

Compliance Supplement and Recent Findings

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Single Audit Review 200.501

2021 Compliance Supplement:
https://www.whitehouse.gov/wp-content/uploads/2021/08/OMB-2021-Compliance-Supplement_Final_V2.pdf

2021 Compliance Supplement Addendum I:
<https://www.cfo.gov/2021-addendum-1/>

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OMB Compliance Supplement Compliance Requirements

<ol style="list-style-type: none"> 1. Activities Allowed or Unallowed 2. Allowable Costs/Costs Principles 3. Cash Management 4. Eligibility 5. Equipment & Real Property Management 6. Matching, Level of Effort, Earmarking 	<ol style="list-style-type: none"> 7. Period of Performance 8. Procurement and Suspension & Debarment 9. Program Income 10. Reporting 11. Subrecipient Monitoring 12. Special Tests & Provisions
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ESSER Allowable Costs/ Cost Principles

Demonstrate costs are consistent with the purpose of the ESF, which is “to prevent, prepare for, and respond to COVID-19.”

ED has clarified that SEAs, LEAs and schools may use ESSER funding to support a very wide range of activities, **including activities indirectly linked to the impact of COVID-19**

Defers to general cross-cutting allowability requirements under 2 CFR Part 200.

CARES and CRRSA authorize grantees to continue to pay employees and use funds to protect education-related jobs; including 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.

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ESSER Allowable Costs/ Cost Principles (cont.)

Must maintain time distribution records for all employees including when an individual employee is splitting their time between activities that are allowable and unallowable under all ESF programs.

Determine whether the organization complied with the provisions of 2 CFR Part 200 as follows:
Direct charges to federal awards were for allowable costs.

- Costs did not consist of improper payments, including (1) payments that should not have been made or that were made in incorrect amounts (including overpayments and underpayments); (2) payments that do not account for credit for applicable discounts; (3) duplicate payments; (4) payments that were made to an ineligible party or for an ineligible good or service; and (5) payments for goods or services not received (except where authorized by law).
- Costs were necessary and reasonable for the performance of the federal award and allocable under the principles of 2 CFR Part 200, Subpart E.
- Costs were adequately documented.

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ESSER Cash Management

Defers to general cross-cutting cash management requirements.

Non-federal entities that are paid on a reimbursement basis, supporting documentation shows that the costs for which reimbursement was requested were paid prior to the date of the reimbursement request.

- Select a sample of transfers of funds from the US Treasury or pass-through entity and trace to supporting documentation and ascertain if the entity paid for the costs for which reimbursement was requested prior to the date of the reimbursement request (2 CFR section 200.305(b)(3)).

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ESSER Equipment/Real Property Management

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.

Approved construction projects must comply with all applicable Uniform Guidance requirements, as well as the ED's regulations regarding construction, as applicable, at 34 CFR section 76.600.

- For construction contracts over \$2,000 must meet Davis-Bacon prevailing wage requirements
- **Please note that recipients and subrecipients may use ESF funds for minor remodeling without triggering these requirements.**

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ESSER Equipment/Real Property Management (cont.)

Defers to cross-cutting section on requirements.

Non-federal entities other than states must follow 2 CFR sections 200.313(c) through (e)

- Determine whether the non-federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.
- Identify equipment acquired and trace selected purchases to the property records. Verify that the property records contain the required information.
- Verify that the required physical inventory of equipment was performed. Test whether any differences between the physical inventory and equipment records were resolved.
- Determine whether disposition is in accordance with federal requirements and that the federal awarding agency was properly compensated for its portion of any property, as required.

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ESSER Reporting

Recipients who make first-tier subawards of \$30,000 or more are required to register in the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS) and report subaward data through FSRS.

- Auditors should review the compliance of the direct recipient with the reporting requirements of 2 CFR Part 170 and the accuracy of the amount reported by the recipient.

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ESSER Special Tests and Provisions

Equitable services – follow equitable services under Title I, A

- Determine whether (1) the LEA, SEA, or other agency receiving ESEA funds has conducted timely consultation with private school officials to determine the kind of educational services to provide to eligible private school children, (2) the planned services were provided, and (3) the required amount was used for private school children.
- Review meeting minutes, expenditures, allocation amounts, third party contracts (as applicable),

EANS

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STOP CARES ACT FRAUD

Theft of CARES Act funding
for schools rob our students.

Be on the lookout for signs of fraud, waste, and abuse:

- Unusual conflicts of interest
- Unexplained or unallowable expenses
- Mismanagement of assets
- Unusually high prices
- Unusually high salaries
- Unusually high travel expenses
- Unusually high entertainment expenses
- Unusually high advertising expenses
- Unusually high consulting fees
- Unusually high legal fees
- Unusually high audit fees
- Unusually high insurance fees
- Unusually high interest on loans
- Unusually high interest on bonds
- Unusually high interest on mortgages
- Unusually high interest on credit cards
- Unusually high interest on other debt



We can prevent this fraud.

