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# ARP ESSER Liquidation Extension Process Guide

## Purpose and Overview

This guide is intended to outline the specific steps and requirements that are necessary for LEAs to submit liquidation extension requests for ARP ESSER-funded investments to the US Department of Education. In addition, the guide highlights some specific considerations that LEAs might incorporate into their decision-making process when seeking liquidation extension. Finally, the guide provides some specific examples of projects that may be eligible for liquidation extension, should all federal requirements be met, and specific considerations for each.

## Eligibility for Liquidation Extension

LEAs may seek liquidation extension for investments funded through their ARP ESSER LEA grants and/or ARP ESSER State Level Grants. They may request liquidation for multiple obligations in a single grant, and/or across multiple grants.

LEAs may request a liquidation extension only for contracted services or the receipt of goods that meet the requirements for timely obligation under [34 C.F.R. § 76.707](#). LEAs may not seek a liquidation extension for personal services or benefits of its employees.

## Requirements

It is important to note that USED, not the Agency of Education, has the authority to approve liquidation extension requests. The AOE is tasked with ensuring that any request meets the requirements for eligibility and to support LEAs and other subrecipients through the process. In addition, the AOE is tasked with ensuring that all grant processes and requirements continue to be met throughout the liquidation and close out process. Please see Additional Considerations below for how these ongoing obligations might impact LEA operations and capacity.

The liquidation extension process allows LEAs to extend the performance and liquidation of contracted services or the receipt of goods for up to 14 months after the December 31, 2024 close out/liquidation deadline (February 28, 2026), as long as the LEA can provide evidence that:

1. a binding written contract was made by ARP ESSER's obligation deadline of September 30, 2024;
2. the project relates to an allowable activity under ARP ESSER; and



3. the additional time to liquidate funds is consistent with all State, local, and federal spending rules.

## Process to Apply for Liquidation Extension

### Key Dates

The AOE plans to submit liquidation extension requests on a quarterly basis, beginning on or around March 31, 2024 and extending through December 31, 2024. LEAs may submit requests on a rolling basis, but should plan to submit their requests at least two weeks prior to the AOE submission dates to ensure that there is time to complete the AOE review process.

The AOE will submit batched liquidation extension requests on or around:

- March 31, 2024
- June 30, 2024
- September 30, 2024
- December 31, 2024

### Required steps to submit a liquidation extension request

1. The review process will begin with a risk assessment conducted by the AOE's Regulatory Compliance and Risk Management team. The team will use multi-factor approach to make a risk determination and will complete their risk determinations by April 1, 2024. USED prohibits the AOE from submitting for liquidation extension any requests from LEAs that are determined to be high risk (Q13: [Updated-Technical-FAQs-for-Liquidation-Extensions-1.9.24-v-2-for-posting.pdf](#)).
2. LEAs should ensure that any project for which they will seek liquidation extension is included in an approved ARP ESSER grant amendment. **Reminder:** the deadline for ARP ESSER LEA grant amendments is July 15, 2024
3. LEAs will submit a liquidation extension request for *each* grant (e.g. ARP ESSER LEA grant, ARP ESSER Act 112 Mental Health Grant, ARP ESSER Afterschool Grant, etc) through a simple webform. LEAs may submit multiple projects requiring extension in a single webform entry, as long as it is for the same grant.
4. AOE program staff will review each liquidation extension request to ensure that it includes all appropriate documentation and that all USED-required responses are complete. The AOE will contact the LEA should any questions or concerns arise.
5. The AOE will aggregate all liquidation extension requests (see schedule for submission above) and submit to USED for review.
6. Once USED issues an approval (currently, this review process is taking between 4 and 8 weeks) the AOE will notify the LEA via email.

## Required documentation

- An executed contract demonstrating that timely obligation was met pursuant to [34 C.F.R. § 76.707](#) (i.e. contract or purchase order was executed on or before September 30, 2024);
- The total amount of ARP ESSER funds being requested for liquidation extension;
- The estimated timeline for completion of contracted services or receipt of goods and services. Please Note: LEAs should be conservative in the timeline as additional changes in scope, including a change in timeline, would be considered a new obligation under current USED guidance, and would therefore not be eligible for liquidation extension;
- A 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
- 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](#)).

