEDURES

Under the GEER Fund, the US Department of Education (ED) allocates funds to governors as well as the mayor of the District of Columbia of 60 percent based on each state’s population of individuals ages 5 through 24 and 40 percent based on the number of children counted under section 1124(c) (indicators of poverty) of the Elementary and Secondary Education Act of 1965 (ESEA). The governor uses GEER funds to (1) provide emergency support through grants to LEAs that the SEA deems to have been most significantly impacted by COVID-19; (2) provide emergency support through grants to IHEs serving students within the state that the governor determines have been most significantly impacted by COVID-19; and (3) provide support to any other IHE, LEA, or education-related entity within the state that the governor deems essential for carrying out emergency educational services. In order to receive GEER funds, a governor must submit to ED a completed “Certification and Agreement.”

Under the ESSER Fund, ED allocates funds to an SEA by a formula based on the state's fiscal year (FY) 2019 share of Title I, Part A (84.010) funds under the ESEA. An SEA, in turn, allocates ESSER funds to LEAs by formula based on FY 2019 Title I, Part A allocations. In order to receive ESSER funds, an SEA must submit to ED a completed "Certification and Agreement."

Under the ESF-SEA Fund, ED allocates funds to SEAs in the Outlying Areas based on the same proportion that each Outlying Area received under Title I, Part A in the most recent fiscal year. By statute, ED used this same formula to make allocations to states under the ESSER Fund. In order to receive ESF-SEA funds, an SEA must submit to ED a completed "Certification and Agreement."

Under the ESF-Governor Fund, ED allocates funds to governors in the Outlying Areas of 60 percent based on population ages 5 to 24 and 40 percent based on the relative number of children counted under section 1124(c) (indicators of poverty) of the ESEA. By statute, ED used this same formula to make allocations to governors under the GEER Fund. In order to receive ESF-Governor funds, a governor must submit to ED a completed "Certification and Agreement."

Source of Governing Requirements

These programs are authorized by the CARES Act, Pub. L. 116-136, 134 Stat. 281 (Mar. 27, 2020). The regulations in 34 CFR Part 76 (State-Administered Programs), 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and 31 CFR Part 205 (Cash Management Improvement Act) apply to these programs.

Additionally, the certification and agreements each SEA or governor completed and signed prior to receiving a grant award also form the basis of the governing requirements for this program:

1. Certification and Agreement for Funding under the Education Stabilization Fund Program Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (<https://oese.ed.gov/files/2020/04/ESSERF-Certification-and-Agreement-2.pdf>)
2. Certification and Agreement for Funding under the Education Stabilization Fund Program Governor's Emergency Education Relief Fund (GEER Fund) (<https://oese.ed.gov/files/2020/04/GEER-Certification-and-Agreement.pdf>)
3. Certification and Agreement for Funding under the Education Stabilization Fund-State Educational Agency Fund (ESF-SEA) (<https://oese.ed.gov/files/2020/05/SEA-ESF-OA-Certification-and-Agreement.pdf>)
4. Certification and Agreement for Funding under the Education Stabilization Fund-Governors Fund (ESF-Governor Fund) (<https://oese.ed.gov/files/2020/05/Governors-ESF-OA-Certification-and-Agreement.pdf>)

Availability of Other Program Information

A number of documents posted on ED’s website provide clarity regarding the GEER Fund, ESSER Fund, ESF-SEA Fund, and ESF-Governor Fund requirements in this Compliance Supplement. They include:

1. Frequently Asked Questions about the Governor’s Emergency Education Relief Fund (GEER Fund) (<https://oese.ed.gov/files/2020/05/FAQs-GEER-Fund.pdf>)
2. Frequently Asked Questions about the Elementary and Secondary School Emergency Relief Fund (ESSER Fund) (<https://oese.ed.gov/files/2020/05/ESSER-Fund-Frequently-Asked-Questions.pdf>)
3. Frequently Asked Questions – Education Stabilization Fund-State Educational Agency (ESF-SEA) (<https://oese.ed.gov/files/2020/09/ESF-SEA-Final-FAQs.pdf>)
4. Frequently Asked Questions – Education Stabilization Fund-Governors (ESF-Governor) (<https://oese.ed.gov/files/2020/09/ESF-Governor-Final-FAQs.pdf>)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	Y	N	N	N	Y	Y	N

A. Activities Allowed or Unallowed

See Part 3, Section A, “Activities Allowed or Unallowed” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

Governors and SEAs must demonstrate that costs incurred by governors, SEAs, and subrecipients are allowable under the relevant statutory provisions and Certification and Agreement, and consistent with the purpose of the ESF, which is “to prevent, prepare for, and respond to COVID-19.” The Outlying Areas must ensure that expenditures under ESF-SEA and ESF-Governor are consistent with the allowable uses of funds set forth in the signed Certification and Agreement.