IF YOU SUSPECT ANY WRONGDOING,
REPORT IT AT www2.ed.gov

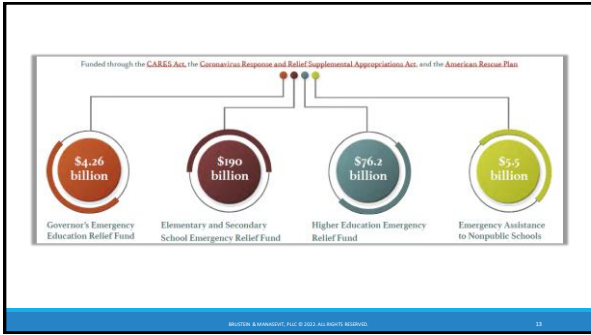
or call 1-800-875-5247

OIG Specialized Work Coronavirus Response and Relief Oversight & Disaster Recovery Oversight

Coronavirus Response and Relief Aid Oversight

<https://www2.ed.gov/about/offices/list/oig/disasterrecovery.html>

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Elementary and Secondary School Emergency Relief Fund

- Data Request: School Districts' ESSER Fund Grant Expenditures* (*Investigations*)
- Survey of School Districts' Use of ESSER Funds for Technology*
- States' and School Districts' Compliance with ESSER Fund Grant Requirements and Use of Funds*
- OESE's Oversight of ESSER Fund Grants (*planned*)

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Governor's Emergency Education Relief Fund

- States' Awarding and Monitoring of GEER Fund Grants
- Michigan*
- Missouri*
- Oklahoma*
- GEER Fund State Plans*

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Higher Education Emergency Relief Fund

- HEER Fund Reporting Requirements
- Risk of Closed IHEs Receiving HEER Fund Grants (*Investigations*)
- IHEs' Use of HEER Fund Grants
 - Lincoln College of Technology
 - Remington College
 - School No. 3*
- OPE's Oversight of HEER Fund Grants*

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Other OIG Products

- Challenges for Consideration in Implementing and Overseeing the CARES Act
- Inconsistent Grantee and Subgrantee Reporting of Education Stabilization Fund Subprograms in the Federal Audit Clearinghouse
- Fraud Reporting Requirements: A Guide for Federal Program Participants and Auditors

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THE STORY SO FAR

Stimulus Audit Findings

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CRF Audits (Rhode Island, Feb. 2021)

Treasury OIG met with State representatives after local news story that Governor planned to withhold CRF proceeds to balance the State's budget shortfall

- State provided assurance to Treasury OIG "that allegations of Rhode Island using funds to impermissibly resolve a government revenue shortfall are untrue."
- Report issued "to advise your office that the use of [CRF] proceeds to cover revenue shortfalls remains an unallowable use of funds."

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CRF Audits (Iowa, Dec. 2020)

Returned \$20.1 million in payments to Workday; vendor that provided technological upgrades to Iowa's HR and finance accounting systems.

- (Iowa): Allowed gov't employees to access systems remotely; facilitated telework; response efforts.
- (OIG): Contract was entered in Oct. 2019
- (OIG): HR upgrades would not go live until July 2021; Finance upgrades in June 2022

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CRF Audits (Iowa, Dec. 2020)

"While the new and modern Workday system may provide additional functionalities through a cloud-based environment, the timeline for achieving them is nearly two years away and the system upgrades were contemplated well before the pandemic began. As such, the Workday system is not available to meet the State's urgent needs during the covered period. Accordingly, we maintain our position that funding the Workday contract with Coronavirus Relief Fund proceeds is not a reasonable, allowable use of funds related to address the COVID-19 health pandemic."

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CRF Audits (American Samoa, July 2020)

- Recovered stipends for telework for staff that were already teleworking prior to COVID-19
- Questioned pre-payment of one year leased facilities for staff

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HEERF Audit – Remington College

Guidance vs. Law

- Auditor’s disagree with ED’s guidance on allowability for computers with CARES HEERF:
- “The Department’s guidance, which is seemingly more permissive in terms of allowable costs than the statute itself, impacts our ability to assess whether the school improperly used \$64,985 of its Institutional grant funds for this purpose.”

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HEERF Audit – Remington College

Procurement Finding: College failed to follow federal procurement for its contracts with HEERF

Corrective action:

“Determine whether the \$639,400 that Remington College charged to its Institutional grant for contracts awarded without a competitive procurement process was reasonable when compared to the quality and costs of suitable alternatives, and if not, require appropriate corrective actions.”