## Closing out a Liquidation Extension

Once an LEA has received all goods and/or services that have been approved for liquidation extension, and they have paid all invoices, the LEA should contact the [AOE Business Office](#) to request a final closeout of their ARP ESSER grant.

Please note that in addition to performance/receipt of goods, the liquidation extension date requested must allow enough time for the LEA business office to liquidate the financial obligation including receive all invoice(s) allocable to the grant, conduct internal invoice approval(s), make vendor payment and process of a reimbursement request/closeout. LEAs must follow their normal procedures and business processes for the above steps.

The AOE will offer additional instructions regarding closeout of ARP ESSER grants prior to September 30, 2024.

## Risks and Other Considerations for Liquidation Extension

While the liquidation extension process has long been available to LEAs in other grant programs, USED is offering significant additional flexibility through the ARP ESSER liquidation extension process. Specifically, LEAs are able to seek liquidation extension approval well in advance of the end of the period of performance and they are able to extend contracted services for reasons other than labor or supply chain delays (see [ARP Liquidation Extension Letter 1.9.24](#)).

While this approach will offer LEAs much needed time to complete critical work and to extend high impact COVID-related investments that will serve student needs, LEAs should carefully consider the risks and burden of continuing to manage ARP ESSER funds through a liquidation extension. The following sections highlight some of key considerations, but there may be others, and the AOE strongly recommends that LEAs consult their own legal counsel and/or auditors before entering into obligations that will extend beyond the ARP ESSER period of performance.

## Performance during liquidation

[Updated-Technical-FAQs-for-Liquidation-Extensions-1.9.24-v-2-for-posting.pdf](#)

Per USED, “States (and, if applicable, their subgrantees) can continue contracted activities under American Rescue Plan (ARP)-funded contracts during ARP’s liquidation period if: 1) the binding written contract was made by ARP’s obligation deadline of September 30, 2024; 2) the project relates to an allowable activity; and 3) the additional time to liquidate funds is consistent with all State, local, and federal spending rules.”

In their FAQs, USED has provided this support for the liquidation extension process:

*... the Department will continue to help ensure that auditors are aware of this guidance. The Department is also available to speak to State or other auditors with fact-specific questions. Under the circumstances described above with regard to COVID-relief funding, while all Departmental review is fact-specific and would be considered on a case-by case basis, 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.* ([Updated-Technical-FAQs-for-Liquidation-Extensions-1.9.24-v-2-for-posting.pdf](#))

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.

## Timing of contract amendments

The AOE has asked USED how or to what extent LEAs can amend the scope (including timelines) of contracts after September 30, 2024. USED has responded:

*Because obligations must have been completed by September 30, 2024, for the ARP ESSER... LEAs may not create a new obligation of funds if it is past the obligation deadline. Further, as noted in question [E-3.d. of the updated ESSER and GEER FAQs](#), if a grantee or subgrantee enters into a contract for activities that continue past the date of obligation and the contractor does not provide the*

*services, the grantee or subgrantee may not enter into a new contract or obligate those funds for a different allowable use of funds. Contract modifications, amendments, or change orders that alter the scope of the contract or require additional ARP ESSER or ARP EANS funding would not be allowable after September 30, 2024.*

The AOE therefore recommends that LEAs submit for liquidation extension **by September 30, 2024**, if possible, and that their executed contract include the timeline, scope and obligated amount. It is likely that LEAs will not be able to make amendments or change orders to these contracts after September 30, 2024, because this would constitute a new obligation.

Please note: If an LEA is experiencing an unanticipated delay in receiving goods or supplies (e.g. delayed equipment, etc) they can still submit for liquidation extension after September 30, 2024, with a deadline of December 31, 2024.

### **Obligation of funds prior to USED Approval of Liquidation Extension**

Per USED, prior to submitting to USED for review and approval, the AOE is required to review that all obligations were made timely and that costs are eligible under ARP ESSER.

This means that if an LEA is interested in extending the period in which services are delivered (for example, to provide mental health services through a telehealth contract, or professional development to support literacy) they must have an executed contract that goes beyond the period of performance (September 30, 2024) and *then* request liquidation extension from USED.

