

June 26, 2023

May ESSER, GEER, or EANS-funded activities continue after the obligation and liquidation period?

As noted in question [E-3.d.](#) of the ESSER and GEER Use of Funds FAQs and in a separate [communication for EANS grantees](#), under limited circumstances, it may be allowable for ESSER, GEER, or EANS-funded activities to continue after the obligation and liquidation period. However, we understand that States have expressed concerns about possible audit findings if they or their subgrantees use ESSER, GEER, or EANS funds in this way. The Department is providing this additional guidance to address these concerns.

The question of whether services may extend a reasonable time beyond the obligation and liquidation period is fact-specific and should be considered by the State on a case-by-case basis. Generally, if a State or subgrantee uses ESSER, GEER, or EANS funds consistent with question E-3.d. and the EANS communication, then such use would be allowable. For example, as noted in E-3.d., a State may determine that it is reasonable and necessary under 2 CFR §§ [200.403-200.404](#) for an LEA to enter into a multi-year software licensing contract with a vendor during the period of availability of ARP ESSER funds and pay for the entirety of the software license within the liquidation period. However, under the contract, the vendor would continue to provide the services (i.e., software and technical support) for some time after the funds had been liquidated. The LEA in that instance should document, at the time it enters into the contract, its analysis leading to the decision to enter into the multi-year contract. For example, the LEA might document factors such as: the per-month cost of the multi-year contract is less than the cost of a shorter-term contract; the software license will be needed throughout the period of the contract; the LEA is allowed to enter into the contract extending beyond the obligation and liquidation period under State and local procurement rules; and prudent business practices and internal controls support entering into the contract. As noted in question E-3.d., under no circumstances may the services extend beyond the date on which the funds revert to the U.S. Department of Treasury (31 USC § 1552), which occurs four years after the obligation deadlines.

It is possible that the Department would sustain an audit finding that services continuing beyond the obligation and liquidation period are unallowable if, for example, the duration that the services extended was lengthy or unreasonable; the cost is not reasonable or necessary; State law, internal controls, or prudent business practices would not support the continuation of the services; or the contemporaneous documentation from the time does not support the decision to use ESSER, GEER, or EANS funds for services that extend beyond the obligation and liquidation period

The Department will continue to ensure auditors are aware of this guidance. For example, the Department has included a reference to this issue in the fiscal year 2023 compliance supplement. The Department is available to speak to State or other auditors with questions.