



ESSER Updates

TASBO 2023

Relief Team
Federal Programs and Oversight

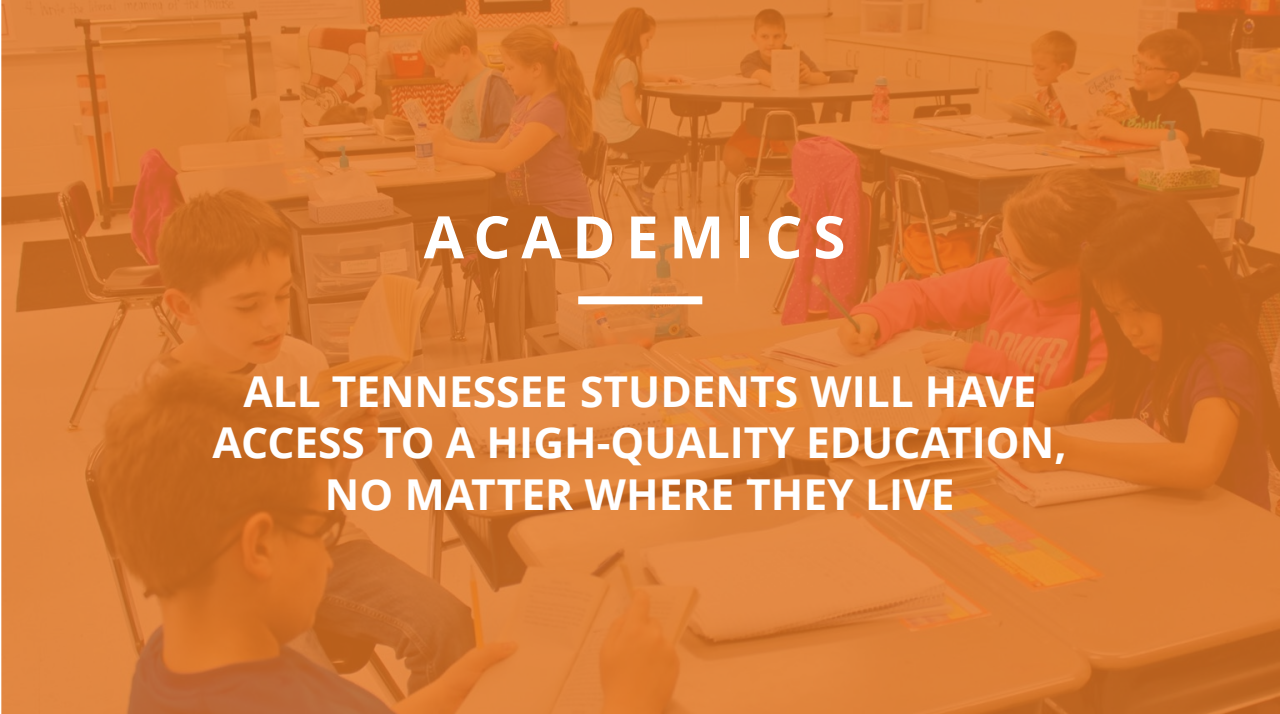
November 2023





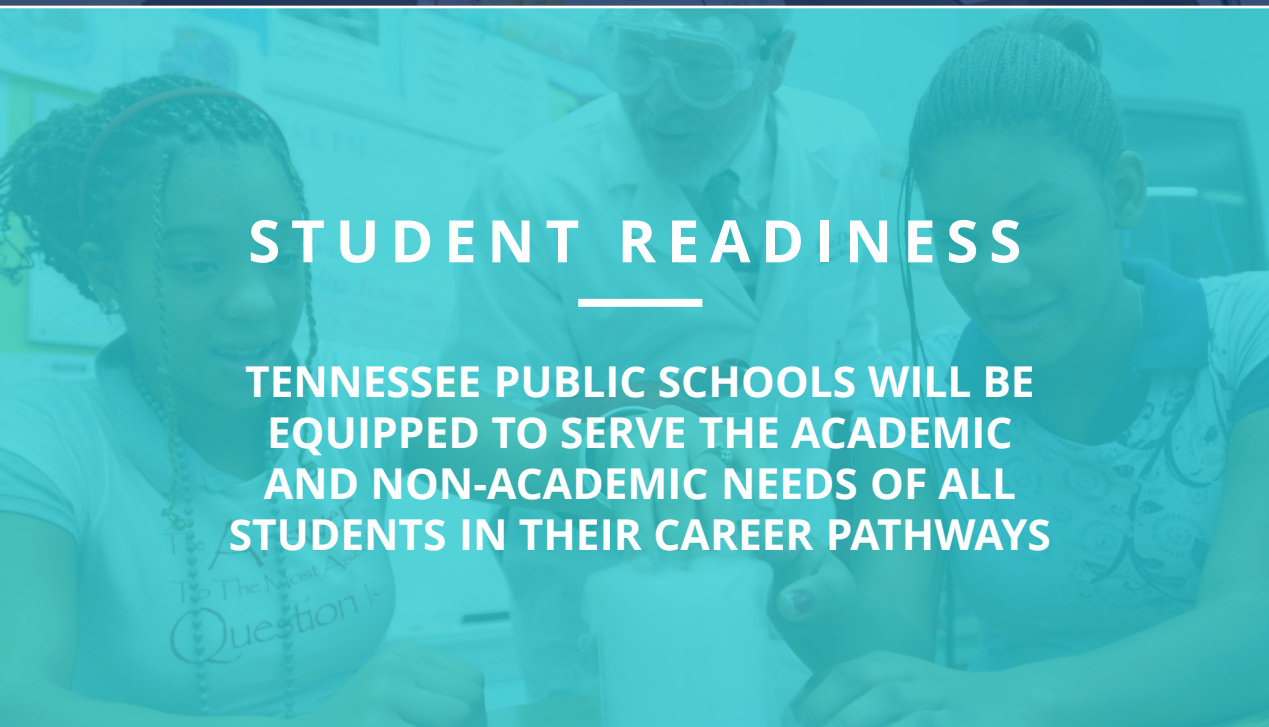
BEST FOR ALL

We will set all students on a path to success.



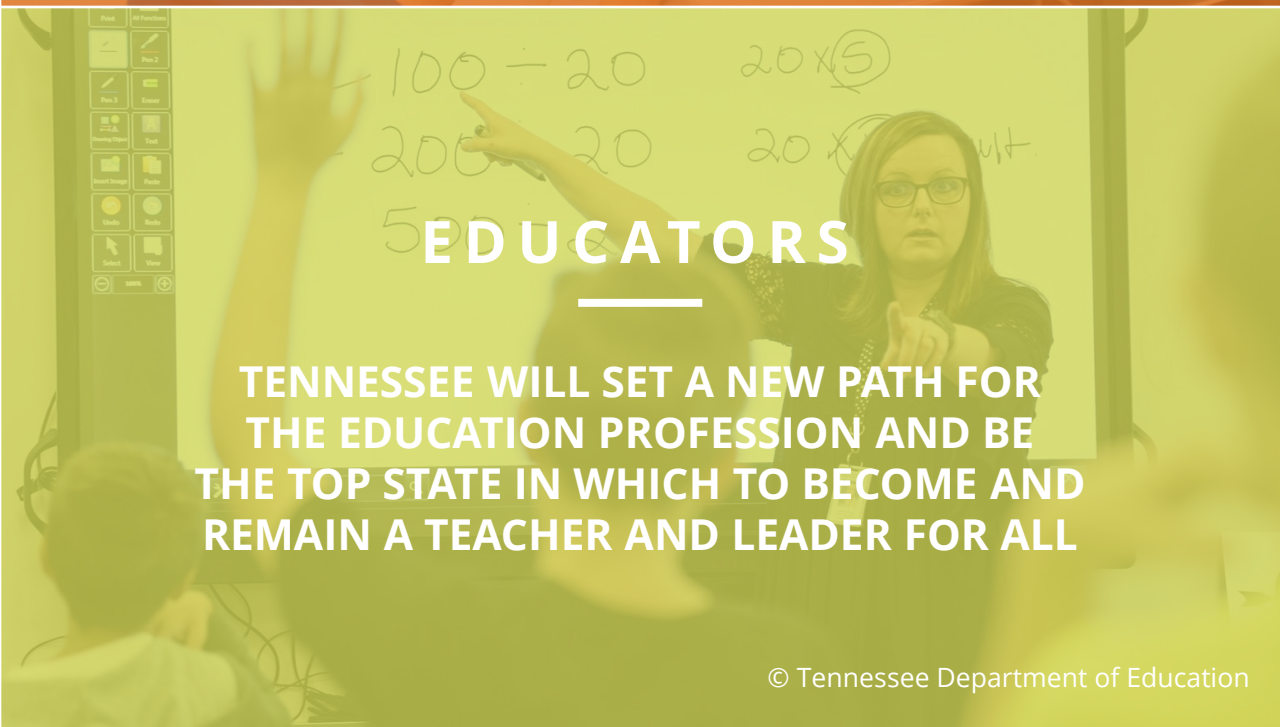
ACADEMICS

ALL TENNESSEE STUDENTS WILL HAVE ACCESS TO A HIGH-QUALITY EDUCATION, NO MATTER WHERE THEY LIVE



STUDENT READINESS

TENNESSEE PUBLIC SCHOOLS WILL BE EQUIPPED TO SERVE THE ACADEMIC AND NON-ACADEMIC NEEDS OF ALL STUDENTS IN THEIR CAREER PATHWAYS



