We are reaching out today with an update and other information related to the late liquidation opportunity of ESSER funds provided by the US Department of Education (the Department). As a reminder, on May 13th, 2022, the Department sent a letter establishing a late liquidation period of COVID relief funds.

The letter did not:

- Change the obligation deadline for any of the ESSER funds (CARES, CRRSA, or ARP).
- Change the rules for when an obligation is made.
- Automatically extent the standard 90 calendar day liquidation deadline.

The letter did say:

- ED has the authority to change the liquidation deadline.
- ED will consider extending the liquidation deadline if requested in writing by the SEA.
- Any approval of such request will be based on “the specific facts and circumstances of a given obligation”.

Below is a table that outlines the current obligation and liquidation deadline for all three rounds of Elementary and Secondary Schools Emergency Relief (ESSER) funds.

Award	Obligation Deadline	Automatic 90-day liquidation period	Possible up to 14-month extension	Late Liquidation Application Date
ESSER I	8/31/22	11/15/22	3/31/24	12/31/2022
ESSER II	8/31/23	11/15/23	3/31/25	12/31/2023*
ESSER III	8/31/24	11/15/24	3/31/26	12/31/2024*
*These dates are tentative and subject to change by the Department.				

The Department has an application deadline for the late liquation period of 12/31/2022 for ESSER I funds only. The expectation is that the application deadline for ESSER II will be 12/31/2023 and ESSER III will be 12/31/2024.

Any application for late liquidation must be supported by district level detail which outlines the amount of obligated funds necessitating the extension, use of funds, justification, and SEA documentation on file (for example: purchase order numbers, finalized contracts, communications from vendors regarding delays, change orders, etc.). OSPI will need to create a way to have this information submitted to us prior to us pursing late liquation.

<u>Late Liquidation – ESSER I (CARES ACT)</u>

Since the ESSER I obligation deadline of 8/31/2022 has already past, plus a review of ESSER I claims made through the iGrants system shows that more than 99% of funds have been claimed, ***OSPI will not be applying for late liquidation on behalf of the state or school districts for ESSER I***. If you have ESSER I funds that have been obligated and not yet liquidated, then you *<u>must liquidate by 11/15/22</u>*.

<u>Late Liquidation – ESSER II</u>

OSPI will assess the situation related to ESSER II funds spring 2023 to determine if pursuing late liquation will benefit our state. If districts are to benefit from late liquidation of ESSER II, it is imperative that all funds meet the federal definition of being obligated by 8/31/23. The late liquation opportunity does not apply to unobligated funds.

<u>What does it mean to obligate funds?</u>

Obligation is defined in CFR 200.71 as follows: "When used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period."

The time at which an obligation of federal funds occurs, depends on the type of activity. The following table shows when a state or subgrantee makes obligations for various kinds of property and services (34 CFR 76.707):

<u>If the obligation is for -</u>	**<u>The obligation is made</u>**
a) Acquisition of real or personal property	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
b) Personal services by an employee of the State or subgrantee	When the services are performed.

c) Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
e) Public utility services	When the State or subgrantee receives the services.
f) Travel	When the travel is taken.
g) Rental of real or personal property	When the State or subgrantee uses the property.
h) A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E - Cost Principles	On the first day of the grant or subgrant performance period.

If you are one of the 42 LEAs that still have ESSER I funds that are obligated and not liquidated, please make sure to meet the current liquidation deadline of 11/15/22.

All recipients of ESSER II funds should be carefully monitoring ESSER II obligations to ensure that all funds meet the above definition of obligated funds by 8/31/23. In addition, it is important that districts retain evidence at the individual transaction level that would support the need for late liquidation for ESSER II funds. Transactions would not likely be approved for late liquidation without this detail.

Please reach out to Amy Harris at amy.harris@k12.wa.us or myself with questions