Higher Education Emergency Relief Fund (HEERF) Round 3 Frequently Asked Questions[1,2]

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1. **Question:** Can the Institutional Portion of my institution's allocation under section 18004(a)(1) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act be used to purchase COVID-19-related essentials such as thermometers, cleaning supplies, or other supplies for sanitizing a facility?

   Answer: Yes. Purchases to ensure the physical safety of students on campus is an allowable use of a grantee's Institutional Portion of its allocation under section 18004(a)(1) of the CARES Act, when these costs are new or added and needed to implement "significant changes to the delivery of instruction due to the coronavirus."

   This may include the reasonable costs of cleaning supplies, facility cleaning, or the purchase of items to help detect or prevent the spread of COVID-19 (e.g., thermometers, plastic barriers, or face masks). Grantees may also use these funds to make non-permanent changes to existing facilities to ensure social distancing.

   As with all grant costs, institutions must maintain adequate documentation as required by 2 CFR § 200.333 and 2 CFR § 200.403(g) to support the reasonableness of these costs, consistent with the cost principles in 2 CFR part 200 subpart E of the Uniform Guidance.

2. **Question:** The Department has stated that a student must file a Free Application for Federal Student Aid (FAFSA) or be eligible to file a FAFSA to receive an emergency financial aid grant from the Student Aid Portion of an institution's allocation under section 18004(a) of the CARES Act. I have a student that has filed a FAFSA but is at the maximum federal loan limits and is not eligible for a Pell grant due to his or her Expected Family Contribution (EFC). Is this student eligible to receive an emergency financial aid grant?

   Answer: We understand that our original language was imprecise because, indeed, any student can file a FAFSA. We would like to clarify that any student eligible to participate in title IV programs, as demonstrated by the school having received an ISIR for that student, or through the use of an alternative application or certification developed by the institution, may receive funding under the CARES Act section 18004(a). The student merely needs to demonstrate that he or she meets the eligibility criteria for federal

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[1] These FAQs constitute a guidance document. Guidance documents represent the Department of Education's current thinking on a topic. They do not create or confer any rights for or on any person or entity and do not impose any requirements beyond those required under applicable laws and regulations described. Guidance documents themselves lack the force and effect of law. For more information, see the U.S. Department of Education's Guidance Homepage.

[2] This FAQ document does not apply to the Department's recently announced Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) grant competition (FIPSE Competitive Grant). More information regarding that program is available here: https://www2.ed.gov/about/offices/list/ope/heerfirepo.html.

student aid (also known as Title IV aid) under Title IV of the Higher Education Act of 1965, as amended (HEA). In addition, a student who has met their Title IV aid limits (e.g., annual loan limits or Pell limits) would still be considered eligible for an emergency financial aid grant because they can still demonstrate their initial eligibility for Title IV. As the emergency financial aid grants under the CARES Act are not considered Title IV aid, the Title IV aid limits do not prevent or control the amount of emergency financial aid that an eligible student may receive under the CARES Act.

3. **Question:** After the Department made the Student Aid Portion of institutions' allocations under section 18004(a)(1) of the CARES Act available, it published an interim final rule stating that only students eligible for Title IV aid may receive emergency financial aid grants provided with such funds. My institution distributed some emergency financial aid grants to students, including non-Title IV aid eligible students, before the interim final rule was published. Was this use of funds allowable?

   Answer: Although the distribution described runs counter to the requirements described in the Interim Final Rule (IFR) published by the Department on June 17, 2020 (see below), the Department will not take enforcement action against the distribution because the IFR was not yet in effect.

   On June 17, 2020, the Department published an IFR effective the same day, regarding the eligibility of students at institutions of higher education under the CARES Act, which constitutes the Department's binding final rule regarding student eligibility for HEERF assistance and carries the force of law except as enjoined in several lawsuits, as described on the Higher Education Emergency Relief Fund Litigation Updates website. As the IFR is not intended to have retroactive effect, the Department will not initiate any enforcement action based solely upon its early guidance as to student eligibility for HEERF emergency student financial aid grants that were disbursed to students prior to the effective date of the IFR (June 17, 2020). Please note, however, that the underlying statutory terms in the CARES Act are legally binding, as are any other applicable statutory terms, such as the restriction in 8 U.S.C. § 1611 on eligibility for Federal public benefits including such grants.