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HEERF Audit – Remington College

Period of Availability

- Auditors argue that online subscription costs could not extend past the close of the grant, even just to finish the semester:
- “However, to comply with 2 C.F.R. § 200.309, Remington College should have charged to the Institutional grant only those subscription costs through May 19, 2022. Subscription costs after that date should be paid for with other (non-HEERF) school funds.”

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HEERF Audit – Lincoln College

Cash Management Finding: Lincoln failed to follow cash management requirements, including depositing funds in interest bearing accounts and remitting earned interest

Lincoln: Revised its policies in Oct 2020, after ED guidance.

OIG: “We acknowledge the corrective actions...” “We did not make any changes to the findings or recommendations”

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GEER - Missouri


Finding re Monitoring of LEAs:

- Did not include review of supporting documentation related to LEA expenditures
- Did not require LEAs to certify their responses to self-assessment
- Recommended including “medium-risk LEAs” for a review of supporting documentation

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Preparing For An Audit

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Auditee Responsibilities



- Arrange single audit
 - Must follow procurement standards
- Prepare financial statements
- Follow up and corrective action on findings
- Provide access (2 C.F.R. 200.508)

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Corrective Action Plan

2 C.F.R. 200.511(c)

Corrective action plan. At the completion of the audit, the auditee must prepare ... a corrective action plan to address each audit finding included in the current year auditor's reports.

The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date.

If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

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Federal Agency Responsibility
2 C.F.R. 200.513

Cognizant agency for audit provides predominant amount-funds

Responsibilities

- TA to auditees
- Quality control
- Advice to auditors; Notice of audit deficiencies
- Coordinate management decisions
- Monitor corrective actions
- Use of cooperative audit resolutions

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Before the Visit



~~UNPREPARED~~

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Know Potential Trouble Spots

Self assessment – critical

- **Required – 200.328(a)**

Look at Available Information

- Review significant violations from other processes
- Review prior findings
- Review performance reports

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Evaluate Areas to be Examined

1. OIG Audit
 - Notice of Audit: Correspondence
 2. Single Audit
 - Prior Audits
 - Compliance Supplement
 3. Monitoring
 - E.g., Perkins IV Checksheet, IDEA Fiscal Monitoring Tool
 - OSS Performance Reports
- Request for Documentation
• "Audit Binder"

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Corrective Action Plan

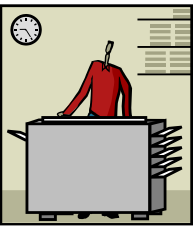
- Critical** – have in place at time of visit, even if implementation will be in the **future**
- Specific Measurable Objectives
 - Timelines
 - Clear Lines of Responsibility

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The Audit Visit



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Logistics

- Secure Space
- Audit Binder
- Copy Machine
 - Keep extra copy of all documents supplied!!!
- Professional Demeanor

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Identify Key Staff (Audit Committee)

Audit Liaison:

- Key contact for all questions, interview arrangements, documents requests, logistical arrangements

Agency Leadership:

- Entrance, exit conference

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Identify Key Staff


- Relevant Staff (Audit Committee):
 - Assure staff are prepared for interview
 - Subject matter awareness
 - Terminology/Definitions
 - Time and Effort
 - Necessary and Reasonable
 - Inventory
 - Familiarity with job description
 - Familiarity with prior problem areas
 - Familiarity with likely areas of inquiry

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Entrance Conference

- Leadership
 - Set positive but professional tone
- Audit Liaison
 - Review process/logistics
 - Request all interview requests go through manager
 - Request periodic updates (especially problem areas)
 - Do not wait for exit conference



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During the Visit

- Debrief staff after interviews
- Clear up misunderstandings

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Exit Conference (but don't wait)

- Press for specifics
- If issues:
 - Documents requested?
 - List and send
- Potential noncompliance findings
 - Review carefully
 - If confirmed, develop corrective actions proactively

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After the Visit



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Next Steps

- **OIG Audit, Single Audit**
 - Point sheet
 - Draft Audit Report
 - Final Audit Report
 - Final determination (ED, State Agency)
- **Respond carefully at each level**
 - Problems always easier to resolve at earliest level

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Next Steps

- **ED can:**
 - Accept finding as is
 - Accept finding but reduce or eliminate liability
 - Reject finding
- **Letter of final audit determination**
 - Establishes prima facie case
 - 34 C.F.R. 81.34

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Review by ED

- ED accepts finding with \$ liability
- Appeal to Office of Hearings and Appeals (OHA), 34 CFR 81.37
- Administrative Law Judges (ALJs) are independent
- Caution -**
 - Time limits
 - Other Rules of Procedure for Appeals

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Questions??

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