GEER Fund

Under section 18002(c) of the CARES Act, GEER funds may be used to:

1. Provide emergency support through grants to LEAs that the SEA deems have been most significantly impacted by coronavirus to support the ability of such LEAs to continue to provide educational services to their students and to support the on-going functionality of the LEA;
2. Provide emergency support through grants to IHEs serving students within the state that the governor determines have been most significantly impacted by coronavirus to support the ability of such institutions to continue to provide educational services and support the on-going functionality of the institution; and
3. Provide support to any other institution of higher education, LEA, or education-related entity within the state that the governor deems essential for carrying out emergency educational services to students for authorized activities described in section 18003(d)(1) of the CARES Act or the HEA, the provision of child care and early childhood education, social and emotional support, and the protection of education-related jobs.

ESSER Fund

As described in the Earmarking section, each state must allocate not less than 90 percent of ESSER grant funds section as subgrants to LEAs (including charter schools that are LEAs).

Under section 18003(d), LEAs may use ESSER funds to support:

1. Any activity authorized by the ESEA of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act (20 USC 6301 et seq.), the Individuals with Disabilities Education Act (20 USC 1400 et seq.) (“IDEA”), the Adult Education and Family Literacy Act (20 USC 1400 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 et seq.) (“the Perkins Act”), or subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 USC 11431 et seq.).

2. Coordination of preparedness and response efforts of LEAs with state, local, tribal, and territorial public health departments and other relevant agencies to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.
3. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
4. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of LEAs.
6. Training and professional development for staff of the LEA on sanitation and minimizing the spread of infectious diseases.
7. Purchasing supplies to sanitize and clean the facilities of an LEA, including buildings operated by such agency.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the IDEA (20 USC 1401 et seq.), and how to ensure other educational services can continue to be provided consistent with all federal, state, and local requirements.
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the LEA that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.
10. Providing mental health services and supports.
11. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
12. Other activities that are necessary to maintain the operation of and continuity of services in LEAs and continuing to employ existing staff of the LEA.

B. Allowable Costs/Cost Principles

See Part 3, Section B, “Allowable Costs/Cost Principles” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

1. For ESSER and ESF-SEA, auditors should refer to the Cost Principles for States, Local Governments, and Indian Tribes.
2. For GEER and ESF-Governor Funds auditors will be required to examine how each respective governor allocated the funds to subrecipients to determine which cost principles apply for each subrecipient, as governors may award funds to states, local governments and Indian tribes, educational institutions or nonprofits.
3. For all ESF funds, auditors should note that SEAs, LEAs, IHEs, and other subrecipients will not need to maintain time distribution records. The requirements in the Uniform Guidance apply to expenditures of ESSER funds, including the requirements related to documenting personnel expenses in 2 CFR section 200.430(i). This would mean, for example, that an LEA maintains the records it generally maintains for salaries and wages, including for employees in leave status as permitted under CARES Act Section 18003(d)(12), except that an LEA must maintain time distribution records (sometimes called “time and effort” reporting) if an individual employee is splitting their time between activities that may be funded under ESSER or GEER and activities that are not allowable under ESSER or GEER. However, there are very few situations when an employee of an LEA would perform multiple activities that are not allowable under ESSER or GEER, and thus would be required to maintain time distribution records, given that an LEA is authorized to use funds on “activities that are necessary to maintain the operation of and continuity of services in [an LEA] and continuing to employ existing staff of the [LEA]” in order to “prevent, prepare for, and respond to” the COVID-19 pandemic (Section 18003(d)(12)).

