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RYAN STEWART, Ed.L.D.  
SECRETARY OF EDUCATION

MICHELLE LUJAN GRISHAM  
GOVERNOR

May 24, 2021

**MEMORANDUM**

**TO:** Superintendents and State Charter Leaders

**FROM:** Katarina Sandoval, Deputy Secretary, Academic Engagement and Student Success

**RE:** **Elementary and Secondary School Emergency Relief (ESSER) Fund Federal Sub-award ARP Act, ESSER III (24330)**

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The New Mexico Public Education Department (PED) has granted its preliminary FY20-21 subawards for funding through the American Rescue Plan (ARP) Act; Elementary and Secondary School Emergency Relief Fund (24330) to help schools to return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic on New Mexico's students. In accordance with federal regulations at 2 C.F.R. § 200.332(a), please note the following federal award identification information specific to this subaward. All local educational agencies (LEAs) receiving this sub-award through PED, as listed on Exhibit A, are subrecipients of the following federal funding:

|  |                       |
|--|-----------------------|
| Subrecipient's name                                | See Exhibit A         |
| Subrecipient's DUNS number                         | See Exhibit A         |
| Federal Award Identification Number (FAIN)         | S425U210023           |
| Federal award date                                 | 03/24/2021            |
| Subaward period of performance start and end dates | 03/24/2021–09/30/2024 |
| Subaward budget period start and end date          | 07/01/2021–09/30/2024 |

|  |   |
|--|---|
| Amount of federal funds obligated by this subaward to subrecipient   | See Exhibit A   |
| Total amount of federal funds obligated to subrecipient <b>including current financial obligation</b>                              | See Exhibit A   |
| <b>Total amount of the federal award committed to subrecipient</b>   | See Exhibit A   |
| Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA) | American Rescue Plan - Elementary and Secondary Schools Emergency Relief Fund (ARP-ESSER)   |
| Federal awarding agency  | United States Department of Education   |
| Contact information for awarding official  | Ian Rosenblum, Acting Assistant Secretary<br>400 Maryland Ave., SW<br>Washington, DC 20202<br>(202) 401-0113  |
| CFDA number and name   | 84.425U American Rescue Plan - Elementary and Secondary Schools Emergency Relief Fund (ARP-ESSER)   |
| Research and development (R&D) award (Yes/No)  | No  |
| Indirect cost rate for federal award   | <a href="https://webnew.ped.state.nm.us/bureaus/administrative-services/accounting/">https://webnew.ped.state.nm.us/bureaus/administrative-services/accounting/</a> |

The following requirements apply to this subaward:

- 2 C.F.R. Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards<sup>1</sup>
- 2 C.F.R. Part 3474: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 C.F.R. Part 3485: Non-procurement Debarment and Suspension

Reporting Requirements

Please review Exhibit A, and submit a BAR or initial budget through OBMS for the appropriate amount using fund code **24330** and revenue object code **44500**. Please adhere to the following timelines required for obligation, liquidation and RfR submission:

- To establish 2021-2022 budget authority:

<sup>1</sup> The regulations at 2 C.F.R. Part 200 are located online at: [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl).

- **Submit your application and an initial budget BAR between July 1 and August 24, 2021. (This option will allow you the most time for thorough planning and required stakeholder engagement); OR**
- **Submit your application and an initial 2021-2022 OBMS budget by June 4, 2021 to receive budget authority by July 1, 2021. This option will require additional stakeholder engagement after July 1, 2021.**
- To establish 2020-2021 budget authority:
  - **Submit your application and an initial 2020-2021 budget BAR by June 4, 2021. This option will require additional stakeholder engagement after July 1, 2021.**
- The amounts as illustrated in Exhibit A must be **expended by September 30, 2024**.
- Pursuant to Section 6-5-3 NMSA 1978, the **appropriate fund** shall be **encumbered prior to** the issuance of **vouchers** or **purchase orders** or the engagement of **contracts**.
- You must receive written prior approval for purchase of equipment with a unit cost equal to or in excess of \$5,000. Failure to do so will result in denial of reimbursement for the cost of such an item. Attach an approved [Federal Grant Equipment Form](#) to your BAR if you will include budget in object code 57331 “Fixed Assets (more than \$5,000).” Attach the approved form to your application if you submit an initial 2021-22 OBMS budget. The approved [Federal Grant Equipment Form](#) must also be uploaded with your request for reimbursement (RFR) containing such expenses.
- Any approved construction projects must comply with applicable Uniform Guidance requirements, as well as the Department’s regulations regarding construction. See [34 CFR § 76.600](#). As is the case with all construction contracts using laborers and mechanics financed by federal education funds, an LEA that uses ESSER funds for construction contracts over \$2,000 must meet all Davis-Bacon prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See [20 U.S.C. 1232b Labor Standards](#).)