This misalignment between the required USED review process and an LEA's normal grants management processes will result in some level of risk to LEAs, in that they will need to obligate funds prior to an approval from USED. However, as [USED has indicated](#) that they are interested in approving liquidation extensions that support student learning, the AOE has identified these kinds of projects as having a low risk of not receiving USED approval for liquidation extension.

### **Other Considerations**

#### **Monitoring and Reporting, including Davis Bacon**

LEAs should be prepared to continue to manage ARP ESSER-funded projects throughout the period of liquidation extension, through final closeout and through the final Annual Performance Reporting period (which may be as late as 2028, should an LEA seek the full extension period).

LEAs with projects that require Davis Bacon will need to continue to monitor weekly certified payrolls and ensure that they and their vendors are compliant with all of the [Davis Bacon requirements](#) through the life of the project. **Please Note:** LEAs are not

able to utilize ARP ESSER funds to offset the costs of personal services performed by an employee after September 30, 2024.

Currently, LEAs will complete their final ESSER Annual Performance Reporting in the spring of 2026. Those LEAs with liquidation extensions will be required to continue reporting in each annual reporting cycle for which they have expenditures. The final report will be submitted in 2028.

## **Risk Considerations for Example Projects**

As described above, all projects will have some additional level of risk if they are granted a liquidation extension. This section seeks to identify some of the specific considerations for some example projects.

### **Construction Projects**

The AOE has identified that construction projects, because of their high dollar value, the dynamics of the current cost landscape and the frequent need for change orders or other amendments to contracts, carry higher risk than other kinds of projects eligible for liquidation extension.

LEAs should ensure that if there is the potential for cost overruns that they have another source of funding identified to complete the project. They should also work closely with contractors prior to September 30, 2024 to ensure that the scope of work, including the extended timeline, is as stable as possible to reduce the need for future change orders or other amendments. Finally, LEAs should discuss the risk of losing access to and returning ARP ESSER funds, should their contractor be unable to complete the scope of work. LEAs will not be able to enter into another contract using ARP ESSER funds.

LEAs should also consider the ongoing burden and cost of monitoring compliance with Davis Bacon and other costs that are not able to be absorbed using ARP ESSER funds (i.e. payment of invoices, management of projects, etc).

Finally, in order to ensure that the student population most impacted by COVID-19 receives the benefit of ARP ESSER funded improvements to school facilities, the AOE encourages LEAs to continue to move towards completion of these construction projects at the earliest possible date.

### **Service Contracts**

LEAs may use liquidation extension to extend out high impact service contracts, including, but not limited to, contracts to provide mental health services to students and staff, professional development contracts for literacy or math, contracts for tutoring or afterschool services to extend learning opportunities and other critical forms of support to help students recovery from the long term impacts of COVID-19.

Because of their generally lower cost and complexity, the AOE has identified these service contract extensions as being potentially a lower risk strategy, but the LEA

should still discuss the risks prior to entering into an obligation that extends beyond September 30, 2024.

LEAs looking to extend service contracts should ensure that their contracted vendor is appropriately resourced (i.e. staffing, subcontractors, etc) to support an extended contract. LEAs will not be able to enter into a new contract if their current vendor is unable to complete the term of their contract and the ARP ESSER funds will be returned to the federal government.

LEAs should also ensure that their scope of work does not change after September 30, 2024, as USED has indicated that this would be interpreted as necessitating a new contract and therefore a new obligation under [34 C.F.R. § 76.707](#).

### **Services or Goods Delayed after September 30, 2024, but able to complete full closeout by December 30, 2024**

This use of the liquidation extension process will be most familiar to LEAs. If the LEA is confident that they will receive the goods or services *and* that they will be able to submit for final closeout by December 30, 2024, then they do not need to seek a liquidation extension, although the AOE notes that there is no harm in seeking this flexibility.

## **Resources for LEAs seeking Liquidation Extension**

The AOE and USED have developed some additional resources for LEAs seeking liquidation extension.

On March 15<sup>th</sup>, the AOE hosted an overview webinar outlining the process to request a liquidation extension. This recording, along with the USED [Liquidation Extension FAQs](#) and [letter from Deputy Secretary of Education, Adam Schott](#) referenced throughout this document are all posted on the AOE website.

AOE staff will be available to support LEAs throughout this process and will offer targeted office hours, which can be requested through the [AOE's Technical Assistance Request](#) form.