CARES Act Section 18003(d)(12) authorizes grantees to continue to pay employees and Section 18002(c)(3) allows LEAs, SEAs, IHEs, and other subrecipients to use funds to protect education-related jobs; the authority includes paying staff who are on leave because schools are closed due to COVID-19. Accordingly, ESSER and GEER funds may be used for that purpose even in the absence of a policy that specifically addresses these circumstances.

C. Cash Management

See Part 3, Section C, “Cash Management” for any ED program in which the entity being audited is a subrecipient (i.e., federal funds are received through a pass-through grant from a grantee).

See Part 3, Section C, “Cash Management” and this section when the entity being audited is a governor and his or her designated state agency or an SEA (this includes the Outlying Areas).

US Department of the Treasury (Treasury) regulations at 31 CFR Part 205 implement the Cash Management Improvement Act of 1990 (CMIA), as amended (Pub. L. No. 101-453; 31 USC 6501 et seq.). Subpart A of those regulations requires state recipients to enter into Treasury-state agreements that prescribe specific methods of drawing down federal funds (funding techniques) for federal programs listed in the Catalog of Federal Domestic Assistance that meet the funding threshold for a major federal assistance program under the CMIA. Treasury-state agreements also specify the terms and conditions under which an interest liability would be incurred. It is unlikely that these Education CARES Act programs will have been incorporated into Treasury-state agreements for the time period covered by this addendum. Programs not covered by a Treasury-state agreement are subject to procedures prescribed by Treasury in Subpart B of 31 CFR Part 205, which at 31 CFR section 205.33(a) include the requirement for a state to minimize the time between the drawdown of federal funds and their disbursement for federal program purposes, described in greater detail below.

A state must minimize the time between the drawdown of federal funds from the federal government and their disbursement for federal program purposes. A federal program agency must limit a funds transfer to a state to the minimum amounts needed by the state and must time the disbursement to be in accord with the actual, immediate cash requirements of the state in carrying out a federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a state's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs.

F. Equipment/Real Property Management

See Part 3, Section F, "Equipment/Real Property Management" for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

Consistent with 2 CFR section 200.311 (real property), section 200.313 (equipment), and section 200.439 (equipment and other capital expenditures) ESF funds may be used to purchase equipment. Capital expenditures for general and special purpose equipment purchases are subject to prior approval by ED or the pass-through entity. In addition, with prior approval by the ED or the pass-through entity, recipients and subrecipients may use GEER or ESSER funds to purchase real property and perform construction for improvements to land, buildings, or equipment that meet the overall purpose of the ESF program, which is "to prevent, prepare for, and respond to" the COVID-19 pandemic.

If governors, SEAs, and or subrecipients propose to use GEER or ESSER ESF funds for construction they must also comply with applicable requirements in 34 CFR section 76.600 and 34 CFR sections 75.600–617. Approved construction projects must comply with all other applicable Uniform Guidance requirements, as well as the ED's regulations regarding construction, as applicable, at 34 CFR section 76.600. As is the case with all construction contracts using laborers and mechanics financed by federal education funds, recipients and subrecipients that use ESSER or GEER funds for construction contracts over \$2,000 must meet Davis-Bacon prevailing wage requirements. For information

about the prevailing wages in the applicable region, see the Department of Labor (DOL) regional office: <https://www.dol.gov/agencies/whd/government-contracts/construction/regions>.

Any purchases with ESF funds in this category are subject to applicable inventory control, log maintenance, and disposition requirements consistent with Part 3, Section F, “Equipment/Real Property Management” of the August 2020 Compliance Supplement.

Auditors should determine whether governors, SEAs, and/or subrecipients received prior approval for capital expenditures for equipment acquisition or improvements to land, buildings, or equipment.

1. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the governor or SEA must receive prior approval from ED.
2. For capital equipment or improvements to land, buildings, or equipment that were purchased with grant funds, the governor or SEA pass-through agency must provide prior approval to subrecipients.
3. For construction, the pass-through entity must have considered applicable ED construction requirements as part of the pass-through entity’s prior approval process for construction. For example, if an LEA proposed renovating a school building to increase the filters or ventilation to its HVAC system, did the pass-through entity appropriately ensure compliance with applicable construction regulations (such as 34 CFR 75.609 (Safety and Health standards) and 75.616 (Energy Conservation))?