#### Indirect Cost Rate

As required by 2 C.F.R. § 200.332(a) (1) (xiv), PED recognizes the indirect cost rate between PED and public school districts and state charter schools as calculated by PED and located on the PED website: <https://webnew.ped.state.nm.us/bureaus/administrative-services/accounting/>

#### Access to Records and Financial Statements

In addition, pursuant to 2 C.F.R. § 200.332(a)(5), all subrecipients as identified in Exhibit A, attached to this subaward, must permit PED and auditors access to records and financial statements as necessary.

#### Closeout Procedures

- The final day to submit RFRs for FY20-21 is **July 7, 2021**.

If you have any questions regarding your ESSER III federal subaward, please contact your designated [Education Administrator in the Student, School and Family Support Bureau](#). To reach the Fiscal Grants Management Bureau, please contact Susan Lucero, [susan.lucero@state.nm.us](mailto:susan.lucero@state.nm.us), (505) 827-3848.

Specific ARP Information

- The award amounts in Exhibit A reflect 2/3 of the ARP preliminary award that will be available to each LEA. The remaining 1/3 amount will be awarded after New Mexico receives the full ARP allocation from USDE. See the Special Table attached for full preliminary ESSER III subaward amounts.
- Each LEA that receives ARP ESSER funds shall either:
  - Within 30 days of receipt of the funds (**by June 24, 2021**), develop and make publicly available on the LEA's website a plan for the safe return of in-person instruction and continuity of services as required in section 2001(i)(1) of the ARP; or
  - If the LEA developed a plan, before the enactment of the ARP, that meets statutory requirements, the LEA will make the plan publicly available on the LEA's website. As required in section 2001(i)(2) of the ARP, before making the plan publicly available, the LEA must have sought public comment on the plan and taken such comments into account in the development of the plan.
- During the period of the ARP ESSER award established in section 2001(a) of the ARP Act (i.e., until September 30, 2023), an LEA must comply with section 2001(i)(2) of the ARP Act. (See <https://www.federalregister.gov/documents/2021/04/22/2021-08359/american-rescue-plan-act-elementary-and-secondary-school-emergency-relief-fund>).
- LEAs must use at least 20% of subawards to address learning loss through the implementation of **evidence-based** interventions, such as summer learning or summer enrichment, extended day, comprehensive afterschool programs, extended school year programs, or other evidence-based interventions, and ensure that such interventions respond to students' academic, social, and emotional needs **and** address the disproportionate impact of COVID-19 on student subgroups (each major racial and ethnic group, children from low-income families, children with disabilities, English learners, gender, migrant students, students experiencing homelessness, and children and youth in foster care).
- Each LEA that receives these funds must engage in meaningful consultation with stakeholders and give the public an opportunity to provide input in the development of its plan. Specifically, an LEA must engage in meaningful consultation with students; families; school and district administrators (including special education administrators); and teachers, principals, school leaders, other educators, school staff, and their unions. Additionally, an LEA must engage in meaningful consultation with each of the following, to the extent present in or served by the LEA: Tribes; civil rights organizations (including disability rights organizations); and stakeholders representing the interests of children with disabilities, English learners, children experiencing homelessness, children in foster care, migratory students, children who are incarcerated, and other underserved students.
- Districts must reach out to all of their schools, including district-authorized charter schools, to determine and meet their needs with these funds.
- These funds may be used to address needs in all district schools, both Title I and non-Title I schools.
- There is no requirement for site-based allocations with these funds.
- There is no requirement for Equitable Services to non-public schools with these funds.