4. **Question:** Previous Departmental guidance advises that, consistent with sections 18004(a)(1) and 18004(c) of the CARES Act, institutions that have provided refunds to students for room and board, tuition, and other fees (such as activities fees) may reimburse themselves from the HEERF Institutional Portion. Is an institution's student account credit an acceptable form of a "refund" which can be reimbursed from the Institutional Portion of an institution's allocation under section 18004(a)(1) of the CARES Act?

   Answer: Yes. Section 18004(c) of the CARES Act expressly states that the funds for a recipient's Institutional Portion are to "cover any costs associated with significant changes to the delivery of instruction due to the coronavirus." As such, directly awarding a student a refund for housing expenses or other fees that the student was not able to utilize due to significant changes to the delivery of instruction due to the coronavirus is an allowable use of the Institutional Portion of an institution's allocation under section 18004(a)(1) of the CARES Act.

We encourage institutions to act as quickly as possible to provide refunds to students where the Institutional Portion of an institution's section 18004(a)(1) award is used directly or indirectly for credits to a student's account. In the Title IV context, we require institutions to pay credit balances to students within 14 days; we likewise encourage institutions to provide refunds to students here within 14 days of deciding to use their Institutional Portion funds for this purpose.

Also, as noted previously in Question 1 of the HEERF Emergency Financial Aid Grants to Students FAQs, institutions may not reimburse themselves from the funds statutorily earmarked for emergency financial aid grants to students (the recipient's Student Aid Portion) for refunds to students for room and board, tuition, and other fees (such as activities fees).

5. **Question:** My institution has students that paid housing fees for April and May 2020 for collegiate housing, but who were not there physically due to COVID-19. Can our institution provide our students an account credit for the rent amount paid and be reimbursed through the HEERF?

   Answer: If an institution chooses to reimburse students for rent payments they made, in addition to campus housing fees, during a time when the student could not remain in campus housing "due to significant changes to the delivery of instruction due to the coronavirus," then that is a permissible use of funds from the Institutional Portion of its allocation under section 18004(a)(1) of the CARES Act to reimburse itself for this cost. However, in such a case, if the student paid rent directly to an entity other than the institution, then the institution would need to issue the rent credit to the student in the form of a cash payment, or equivalent. However, if the rent payments were made to the institution, then the institution can reimburse the student for those payments by issuing an account credit for the rent amount paid.

6. **Question:** During the COVID-19 crisis while campuses were closed, my institution's instructors taught online and therefore took little to no vacation time off. Upon the re-opening of campuses, my institution will need all its instructors on campus to cover extended campus hours due to added classes to accommodate social distancing guidelines and to make up lost classroom time. As a result, to retain instructors, my institution would like to offer instructors the option to "buy out" an additional week of vacation time, to enable my institution to provide as smooth a transition for students as possible.

   My institution's current policy enables instructors to buy out one week of vacation time. The revised policy will save on instructional overtime and the need for additional instructors. Can my institution be reimbursed for the second one-week vacation buyout of instructor vacation?

   Answer: Yes. If due to the "significant changes to the delivery of instruction due to the coronavirus" you anticipate that instructional staff may not have the ability to utilize vacation days or paid time off (PTO) in order to implement such changes to the delivery of instruction to serve their student community, you may utilize the Institutional Portion of your allocation under section 18004(a)(1) of the CARES Act to establish or expand a PTO buyback program for affected employees.

7. **Question:** If an institution chooses to only use some of its HEERF allocation, if the funds are encumbered, but not yet spent by the end of the HEERF grant performance period, will the funds be reclaimed by the Department?

   Answer: Yes, the Department may reclaim those funds. Institutions were given one calendar year (365 days) from the date of award in their HEERF Grant Award Notification (GAN) to complete the performance of their HEERF grants.[3] Therefore, for example, if a grantee received a GAN on April 7, 2020, the one calendar year period of performance for its HEERF grant would be through April 6, 2021.

   After the one calendar year period of performance, a grantee has 90 days to liquidate (or make final payment on) previously obligated funds**.** Grant closeout procedures are described in more detail in 2 CFR § 200.343.

   The point of emergency funds is to spend them immediately to cover costs or losses, as applicable, associated with the emergency. However, the Department understands that changes in enrollment levels, the need to reserve funds in the event that the emergency is prolonged, or other challenges, may render a campus unable to obligate all of their funds by the end of the award year. Consequently, no-cost extensions (NCEs) of up to 12 months are available as provided for in 2 CFR § 200.308(d)(2). NCEs may not be exercised merely for the purpose of using unobligated balances. Given the emergency nature of HEERF grants, the Department does not intend an NCE to extend longer than 12 months. HEERF grantees are encouraged to discuss any need for an NCE with their respective program officer well in advance of the end of their grant period of performance.