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Program in this Supplement to which this section applies is ESSER Fund (84.425D)

An SEA must allocate at least 90 percent of the ESSER funds it receives to LEAs in proportion to the amount of funds such LEAs received under Title I, Part A (84.010) of the ESEA during the 2019–2020 school year. An SEA may reserve no more than half of one percent of its total allocation for administrative costs. It may reserve the remaining funds not allocated to LEAs or reserved for

administrative costs for emergency needs as determined by the SEA to address issues responding to COVID-19 (Section 18003(c), (e) of the CARES Act).

L. Reporting

1. Financial Reporting

Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

a. Federal Funding Accountability and Transparency Act (FFATA)

Under the requirements of the FFATA (Pub. L. No. 109-282) (Transparency Act) that are codified in 2 CFR Part 170, recipients (i.e., direct recipients) of grants or cooperative agreements who make first-tier subawards of \$30,000 or more are required to register in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) and report subaward data through FSRS. Information input to FSRS is available at USASpending.gov as the publicly available website for viewing this information (<https://www.usaspending.gov/search>).

Auditors are to review the compliance of the recipient with the reporting requirements of 2 CFR part 170 and the accuracy of the amount reported by the recipient in FSRS against data in the recipient's accounting system.

b. Annual Reporting

Not Applicable

M. Subrecipient Monitoring

See Part 3, Section M, "Subrecipient Monitoring" for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

SECTION 2 – HIGHER EDUCATION EMERGENCY RELIEF FUND (HEERF)**CFDA 84.425E HIGHER EDUCATION EMERGENCY RELIEF FUND (HEERF)
STUDENT AID PORTION****CFDA 84.425F HEERF INSTITUTIONAL PORTION****CFDA 84.425J HEERF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES
(HBCUs)****CFDA 84.425K HEERF TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES
(TCCUs)****CFDA 84.425L HEERF MINORITY SERVING INSTITUTIONS (MSIs)****CFDA 84.425M HEERF STRENGTHENING INSTITUTIONS PROGRAM (SIP)****CFDA 84.425N HEERF FUND FOR THE IMPROVEMENT OF POSTSECONDARY
EDUCATION (FIPSE) FORMULA GRANT****I. PROGRAM OBJECTIVES**

The objective of the Higher Education Emergency Relief Fund (HEERF) program is to use HEERF grant funds to “prevent, prepare for, and respond to coronavirus” through grants to eligible institutions. Each grant award type (denoted by separate CFDA alpha) has specific funding requirements, as described below.

II. PROGRAM PROCEDURES**Overview**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) appropriated \$2.2 trillion to provide economic aid to the American people negatively impacted by the COVID-19 pandemic. Of that money, approximately \$14 billion was given to the Office of Postsecondary Education as the HEERF.

The HEERF program has several different methods for the distribution of the approximately \$14 billion in funds to eligible IHEs based on a student enrollment formula and institution status:

- Ninety percent (\$12.56 billion) under Section 18004(a)(1) of the CARES Act to institutions using a formula based on student enrollment, in which at least 50 percent must be reserved to provide students with emergency financial aid grants to help cover expenses related to the disruption of campus operations due to coronavirus (the “Student Aid Portion,” CFDA 84.425E) and the remainder of which may be used to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus (the “Institutional Portion”; CFDA 84.425F). Of this 90 percent, the funds are distributed to eligible institutions as follows:

- 75 percent according to the relative share of full-time equivalent enrollment of Federal Pell Grant recipients who are not exclusively enrolled in distance education courses prior to the coronavirus emergency; and
 - 25 percent according to the relative share of full-time equivalent enrollment of students who were not Federal Pell Grant recipients who are not exclusively enrolled in distance education courses prior to the coronavirus emergency.
- A total of 7.5 percent (\$1.05 billion) under Section 18004(a)(2) of the CARES Act for grants for Historically Black Colleges and Universities (HBCUs), Tribally Controlled Colleges and Universities (TCCUs), and other Minority Serving Institutions (MSIs) as well as other institutions eligible for the Strengthening Institutions Program (SIP) under parts A and B of title III, parts A and B of title V, and subpart 4 of part A of title VII of the Higher Education Act of 1965, as amended (HEA), to address needs directly related to the coronavirus (CFDAs 84.425J, 84.425K, 84.425L, and 84.425M). This 7.5 percent is distributed based on the relative share of funding appropriated under the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94).
 - A total of 2.5 percent (\$349 million) under Section 18004(a)(3) of the CARES Act for additional funds for institutions under Part B of title VII of the HEA, through the Fund for the Improvement of Postsecondary Education (FIPSE), to prioritize schools that received less than \$500,000 under other parts of Section 18004 by distributing funds in an amount that, when added to funds received under Section 18004(a)(1) and Section 18004(a)(2), brings each institution eligible to receive funds through the FIPSE program to an award amount of \$500,000 (CFDA 84.425N).

