**Multi-Year Subscriptions and Licenses**

Oftentimes, multi-year subscriptions and license purchases are deemed to be a more prudent purchase because the annual expense would be lower than if the license or subscription contract would be for an annual service. This calls into question, can ESSER funds be used to pre-pay for multi-year subscriptions or licenses?

There are two criteria that must be met for every ESSER-funded purchase to be allowable:

* The funded activities must be necessary to ***prevent, prepare for, or respond to COVID-19, including its impact on students***. Therefore, the first order of operations would be to demonstrate the connection between the need for the subscription and license and the LEA’s response to COVID-19.
* The funded activities to prevent, prepare for, or respond to COVID-19 must be obligated within the period of availability (by 9/30/22 for ESSER I; 9/30/23 for ESSER II; and 9/30/24 for ESSER III).

Should subscriptions and licenses meet both of those criteria, the next factor that must be addressed when considering the allowability of multi-year contracts is the number of years being purchased. The U.S. Department of Education released an [FAQ document in December of 2022](https://oese.ed.gov/files/2022/12/ESSER-and-GEER-Use-of-Funds-FAQs-December-7-2022-Update.pdf) outlining the risks associated with prepaying for services. One FAQ (FAQ E-3.d.) specifically responds to the question about how long ESSER-funded activities may continue beyond the liquidation period. The FAQ response indicates that under some circumstances, activities may continue for a ***reasonable period*** beyond the liquidation period. The FAQ also outlines the factors that impact how long ESSER-funded activities may extend past the liquidation period to be considered a ***reasonable period***:

* Whether the funds were properly obligated and liquidated in a timely manner;
* Whether the activities would be allowed to extend beyond the liquidation period under applicable State and local procurement rules (i.e., a State or LEA must follow the same policies and procedures it uses for procurements from its non-Federal funds) (see 2 CFR §§ 200.317 through 200.327, 200.403(c));
* Whether the extended activities constitute a reasonable and necessary use of Federal funds; and
* Whether prudent business practices (2 CFR § 200.404(b) & (d)) and internal controls (which generally limit prepayment) would support the continued activities for the length of time proposed.

The Colorado Department of Education (CDE) has determined that when multi-year subscriptions or licenses become a more reasonable and prudent use of federal funds than an annual subscription or license due to cost savings of a multi-year purchase, the reasonable period for such activities is until the end of the fiscal year within which the ESSER funds are liquidated. For example, if ARP ESSER III funds are used to purchase a multi-year subscription, the reasonable period would be until June 30, 2025. Therefore, any multi-year subscriptions and licenses purchased for implementation beyond the 2024-2025 school year must be prorated and ESSER funds can only be used to pay for the portion that covers through June 30, 2025.

Additionally, purchases made in the last 1 to 3 months of a performance period should be well documented and clearly allowable in terms of the need and requirement of the item/service for the intent of the grant. Very frequently, during an audit or federal monitoring, purchases made in the last several months of a performance period of an award come into question with regard to the actual need of the item or service. Questions include ‘If this is a need, why wasn’t it needed for the entire performance period, or at least earlier in the performance period?,’ and ’How is it actually allocable to the grant?’ An auditor or federal desk reviewer may question the expenditure and assume it was made simply to ‘spend down’ the funds. CDE recommends retaining documentation to demonstrate that all of the criteria discussed in this document have been met.

This is in alignment with CDE’s guidance on allowable uses of ESSER funds since 9/20/21 (please see the [Allowable Uses of ESSER Funds Matrix](http://www.cde.state.co.us/caresact/crf-allowableexpenditures), available on the CDE [ESSER Application website](http://www.cde.state.co.us/caresact/esser3application)).

