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4000-01-U

DEPARTMENT OF EDUCATION

Notice Announcing Availability of Funds and Deadline for the Elementary and Secondary School Emergency Relief Fund (ESSER Fund); Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice announcing the availability of funds and deadline to submit the Certification and Agreement for the ESSER Fund under title VIII of Division B of the CARES Act, the Emergency Appropriations for Coronavirus Health Response and Agency Operations, Catalog of Federal Domestic Assistance (CFDA) number 84.425D. This notice relates to the approved information collection under OMB control number XXXX-XXXX. Hereinafter, the term "Certification and Agreement" will be used to refer to the application required in section 18003(a) of the CARES Act.

DATES:

Certification and Agreement Available: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Deadline for Transmittal of Certification and Agreement: No later than July 1, 2020. Each SEA's Certification and Agreement will be processed as it is received and funds will be obligated on a rolling, expedited basis with the expectation that State educational agencies (SEAs) and local educational agencies (LEAs) will also use every effort to expend the funds quickly to address exigent student needs.

ADDRESSES: The addresses pertinent to this program, including the addresses for obtaining and submitting the Certification and Agreement, can be found under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Christopher Tate, U.S. Department of Education, 400 Maryland Avenue, SW, room 3W229, Washington, DC 20202. Telephone: (202) 453-6047. Email: ESSERF@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Under the ESSER Fund, we will award grants by formula to SEAs for the purpose of providing LEAs, including charter schools that are LEAs, with emergency relief funds to address the impact that the Novel Coronavirus Disease 2019 ("COVID-19") has had, and continues to have, on elementary and secondary schools across the Nation. This includes developing and implementing plans for educational services and continued learning whether school campuses are open or closed.

Background: This notice announces availability of funds and Certification and Agreement deadline for SEAs for the ESSER Fund. The CARES Act, which was signed into law on March 27, 2020, provides a total of \$30.75 billion for the Education Stabilization Fund, of which approximately \$13.2 billion will be provided to SEAs to support elementary and secondary education through the ESSER Fund. SEAs in all 50 States, the Commonwealth of Puerto Rico, and the District of Columbia are eligible for funding under the ESSER Fund (references to States in this notice include Puerto Rico and the District of Columbia).

Each SEA must subgrant no less than 90 percent of its ESSER Fund award to LEAs (including charter schools that are LEAs) in the State in proportion to the amount of funds the

LEAs (including charter school LEAs) received under title I, part A of the Elementary and Secondary Education Act of 1965 (ESEA) in fiscal year (FY) 2019. The remaining funds (hereafter SEA emergency reserve) may be used for emergency needs as determined by the SEA to address issues related to COVID-19, which may be addressed through the use of grants or contracts. From an SEA's emergency reserve, the SEA may use not more than 1/2 of 1 percent of the SEA's total grant for administrative costs.

Consistent with section 18003(d) of the CARES Act, LEAs may use ESSER funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation. The Department encourages SEAs that use funds for remote learning to make strategic investments that promote student achievement through long-term improvements in infrastructure and operations so that students may receive educational services whether or not school campuses are open or closed.

Program Authority: Section 18003 of Title VIII of Division B of the CARES Act, Pub. Law 116-136 (enacted March 27, 2020).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 76, 77,

81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Formula grants.

Available Funds: Congress appropriated a total of \$13,229,265,000 for awards under this program.

Period of Availability of Funds: Funds under this program remain available for obligation through September 30, 2022. However, an SEA must award funds received under this program to eligible entities (i.e., LEAs, or, in the case of the SEA emergency reserve, recipients of grants or contracts) within one year of receipt of the funds by the SEA. Any funds that the SEA fails to award by the one-year deadline must be returned to the Department for reallocation to other SEAs.

III. Eligibility Information

1. Eligible Applicants: SEAs.

2. Cost Sharing or Matching: This program does not require cost sharing or matching.

3. Subrecipients: An SEA must use at least 90 percent of its ESSER Fund award to make formula subgrants to LEAs. The SEA may reserve up to 10 percent of its ESSER Fund award to award subgrants or enter into contracts for emergency needs that address issues related to COVID-19.

4. Equitable Services: An SEA must ensure that an LEA that receives an ESSER Fund subgrant provides equitable services to students and teachers in non-public schools located within the LEA in the same manner as provided under section 1117 of the ESEA, as determined through timely and meaningful consultation with representatives of non-public schools. In providing services or assistance to students and teachers in non-public schools, the LEA or another public agency must maintain control of the funds, and title to materials, equipment, and property purchased with such funds must be in a public agency. Services for non-public school students and teachers must be provided by a public agency directly or through contract with another public or private entity. The Department will provide additional guidance to LEAs on equitable services requirements.