In order to notify each institution of the eligibility for funding, and the allocation amount they could apply for under each CFDA, the US Department of Education (ED) published lists of eligible institutions and their allocation amounts based on the formulas provided in each HEERF program. While, generally, all institutions were eligible to receive funding under the Student Aid Portion (CFDA 84.425E) and the Institutional Portion (CFDA 84.425F), some institutions also received awards under the funding streams in sections 18004(a)(2) and 18004(a)(3), depending on their eligibility under other HEA grant programs, the composition of their student body, and whether the total amount of HEERF funding received by the institution would otherwise have been less than \$500,000.

Finally, ED also anticipates that institutions have applied under Section 18004(a)(1) will also later receive a redistribution of unclaimed Section 18004(a)(1) funds in October 2020 as a supplement to their existing HEERF grants. For more information regarding the Reserve redistribution, please see ED's Section 18004(a)(1) reserve website here:

<https://www2.ed.gov/about/offices/list/ope/heerfreserve.html>.

Source of Governing Requirements

The main source of governing requirements is the CARES Act statute, Pub. L. No. 116-136 (March 27, 2020).

In addition to the required [SF-424 form](#), a completed Certification and Agreement was the application used to award HEERF funds under each CFDA alpha. The certification and agreements also help form the basis of the governing requirements for this program:

1. [\(a\)\(1\) Student Aid Portion Certification and Agreement](#) (CFDA 84.425E)
2. [\(a\)\(1\) Institutional Portion Certification and Agreement](#) (CFDA 84.425F)
3. [\(a\)\(2\) Programs Certification and Agreement](#) (used for all (a)(2) programs; CFDA 84.425J, 84.425K, 84.425L, and 84.425M)
4. [\(a\)\(3\) FIPSE Formula Certification and Agreement](#) (CFDA 84.425N)
5. (a)(1) Reserve redistribution:
 - a. [Student Certification and Agreement](#) (CFDA 88.425E)
 - b. [Institutional Certification and Agreement](#) (CFDA 84.425F)

Furthermore, the regulations in the Education Department General Administrative Regulations (EDGAR) 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (non-procurement) in 2 CFR Part 180, as adopted and amended as regulations of ED in 2 CFR Part 3485; and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200, as adopted and amended as regulations of ED in 2 CFR Part 3474 (Uniform Guidance) also apply.

Availability of Other Program Information

Rulemaking

On June 17, 2020, ED published its Interim Final Rule (IFR) regarding Eligibility of Students at Institutions of Higher Education for Funds Under the [CARES Act](#). The IFR constitutes ED's binding final rule regarding student eligibility for HEERF assistance and carries the force of law except as enjoined with respect to certain entities based on on-going litigation. Please see ED's litigation updates website for more information:

<https://www2.ed.gov/about/offices/list/ope/heerfupdates.html>.

Frequently Asked Questions (FAQs) and Other Guidance

Additionally, a number of documents posted on [ED's HEERF website](#) contain information pertinent to the compliance requirements described in this compliance supplement. ED strongly encourages auditors to regularly check the HEERF website for updated FAQs and other pertinent guidance and reporting information. The information below is current as of October 19, 2020.