**Internal Notes**

From the [Allowability Matrix](http://www.cde.state.co.us/caresact/crf-allowableexpenditures):

* Page 16, #4; Academic Intervention Programs: Subscriptions, Supplies
  + Yes, if necessary, reasonable, and allocable for the purposes of continuing educational services during school closures or for implementing a plan for return to normal operations, and incurred during the award period between March 13, 2020 and September 30, 2021 [CARES Act, Section 18003(d)(11) -planning and implementing activities relation to summer learning and supplemental afterschool programs].
  + ESSER II: Award Period March 13, 2020 through September 30, 2022. [CRRSA Act, Section 313(d)(11) summer or after school programs or (12) addressing learning loss].
  + ESSER III: Award Period March 13, 2020 through September 30, 2023 [ARPA, Section 2001(e)(2)(N) Addressing learning loss, or (M) Planning and Implementing activities related to summer learning and supplemental afterschool programs.]
  + All ESSER-funded activities must be necessary to prevent, prepare for, or respond to COVID-19.
  + Revised 09/20/21.
* Page 47, #39; Online learning platform subscriptions or Online course enrollment (added 7/30/20)
  + Yes, if necessary, reasonable, and allocable for the purposes of continuing educational services during school closures or for implementing a plan for return to normal operations, and incurred during the award period between March 13, 2020 and September 30, 2021 [CARES Act, Section 18003(d)(9) -purchasing educational technology for students, including hardware, software, and connectivity].
  + ***Licenses and subscriptions must be prorated for the grant award period.***
  + ESSER II: Award Period March 13, 2020 through September 30, 2022. [CRSSA Act, Section 313(d)(9) -purchasing educational technology for students, including hardware, software, and connectivity]
  + ESSER III: Award Period March 13, 2020 through September 30, 2023 [ARP Act, Section 2001(e)(2)(J) -...providing technology for online learning to all students…, (K) -Purchasing educational technology for students…, or (R) other activities that are necessary to maintain the operation of and continuity of services]
  + All ESSER-funded activities must be necessary to prevent, prepare for, or respond to COVID-19.
  + Revised 09/20/21
* Page 48, #40; Educational software / intervention subscriptions
  + Yes, if necessary, reasonable, and allocable y for the purposes of continuing educational services during school closures or for implementing a plan for return to normal operations, and incurred during the award period between March 13, 2020 and September 30, 2021 [CARES Act, Section 18003(d)(9) -purchasing educational technology for students, including hardware, software, and connectivity or (12)].
  + ***Licenses and subscriptions costs that will exceed the grant award period must be prorated and cannot be prepaid.***
  + ESSER II: Award Period March 13, 2020 through September 30, 2022. [CRSSA Act, Section 313(d)(9) -purchasing educational technology for students, including hardware, software, and connectivity]
  + ESSER III: Award Period March 13, 2020 through September 30, 2023 [ARP Act, Section 2001(e)(2)(J) -...providing technology for online learning to all students…, (K) -Purchasing educational technology for students…, or (R) other activities that are necessary to maintain the operation of and continuity of services]
  + All ESSER-funded activities must be necessary to prevent, prepare for, or respond to COVID-19.
  + Revised 09/20/21
* Page 68, #60; Software subscriptions to platforms that facilitate communication with families
  + Yes, if reasonable, necessary, and allocable to one of the allowable activities list in [CARES Act, Section 18003(d)(12)] for the purposes of continuing educational services during school closures or for implementing a plan for return to normal operations, and incurred during the award period between March 13, 2020 and September 30, 2021 .
  + ESSER II: Award Period March 13, 2020 through September 30, 2022.Software subscriptions must be prorated for the award period. [CRRSA Act, Section 313(d)(15)].
  + ESSER III: Award Period March 13, 2020 through September 30, 2023 [ARP Act, Section 2001(e)(2)(R) other activities that are necessary to maintain the operation of and continuity of services...]
  + All ESSER-funded activities must be necessary to prevent, prepare for, or respond to COVID-19.
  + Revised 09/20/21

Nothing about licenses or subscriptions in the [ESSER Reviewer Comment Library and Resources](https://docs.google.com/document/d/1XUdkfO3_n59z7RxyP5tYnmGiKQ69v2GuSiti8O6JZmk/edit?usp=sharing)