   See also the Department's revised response to question 1 in our HEERF CARES Act Supplemental FAQs released on June 30, 2020 and revised on September 8, 2020.

8. **Question:** Do all of the requirements in the *Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards* (the "Uniform Guidance," at 2 CFR part 200) apply to the HEERF grants?

   Answer: Yes. The Department has consistently held that grant funds awarded under the HEERF are subject to the requirements of the Uniform Guidance in 2 CFR part 200. Notice of the applicability of these provisions was provided in the Certification and Agreement documents that all grantees affirmatively signed prior to submitting their requests for funding, as well as in each Grant Award Notice (GAN).

[3] See Box 6 in your HEERF GAN ("Federal Funding Period").

Where a conflict may exist between the provisions of the CARES Act and those of 2 CFR part 200, the CARES Act would supersede. The Department remains available to answer any questions you might have about the applicability of certain provisions of 2 CFR part 200 to your HEERF grant. Proper administration of these funds will be subject to audit and should be taken seriously by each grantee.

9. **Question:** My institution drew down the full amount of its Student Aid Portion allocation under section 18004(a)(1) soon after it was made available. However, we have not been able to fully distribute the emergency financial aid grants to students as quickly as planned. Does my institution need to refund the portion not yet spent?

   Answer: In accordance with 2 CFR § 200.305(b) of the Uniform Guidance, which applies to the HEERF grants, grantees must seek to minimize the time between drawing down funds from the G5 system and applying those funds to support a grant award's activities. Consistent with this requirement, grantees must maintain grant funds in interest-bearing accounts, and any interest earned on grant funds above $500 per year must be remitted to the Federal government.

   Therefore, the Department encourages grantees to establish a distribution plan prior to an initial draw down of grant funds. In addition, we urge grantees to only draw down the minimum amount of grant funds necessary, and where the grant funds are able to be applied promptly to each HEERF grant's purposes.

   Based on the circumstances described above, an institution should refund any portion of the HEERF award that it does not have an immediate ability to expend on emergency financial grants to students, until the institution has a plan for the orderly distribution of the remainder of the funds. It can then be re-drawn from the institution's account in G5.

10. **Question:** May an institution use the Institutional Portion of its allocation under section 18004(a)(1) of the CARES Act to upgrade its computer systems to facilitate distance learning?

    Answer: Yes. An institution may use funds from the Institutional Portion of its section 18004(a)(1) allocation to purchase equipment or software, pay for online licensing fees, or pay for internet service to enable students to transition to distance learning as such costs are associated with a significant change in the delivery of instruction due to the coronavirus. An institution may also use Institutional Portion funds for any other costs for computer system upgrades that are reasonably related to "significant changes to the delivery of instruction due to the coronavirus." This would not include, for example, previously planned upgrades to computer systems.

11. **Question:** Can an institution use the Institutional Portion of its allocation under section 18004(a)(1) to cover losses in revenue?

    Answer: No. The Institutional Portion of a grantee's 18004(a)(1) award may not be used to simply defray revenue losses. Rather, the institution must use these funds to pay expenses encumbered as a result of "significant changes to the delivery of instruction due to the coronavirus" under 18004(c). However, an institution that received funds under either section 18004(a)(2) or 18004(a)(3) of the CARES Act may use those allocations for the purpose of defraying expenses, including lost revenue.

Institutions must, consistent with the recordkeeping requirements in the Uniform Guidance (2 CFR §§ 200.333-200.337), document any offsets in lost revenue by comparing year-to-year revenue and describing how the shortfall in tuition is impacting the institution's budget. The institution must also track how these funds were spent and report those uses accurately in its required quarterly and annual reports.

12. **Question:** My institution did not receive a Paycheck Protection Program (PPP) loan when the program first started. There is a three-week period for which salaries for instructors were not covered by the PPP loan my institution later received. May my institution use its allocation under section 18004(a)(1) to be reimbursed for the payment of such instructor salaries?