1. [CARES Act HEERF Rollup FAQs](#) (Compilation of all five previously-released HEERF FAQ documents in one document) (October 14, 2020) (these are the following five FAQ documents listed below)
2. [CARES Act HEERF Round 3 FAQs](#) (October 2, 2020)
3. [CARES Act HEERF Supplemental FAQs](#) (Issued June 30, 2020 and Revised September 8, 2020)
4. [CARES Act HEERF Student FAQs](#) (May 15, 2020)
5. [CARES Act HEERF Emergency Financial Aid Grants to Students under Section 18004\(a\)\(1\) and 18004\(c\) FAQs](#) (April 9, 2020)
6. [CARES Act HEERF Institutional Portion under Section 18004\(a\)\(1\) and 18004\(c\) FAQs](#) (April 9, 2020)
7. HEERF Reporting Requirements & Lost Revenue Discussion Webinar (October 14, 2020)
 - a. [Webinar Recording](#)
 - b. [Slides used in the Presentation](#)

Reporting and Data Collection Requirements

There are three components to reporting for HEERF: (1) public reporting on the (a)(1) Student Aid Portion; (2) public reporting on the (a)(1) Institutional Portion, (a)(2) and (a)(3) programs, as applicable; and the (3) the annual report, which is currently being developed.

1. [HEERF Student Portion Public Reporting Requirement](#) (Aug 31, 2020; *Federal Register* Notice revising the original May 6, 2020 [Electronic Announcement](#))
2. HEERF Institution Portion, (a)(2), and (a)(3) Funds Public Reporting Forms (October 13, 2020)
 - a. [Word Document](#) | [PDF Document](#)
 - b. [Email to Grantees Regarding HEERF Reporting Requirements](#) (September 23, 2020)
3. Annual Report (the HEERF Annual Report Form is being developed for use and submission in early 2021 by all HEERF grantees via a portal)

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	Y	N	N

A. Activities Allowed or Unallowed

Institutions must demonstrate that costs incurred are allowable under the relevant statutory provisions and consistent with the purpose of the ESF “to prevent, prepare for, and respond to coronavirus.” In general, the CARES Act authorizes broad uses of HEERF funds, with specific standards for the different funding streams described below. Auditors are strongly encouraged to review the aforementioned FAQ documents and guidance materials which provide specific examples that help interpret these statutory standards.

- For the (a)(1) Student Aid Portion (CFDA 84.425E), disbursements made under the Student Aid Portion are required to be made directly to students. Allowable expenditures must be “for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student’s cost of attendance, such as food, housing, course materials, technology, health care, and child care)” (CARES Act Section 18004(c)).

As it relates to expenditures under the (a)(1) Student Aid Portion, auditors should determine (1) the institution had a documented plan to distribute funds to students, (2) that the institution did not place any restrictions on the expenditure of those funds beyond what is in the statute, above, and (3) the institution expended the entirety of the Student Aid Portion grant on emergency financial aid grants to students and that the institution did not reimburse itself for any costs or expenses previously issued to students.

- For the (a)(1) Institutional Portion (CFDA 84.425F), allowable expenditures must be “to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship” (CARES Act Section 18004(c)).

Generally, lost revenue is not a permissible expenditure (such as replacing lost revenue due to reduced enrollment; replacing lost revenue from non-tuition sources (e.g., cancelled ancillary events; disruption of food service, dorms, childcare or other facilities; cancellation of use of campus venues by other organizations; lost parking revenue). Other allowable expenditures under the Institutional Portion include *additional* emergency grants made to students (in accordance with the requirements of the Student Portion). Additionally, institutions also may reimburse themselves for refunds previously made to students on or after March 13, 2020, if those refunds were necessitated by significant changes to the delivery of instruction, including interruptions in instruction, due to the coronavirus. Please see questions 31 and 44 from the [Rollup FAQs](#) for more information.

- For the (a)(2) programs, (CFDAs 84.425J, 84.425K, 84.425L, and 84.425M), funds “may be used to defray expenses, including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, payroll incurred by IHEs and for grants to students for any component of the student’s cost of attendance (as defined under section 472 of the HEA), including food, housing, course materials, technology, health care, and child care” (CARES Act Section 18004(a)(2)).
- For the (a)(3) FIPSE Formula Grant (CFDA 84.425N), funds “may be used to defray expenses, lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, payroll incurred by IHEs and for grants to students for any component of the student’s cost of attendance (as defined under section 472 of the HEA), including food, housing, course materials, technology, health care, and child care.” This is the same standard as applied to the (a)(2) programs (CARES Act Section 18004(a)(3)).

