



Construction and Capital Expenditure Prior-Approval Request Form

EDGAR/Uniform Guidance Requirements

All Elementary and Secondary School Emergency Relief (ESSER) funding is subject to the Education Department General Administrative Regulations (EDGAR), located at 34 CFR Parts 75, 76,¹ and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), located at 2 CFR Part 200.²

All federal education funds must be necessary, reasonable, and allocable to the applicable federal grant program (2 CFR 200.403). In addition, the Uniform Guidance procurement requirements must be followed when procuring goods or services with federal funds (2 CFR 200.318 – 200.327).

Equipment and capital expenditures are allowable as direct costs with approval from the awarding agency (2 CFR § 200.439).

Construction, when permitted under a program statute or regulation, is allowable if it complies with the requirements in Part 75 of EDGAR, specifically sections 34 CFR §§ 75.600-75.617 (34 CFR 76.600). Onsite technical inspections and certified percentage of completion data are relied on heavily to monitor progress for construction (2 CFR § 200.329(d)). Therefore, KSDE may require additional performance reports when considered necessary.

Submission and Approval Process

By submitting the Approval Request Form, you are agreeing to comply with all federal, state and local rules and regulations applicable to obligating and expending federal funds. The Approval Request Form includes detailed information on the proposed cost as well as assurances that the request meets the requirements noted above.

The completed request form and **final working drawings and specifications (if applicable)** must be submitted to esser@ksde.gov for review and approval. KSDE may at any time request additional or more detailed information, including but not limited to plans, drawings, etc., as determined necessary to ensure compliance.

Additional details, resources, guidance, and training opportunities will continue to be posted to <https://www.ksde.gov/Agency/Division-of-Learning-Services/Special-Education-and-Title-Services/Federal-Disaster-and-Pandemic-Relief> as they become available.

For more information, please contact KSDE staff at esser@ksde.gov.

¹ <https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>

² <https://www.ecfr.gov/cgi-bin/text-idx?SID=316c298931aa086111ea79b002976f07&mc=true&node=pt2.1.200&rgn=div5>

Applicable Definitions

The following definitions apply to construction, equipment, and capital expenditures:

- *Acquisition cost* means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices (2 CFR § 200.1).
- *Capital assets* means:
 - (1) Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:
 - (i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
 - (ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).
 - (2) For purpose of this part, capital assets do not include intangible right-to-use assets (per GASB) and right-to-use operating lease assets (per FASB). For example, assets capitalized that recognize a lessee's right to control the use of property and/or equipment for a period of time under a lease contract. See also *Rental costs of real property and equipment* at 2 CFR § 200.465 (2 CFR § 200.1).
- *Capital expenditures* means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life (2 CFR § 200.1).
- *Equipment* means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000 (2 CFR § 200.1; 34 CFR § 77.1).
- *Facilities* means one or more structures in one or more locations (34 CFR § 77.1).
- *General purpose equipment* means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles (2 CFR § 200.1).
- *Minor remodeling* means minor alterations in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repairs (34 CFR § 77.1).
- *Special purpose equipment* means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers (2 CFR § 200.1).

CONTACT AND PROJECT DETAILS

Date of Request: _____ USD Number: _____

Name of District: _____ Title of Project (optional): _____

Primary Contact First Name: _____ Primary Contact First Name: _____

Primary Contact Email Address: _____ Primary Contact Phone Number: _____

Requested Funding Source: _____ Other Funding to be Used for Project: _____

Estimated Total Cost of Project: _____

Please complete the chart below.

Planned Funding Source	Cost	Percentage of Project
Total Cost		

Please describe the equipment, services, and other project costs that will be charged for successful completion of the proposed project.

Please explain why the cost is allowable under the applicable federal program (e.g., ESSER, IDEA, ESEA, etc.). For ESSER programs, also describe how the project will prevent, prepare for, and respond to coronavirus pandemic.

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Please describe:

a) why the proposed costs are necessary;

b) the procurement process used (or to be used) to ensure the costs is reasonable and the most cost-effective means of meeting the identified need, including any cost price analysis utilized; and

c) Any quote or estimates of the item to be purchased, and, if applicable, documentation demonstrating why this option is the most cost effective and submit the document to KSDE.

For construction, please discuss:

a) the impact of the proposed construction on the quality of the environment in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order 11514 (34 CFR 75.601)

b) any probable effect on any district, site, building, structure, or object that is included or eligible under the National Register of Historic Places (34 CFR 75.602).

Assurances

The Local Education Agency (LEA) hereby assures that, it will comply with the following requirements, as applicable, to the submitted project. *(In order for the project to be approved, all assurances must be checked and certified.)*

All construction requirements under EDGAR, including:

- ☐ §76.600 Where to find construction regulations.
- ☐ §75.600 Use of a grant for construction: Purpose of §§75.601-75.615.
- ☐ §75.601 Applicant's assessment of environmental impact.
- ☐ §75.602 Preservation of historic sites must be described in the application.
- ☐ §75.603 Grantee's title to site.
- ☐ §75.604 Availability of cost-sharing funds.
- ☐ §75.605 Beginning the construction.
- ☐ §75.606 Completing the construction.
- ☐ §75.607 General considerations in designing facilities and carrying out construction.
- ☐ §75.608 Areas in the facilities for cultural activities.
- ☐ §75.609 Comply with safety and health standards.
- ☐ §75.610 Access by the handicapped.
- ☐ §75.611 Avoidance of flood hazards.
- ☐ §75.612 Supervision and inspection by the grantee.
- ☐ §75.613 Relocation assistance by the grantee.
- ☐ §75.614 Grantee must have operational funds.
- ☐ §75.615 Operation and maintenance by the grantee.
- ☐ §75.616 Energy conservation.
- ☐ §75.617 Compliance with the Coastal Barrier Resources Act.

Applicable Uniform Guidance allowability requirements, including:

- ☐ §200.318 General procurement standards.
- ☐ §200.319 Competition.
- ☐ §200.320 Methods of procurement to be followed.
- ☐ §200.321 – Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms
- ☐ §200.322 – Domestic preference for procurements
- ☐ §200.324 – Contract cost and price
- ☐ §200.325 – Federal awarding agency or pass-through entity review
- ☐ §200.326 – Bonding requirements
- ☐ §200.327 – Contract provisions
- ☐ §200.329(d) – Construction performance reports
- ☐ §200.439 Equipment and other capital expenditures.
- ☐ §200.452 Maintenance and repair costs.
- ☐ §200.453 Materials and supplies costs, including costs of computing devices.
- ☐ §200.465 Rental costs of real property and equipment.

Appendix II to Part 200 - Contract provisions for Non-Federal Entity Contracts Under Federal Awards

All contracts made by the non-Federal entity under the Federal award must contain provision covering the following:

- ☐ Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate (for contracts over \$250,000)
- ☐ Termination for cause and for convenience (contracts over \$10,000)
- ☐ Equal Employment Opportunity (41 CFR Part 60)
- ☐ Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)
- ☐ Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)
- ☐ Rights to Inventions Made Under a Contract or Agreement
- ☐ Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended
- ☐ Debarment and Suspension (Executive Orders 12549 and 12689)
- ☐ Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Printed Name and Title of District Superintendent / Other Representative

Signature of District Superintendent / Other Representative

Date