    Answer: It depends. If, for example, the institution decided to reimburse students for some or all of the tuition they had originally paid for instruction during the COVID-19 period, and the three week period was included in the portion of the term for which the student was reimbursed, but the institution continued to provide instruction during that period, then the institution would be permitted to use part of the institution's allocation under section 18004(a)(1) of the CARES Act to reimburse itself for those salary expenses. In addition, if the institution had to hire additional instructors during this period to accommodate the increased demands of online instruction, to reduce class sizes to enable social distancing, or to help instructors adjust to online teaching, then the institution can reimburse itself for those added salary costs using part of its institutional share under section 18004(a)(1) of the CARES Act.

    However, if there were no changes in the number of faculty who taught during those three weeks due to COVID-19, and the institution did not refund students for tuition payments made during that three week period, then the institution would not be permitted to use part of its institutional portion of the funds provided under 18004(a)(1) of the CARES Act.

    The institution could, however, use formula funds received under sections 18004(a)(2) or 18004(a)(3), if applicable, to reimburse itself for salaries paid during that three week period, even if there were not changes in the number of instructors paid during that period.

13. **Question:** Does an institution need to know its allocated amount under section 18004(a)(3) of the CARES Act to apply for such funds?

    Answer: Yes. The amount must be entered on the SF-424 form, although if the amount is not known at the time of application, an applicant may leave the amount blank. The allocation table is now available at https://www2.ed.gov/about/offices/list/ope/finalallocationcaresactsec18004a3.xlsx.

In addition, the Department has recently issued a notice inviting applications for the Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) Grant Program Competition (FIPSE Competitive Grant), with more information available here: https://www2.ed.gov/about/offices/list/ope/heerfirepo.html.

14. **Question:** At my institution, administrators' roles are quite varied and includes some high-level officer roles, such as our Chief Fiscal Officer. These administrators, however, do not earn "highest" executives' salaries. If administrators performed numerous COVID-19 related tasks in developing and implementing changes to the delivery of instruction due to the coronavirus, may they be compensated from the institution's allocations under Sections 18004(a)(1), (2) and (3) of the CARES Act?

    Answer: It depends on the source of the expenditure. Institutions may use the Institutional Portion of their section 18004(a)(1) allocation under the CARES Act for "any costs associated with the significant changes to the delivery of instruction due to the coronavirus." However, as stated in the Certificate and Agreement for the Institutional Portion of the Section 18004(a)(1) allocation:

    > The Department would not consider the following Recipient's Institutional Portion to be related to significant changes to the delivery of instruction due to the coronavirus, and therefore would not view them as allowable expenditures: senior administrator and/or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; and any other cash or other benefit for a senior administrator or executive.

    Such executive and senior administrators' salaries would normally have been paid regardless of the coronavirus and do not meet the standard for costs associated with significant changes to the delivery of instruction due to the coronavirus. Further, the Student Aid Portion of institutions' section 18004(a)(1) allocation is for emergency financial aid grants to students and cannot be used for such expenses.

    However, while an institution may not use section 18004(a)(1) funds to otherwise defray general expenses it incurred related to the coronavirus, this may be an allowable use of an institution's 18004(a)(2) or (a)(3) award under the CARES Act.

15. **Question:** Can an institution incur costs on a "pre-award" basis, or do we need to wait for a GAN and an actual start date?

    Answer: Yes. A HEERF applicant may incur pre-award costs. Generally, under 2 CFR § 200.458 and 200.308(d)(1), a grantee may incur project costs 90 calendar days before the Federal awarding agency makes the Federal award. However, an institution should understand that it is not guaranteed any funding that the Department has not committed to it in a GAN.

    Such costs must be directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award.

However, for all Education Stabilization Funds (ESF), including HEERF, no pre-awards costs are permissible for any expenditure incurred prior to March 13, 2020, the date the President declared the national emergency due to COVID-19.

16. **Question:** Our institution would like to hire an individual that would be solely dedicated for COVID-19-related work. Would this be an allowable cost?

    Answer: Yes. An institution may use HEERF funds to hire additional personnel when those personnel costs are new or added to respond to “significant changes to the delivery of instruction due to the coronavirus.” If an employee’s duties are only partially to address or respond to “significant changes to the delivery of instruction due to the coronavirus,” the institution may use HEERF funds for only the pro-rated share of hours or effort that employee spends to respond to coronavirus.

    Note that as provided in the Recipient’s Funding Certification and Agreement for the Institutional Portion of section 18004(a)(1) CARES Act, the Department would not consider senior administrator and/or executive personnel costs to meet this standard.