B. Allowable Costs/Cost Principles

See Part 3, Section B, “Allowable Costs/Cost Principles” for a general description of the compliance requirements, the related audit objectives, and suggested audit procedures.

The Uniform Guidance Cost Principles described in 2 CFR Part 200, Subpart E, apply to the HEERF program. As described earlier, for the HEERF programs covered in this section, institutions generally have broad uses of funds. Some items of cost in Subpart E of the Uniform Guidance require prior approval under [2 CFR section 200.407](#) by ED.

The 34 CFR section 75.533 generally prohibits grantees from using grant funds for the acquisition of real property or for construction “unless specifically permitted by the authorizing statute or implementing regulations for the program.”

In the context of the HEERF program, the CARES Act contains no specific language authorizing HEERF funds to be used for the acquisition of real property or for construction. However, the general prohibition against construction and acquisition of real property would not prevent HEERF funds from being used for minor remodeling to prevent the spread of COVID-19, where such alterations occur within the confines of a previously completed building and meet the other characteristics of minor remodeling under 34 CFR section 77.1.

G. Matching, Level of Effort, Earmarking**1. Matching**

Not Applicable

2. Level of Effort

Not Applicable

3. Earmarking

Institutions must use no less than 50 percent of funds received under Section 18004(a)(1) of the CARES Act to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus. Conversely, institutions may use up to 50 percent of the funds they receive under Section 18004(a)(1) to “cover any costs associated with significant changes to the delivery of instruction due to the coronavirus so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities, including marketing and advertising; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.” See [\(a\)\(1\) Institutional Portion Certification and Agreement](#).

The 50 percent division of the (a)(1) funds into the Student Aid Portion and Institutional Portion was made by ED. Each were given as separate grant awards, the Student Aid Portion under CFDA 84.425E and the Institutional Portion under CFDA 84.425F.

The order of incurring costs which will be attributed to the Student Aid and Institutional portions is not relevant to the earmarking requirement but, rather, the relationships between these two portions must be met and measured by the end of the period of performance. Therefore, testing this requirement is only applicable at the end of the period of performance.

H. Period of Performance

All institutions were given one calendar year (365 days) from the date of award in their HEERF Grant Award Notification (GAN) to complete the performance of their HEERF grant. Therefore, for example, if a grantee received a GAN on April 7, 2020, the one calendar year period of performance for their HEERF grant would be through April 6, 2021.

Institutions were allowed to incur pre-award costs consistent with [2 CFR section 200.458](#) and [34 CFR section 75.263](#) from March 13, 2020, the declaration of the national emergency due to the coronavirus, to the date of their HEERF grant award for their (a)(1) Institutional Portion, (a)(2), and (a)(3) funds as long as those expenditures would have been allowable if incurred after the date of the HEERF grant award. For the (a)(1) Student Aid Portion, institutions were only able to refund themselves for institutionally-funded emergency grants to students that were made (1) for authorized expenses related to the disruption of campus operations due to coronavirus as set forth in Section 18004(c) of the CARES Act; (2) to students eligible to receive emergency financial aid grants under the CARES Act; and (3) on or after March 27, 2020, the date the CARES Act was enacted.

Auditors should determine if the institution correctly expended funds during the allowable period, if any costs were charged as pre-award costs, and if the institution incurred costs during its calendar year period of performance (unless it obtained a no-cost extension from ED).

I. Procurement, Suspension, and Debarment

See Part 3, Section I, "Procurement, Suspension, and Debarment."

For those procurements supported by HEERF grant funds, auditors should determine if institutions sufficiently documented rationales and determinations in making any sole-source awards during the time of national emergency due to the coronavirus. Exceptions from the competitive procurement requirements of the Uniform Guidance may be accepted if institutions have documented that the public exigency or emergency would not permit a delay, in accordance with 2 CFR section 200.320(f)(2). A circumstance that may influence this determination is the length of time between the procurements and the

emergency at issue. Specifically, exceptions are more likely to be acceptable the closer the procurement occurred to the March 13, 2020 declaration of the national emergency.