IV. Submission Information

1. Certification and Agreement Submission

Instructions: The signed Certification and Agreement under this program must be submitted electronically in Portable Document Format (PDF) to the email address ESSERF@ed.gov. The Certification and Agreement and related information can be found on the Department's website at <https://oese.ed.gov/offices/education-stabilization-fund/>.

2. SEA Emergency Reserve: A State may reserve up to 10 percent of its ESSER Fund award, as determined by the SEA, for State-level activities to address issues related to COVID-19. From an SEA's emergency reserve, the SEA may use not more than 1/2 of 1 percent of the SEA's total grant for administrative costs.

3. Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management: In general, to do business with the Department, you must--

(a) Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

(b) Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

(c) Provide your DUNS number and TIN on your SAM application; and

(d) Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: <http://fedgov.dnb.com/webform>. A DUNS number can be created within one to two business days.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Given the national emergency related to COVID-19, the Department will accept an application without an active SAM registration and may allow registered SAM users whose registrations expire before May 16, 2020, an additional 60 days to update their registration, consistent with the Office of Management and Budget Memo, M-20-17.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at www.SAM.gov. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: www2.ed.gov/fund/grant/apply/sam-faqs.html.

V. Certification and Agreement Review Information

1. Compliance Assurances:

(a) In General. Each applicant must provide an assurance that it will comply with all requirements that apply to the ESSER Fund, including, but not limited to, assuring that the SEA will: allocate no less than 90 percent of the grant funds to LEAs in proportion to the amount of funds each LEA received under title I, part A of the ESEA in FY 2019; ensure that LEAs use funds only for allowable activities; comply with applicable Office of Management and Budget standard assurances; sign and submit a certification regarding lobbying using Department Form 80-0013; cooperate with any Inspector General inquiries; and comply with any other applicable assurances and certifications.

(b) Maintenance of Effort. As a condition of receiving ESSER funds, a State must maintain support for elementary and secondary education and State support for higher education (which must include State funding to

institutions of higher education and State need-based financial aid, and may not include support for capital projects or for research and development or tuition and fees paid by students) in FYs 2020 and 2021 at least at the levels of such support that is the average of such State's support for elementary and secondary education and for higher education in the three FYs preceding March 27, 2020 (typically FYs 2019, 2018, and 2017). The Secretary may waive the requirement that a State maintain effort for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.

(c) Employees and Contractors. An entity receiving ESSER funds must, to the greatest extent practicable, continue to compensate its employees and contractors during the period of any disruptions or closures related to COVID-19 in compliance with Section 18006 of Division B of the CARES Act. In addition, each entity that accepts funds will continue to pay employees and contractors to the greatest extent practicable based on the unique financial circumstances of the entity. CARES Act funds generally will not be used for bonuses, merit pay, or similar expenditures, unless related to the disruptions or closures resulting from COVID-19.

2. Assurance on Remote Learning: The SEA must assure that when applicable, it will provide technical assistance to LEAs, on the use of ESSER funds for "remote learning," which includes both distance learning as defined in section 8101(14) of the ESEA and distance education as defined in section 103(7) of the Higher Education Act.

3. Risk Assessment and Specific Conditions: Consistent with 2 CFR 200.205, before awarding grants under this program, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions, and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. Integrity and Performance System: If you receive an award under this grant program that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards--that

is, the risk posed by you as an applicant--before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Award Administration Information

1. Administrative and National Policy Requirements:

We identify administrative and national policy requirements in the application package and reference these and other requirements in the Applicable Regulations section of this notice. We reference the regulations outlining the terms and conditions of a grant in the Applicable Regulations

section of this notice. The Grant Award Notification (GAN) also incorporates your approved application as part of your binding commitments under the grant.

2. Reporting: (a) If you apply for a grant under this program, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) The SEA will submit to the Department, within 60 days of receiving an ESSER grant, a report that includes: a budget for the SEA's emergency reserve that includes information about the up to ½ of 1 percent of the SEA's total grant for administrative costs and the uses of funds for emergency needs to address issues related to COVID-19; and an Internal Control and Subrecipient Monitoring Plan to ensure that funds are used for allowable purposes in accordance with cash management principles.

(c) The SEA will comply with all reporting requirements, including those in Section 15011(b)(2) of Division B of the CARES Act, and submit required quarterly reports to the Secretary at such time and in such manner and containing such information as the Secretary may

subsequently require. (See 2 CFR 200.327-200.329). The Secretary may require additional reporting in the future, which may include the uses of funds by the LEAs or other entities and demonstration of their compliance with Section 18003(d), including any use of funds addressing digital divide and related issues in remote learning.

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated:

Frank T. Brogan,
*Assistant Secretary for
Elementary and Secondary
Education.*