- LEAs must comply with the maintenance of equity (MEQ) provision in section 2004(c) of the ARP (see [https://oese.ed.gov/files/2021/03/ARP-ESSER-Grant-Award-Assurances\\_FINAL.pdf](https://oese.ed.gov/files/2021/03/ARP-ESSER-Grant-Award-Assurances_FINAL.pdf)):
  - (1) As a condition of receiving funds under section 2001, a local educational agency **shall not**, in fiscal year 2022 or fiscal year 2023—
    - (A) reduce per-pupil funding (from combined State and local funding) for any high-poverty school served by such local educational agency by an amount that exceeds—
      - (i) the total reduction in local educational agency funding (from combined State and local funding) for all schools served by the local educational agency in such fiscal year (if any); divided by
      - (ii) the number of children enrolled in all schools served by the local educational agency in such fiscal year; or
    - (B) reduce per-pupil, full-time equivalent staff in any high-poverty school by an amount that exceeds—
      - (i) the total reduction in full-time equivalent staff in all schools served by such local educational agency in such fiscal year (if any); divided by
      - (ii) the number of children enrolled in all schools served by the local educational agency in such fiscal year.
  - (2) **EXCEPTION.**—Paragraph (1) shall not apply to a local educational agency in fiscal year 2022 or 2023 that meets at least 1 of the following criteria in such fiscal year:
    - (A) Such local educational agency has a total enrollment of less than 1,000 students.
    - (B) Such local educational agency operates a single school.
    - (C) Such local educational agency serves all students within each grade span with a single school.
    - (D) Such local educational agency demonstrates an exceptional or uncontrollable circumstance, such as unpredictable changes in student enrollment or a precipitous decline in the financial resources of such agency, as determined by the Secretary of Education.

Definitions:

**HIGH-POVERTY SCHOOL.**—

(A) **IN GENERAL.**—The term “high-poverty school” means, with respect to a school served by a local educational agency, a school that is in the highest quartile of schools served by such local educational agency based on the percentage of economically disadvantaged students served, as determined by the State in accordance with subparagraph (B).

(B) **DETERMINATION.**—In making the determination under subparagraph (A), a State shall select a measure of poverty established for the purposes of this paragraph by the Secretary of Education and apply such measure consistently to all schools in the State.

- **The LEA’s ARP ESSER III application must be made publicly available on the LEA’s website no later than August 24, 2021.**
- Additional requirements are addressed within the application and the assurances document.
- The full list of areas of allowable uses is included in the application.

*Link to the application in SharePoint*

The application link is

<https://eui.ped.state.nm.us/sites/ESEAConApp/ARP/SitePages/Home.aspx>

In most cases, the same person who submitted your LEA's CARES Act ESSER application has access to the ESSER III application.

*Statewide Priorities*

The PED strongly encourages LEAs to consider these priority areas to help schools to return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic on New Mexico's students:

- **Closing the digital divide** through the purchase and distribution of digital devices and the support of home internet connectivity for all students and teachers who lack devices and connectivity, as well as through the professional development and instructional coaching needed by educators to facilitate remote learning;
- **Accelerated Instruction** for all students while addressing the disproportionate impact of COVID-19 on student subgroups (each major racial and ethnic group, children from low-income families, children with disabilities, English learners, gender, migrant students, students experiencing homelessness, and children and youth in foster care). See [https://webnew.ped.state.nm.us/wp-content/uploads/2020/07/NMPED\\_SupportDoc\\_InstructionalAcceleration.pdf](https://webnew.ped.state.nm.us/wp-content/uploads/2020/07/NMPED_SupportDoc_InstructionalAcceleration.pdf);
- **Supporting the social and emotional needs** of students, families, and staff;
- **Supporting the unique needs of students with disabilities and at-risk students;**
- **Providing personal protective equipment** for all staff and students, as well as ensuring that schools are fully cleaned, sanitized, and stocked with cleaning supplies;
- **Improving indoor air quality** including: inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities; and
- **Other priorities listed in any supplements to this May 24, 2021 Memorandum.**

Enclosures (2):           Exhibit A and Special Table