L. Reporting

There are three components to reporting for HEERF: 1) public reporting on the (a)(1) Student Aid Portion; 2) public reporting on the (a)(1) Institutional Portion (a)(2) and (a)(3) programs (Quarterly Reporting Form), as applicable; and the 3) the annual report, which is currently being developed.

There was no public reporting on the Quarterly Reporting Form or the annual reporting requirements as of the year-that ended June 30, 2020. Auditors should consult ED's [HEERF Reporting and Data Collection webpage](#) to gain an understanding of the reporting requirements in place for fiscal years ending after June 30, 2020.

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. *SF-425, Federal Financial Report* – Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

- a. *Annual Reporting (all HEERF grantees)*

The HEERF Annual Report form is being developed for use and submission in early 2021 by all HEERF grantees via a portal. Depending on the time the audit is conducted, auditors should examine the annual report and reconcile that reported amounts with underlying documentation and the public quarterly reporting amounts to ensure accuracy.

- b. *Sections 18004(a)(1) Institutional Portion, (a)(2), and (a)(3) Quarterly Public Reporting (CFDAs 84.425F, 84.425J, 84.425K, 84.425L, 84.425M, 84.425N, as applicable)*

This form, available in [PDF](#) and [Microsoft Word](#) versions, must be conspicuously posted on the institution's primary website on the same page the reports of the IHE's activities as to the emergency financial aid grants to students made with funds from the IHE's allocation under Section 18004(a)(1) of the CARES Act (Student Aid Portion) are posted.

A new, separate form must be posted covering each quarterly reporting period (September 30, December 31, March 31, June 30), concluding after either (1) posting the quarterly report ending September 30, 2022, or (2) when an institution has expended and liquidated all (a)(1) Institutional Portion, (a)(2), and (a)(3) funds and checks the “final report” box. IHEs must post this quarterly report form no later than 10 days after the end of each calendar quarter (October 10, January 10, April 10, July 10) apart from the first report, which is due October 30, 2020.

Please see the form instructions (located on page three of the document) for more information regarding compliance.

Auditors should determine if an institution was both timely and accurate in posting in publicly posting its Quarterly Reporting Form from October 30, 2020, onward and sample these quarterly public reports and reconcile the publicly reported amounts with underlying documentation to ensure accuracy.

c. *Section 18004(a)(1) Student Aid Portion Quarterly Public Reporting (CFDA 84.425E)*

Beginning on May 6, 2020, ED required institutions that received a HEERF 18004(a)(1) Student Aid Portion award to publicly post certain information on their website no later than 30 days after award, and update that information every 45 days thereafter (by posting a new report). This was announced through an [electronic announcement \(EA\)](#).

On August 31, 2020, ED [revised the EA](#) by decreasing the frequency of reporting after the initial 30-day period from every 45 days thereafter to every calendar quarter. Grantees posting a 45-day report on or after August 31, 2020, should instead post a report every calendar quarter, with the first calendar quarter report due by October 10, 2020, and covering the period from after their last 45-day or 30-day report through the end of the calendar quarter on September 30, 2020.

Auditors should determine if an institution was both timely and accurate in publicly posting its Section 18004(a)(1) Student Aid Portion Reports from May 6, 2020 onward and sample these public reports and reconcile the publicly reported amounts with underlying documentation to ensure accuracy.

Key Line Items – The following are identified as critical information:

- Item #3: The total amount of Emergency Financial Aid Grants distributed to students under Section 18004(a)(1) of the CARES

Act as of the date of submission (i.e., as of the initial report and every calendar quarter thereafter).

- Item #4: The estimated total number of students at the institution eligible to participate in programs under Section 484 in Title IV of the Higher Education Act of 1965 and thus eligible to receive Emergency Financial Aid Grants to Students under Section 18004(a)(1) of the CARES Act.

Auditors should consult the [August 31, 2020 Federal Register notice](#) that provides more information about how institutions may calculate this number.

- Item #5: The total number of students who have received an Emergency Financial Aid Grant to students under Section 18004(a)(1) of the CARES Act.
- Item #6: The method(s) used by the institution to determine which students receive Emergency Financial Aid Grants and how much they would receive under Section 18004(a)(1) of the CARES Act.

In particular, auditors should examine whether the method(s) of distribution reported here are consistent with the method(s) that were actually employed by the institution to distribute emergency financial aid grants to students.