EDUCATORS

TENNESSEE WILL SET A NEW PATH FOR THE EDUCATION PROFESSION AND BE THE TOP STATE IN WHICH TO BECOME AND REMAIN A TEACHER AND LEADER FOR ALL



Agenda

- Emerging Trends in ESSER Monitoring
- Period of Performance
- Preparing for Grant Close-out
- Check for Understanding
- Resources & Closing



Emerging Trends in ESSER Monitoring



How are you assessing for effectiveness?

How are you assessing your investments?

- Is assessment ongoing?
- What is working? Or not working?
- Check: The *Spending Plan* page in each ESSER Funding Application contains the information provided by the LEA as to how activities were to be assessed.





ESSER 3.0 Public Plans

- **Federally Required: Safe Return to In-Person Instruction and Continuity of Services Plan (Health and Safety), and ESSER Public Plan for Remaining Funds.**
- An update is due every six months through Sept. 30, 2023.
 - Final submission was Sept. 15, 2023
 - All LEA plans have been approved by the Department
- The LEA must seek public input on the plan as the purpose is to keep stakeholders informed.
- All versions must be **translated and publicly posted**.
 - Please ensure the most recent plans are posted on the LEA website.



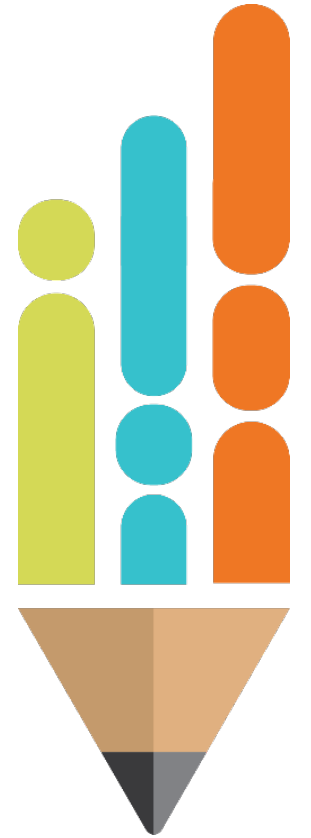
Fiscal Trends in ESSER Monitoring

1. Project was not advertised/bid in compliance with federal regulations [eC.F.R. :: 2 C.F.R. 200.319 – Competition](#) (2 C.F.R. § 200.318-320).
2. Contracts do not contain required provisions [eC.F.R. :: Appendix II to Part 200, Title 2 -- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#)

Contract Requirements

The benefit of using contracts is the reduction of risk.

- 2 C.F.R. § 200.327; Appendix II
- Provisions- 13 Required elements
- All might not apply to every contract
- Contracts over \$10,000 must address termination for cause and convenience.
- LEAs must provide oversight to ensure contractors perform in accordance with the terms of the contract (2 C.F.R. § 200.318).



Suspension and Debarment

2 C.F.R. § 180.300

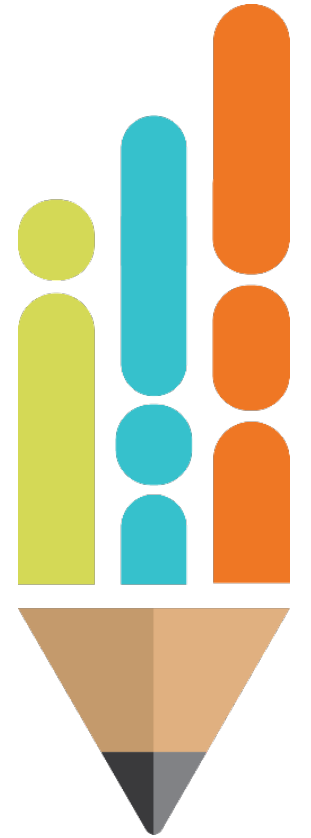
- [SAM.gov](https://sam.gov)
 - Federal System for Award Management
 - Used for verification Vendor/Contractor not suspended or debarred
 - Must check for transactions/contracts for covered transactions over \$25,000
 - Check SAM.gov for each vendor/contractor
 - Collect a certification from the vendor that they are in good standing
 - Add a clause or condition to the transaction/contract with the vendor/contractor



Davis-Bacon and Related Acts (DBRA)

When it applies:

- Construction contracts paid in whole or part by federal funds
 - Remodel, renovation, repairs, improvements, or construction on public use or works building
- Contracts over \$2,000



Davis-Bacon and Related Acts (DBRA) Trends in ESSER Monitoring

Findings:

1. Contractor did not comply with Davis-Bacon
 - See [Fact Sheet #66: The Davis-Bacon and Related Acts \(DBRA\) | U.S. Department of Labor \(dol.gov\)](#)
2. LEA did not secure certified payroll documentation from contractors before requesting reimbursement from ESSER 2.0 or ESSER 3.0



Davis-Bacon and Related Acts (DBRA)

Responsibilities:

1. Contractor:

- Pay prevailing wages for all hours worked
 - Pay is based on duties performed
 - Apprentices can be paid less if enrolled in a registered program
- Post the applicable DBRA wage determination and the [Davis-Bacon Poster \(WH-1321\)](#) on the work site

2. LEA:

- Ensure DBRA requirements are included in the contract ([29 C.F.R. 5.5](#))
- Oversee contractor to ensure compliance
- Collect and retain copies of weekly wage sheets from the contractor
- Ensure the DBRA poster is visible at the worksite



Period of Performance

Federal Grants Period of Performance

- The Uniform Guidance in 2 C.F.R. § 200.77 defines "period of performance" as the time during which the non-Federal entity (grantee) may incur new obligations to carry out the work authorized under the Federal award.
- Federal guidance specifies that grant funds may not be used for activities outside of the period of performance (2 C.F.R. § 200.344). Materials, supplies, and/or services received outside of the period of performance would not be allowable.



Federal Grants Period of Performance

Grant	Obligation	Liquidation
ESSER 2.0 (CRSSA)	Sept. 30, 2023	Dec. 15, 2023*
ARP IDEA	Sept. 30, 2023	Dec. 15, 2023*
ESSER 3.0 (ARP ESSER)	Sept. 30, 2024	Dec. 15, 2024*
ARP Homeless 1.0 ARP Homeless 2.0 Systems Navigator	Sept. 30, 2024	Dec. 15, 2024*

**Recommended deadline to ensure funds are reimbursed in ePlan for adequate time for grants to close. The Tennessee Department of Education (the department) is awaiting guidance from the U.S. Department of Education (ED) on the extension of liquidation for ESSER 2.0 and ESSER 3.0. Extension of liquidation will provide an additional 14 months for local education agencies (LEAs) to draw down these funds, which will extend the period of performance for each grant.*



Obligation of Funds

- **Obligation:** Funds are obligated when the local education agency (LEA) commits those funds to specific purposes (e.g., contracts, services, subscriptions, materials) (34 C.F.R. § 76.707). Funds are not obligated until the LEA commits the funds to specific purposes.
- Specifically, for services or assistance provided through a contract, the obligation is made on the date that the State or subgrantee makes a binding written commitment to obtain the services, work, or products. For the rental or lease of real or personal property, the obligation is made when the property is used.



Obligation of Funds

If the obligation is for:	The obligation is made:
Acquisition of real or personal property	On the date on which the subgrantee makes a binding written commitment to acquire the property.
Personal services by an employee of the State or subgrantee	When the services are performed.
Personal services by a contractor who is not an employee of the State or subgrantee	On the date on which the subgrantee makes a binding written commitment to obtain the services.
Performance of work other than personal services.	On the date on which the subgrantee makes a binding written commitment to obtain the work.
Public utility services	When the subgrantee receives the services.
Travel	When the travel is taken.
Rental of real or personal property	When the subgrantee uses the property.

Source: U.S. Dep't. of Educ., Liquidation Extension Requests for CARES-ESSER and CARES-GEER (Oct. 3, 2022) https://oese.ed.gov/files/2022/10/WEBINAR-10.3.22_Liquidation-Extension-for-CARES-ESSER-and-CARES-GEER.pdf





Liquidation of Funds

- **Liquidation:** To liquidate an obligation, the purchased item or service has occurred, payment has been made to the vendor or provider, and a request made to the state for reimbursement, net any discounts, rebates, etc.
 - A grantee must liquidate all obligations incurred under the award no later than 120 days after the end of the funding period or as specified in a program regulation (34 C.F.R. § 80.23).
- For ESSER 2.0 and ARP IDEA, **Dec. 15, 2023**, is the deadline for liquidation to ensure funds are reimbursed in ePlan for adequate time for the grant to close.



ESSER Funds, Textbooks, and Periods of Performance

- An LEA may only pay for the textbooks and any supplemental materials or supplies that accompany the texts that will be **received** during the period of performance for the respective grant.
- Materials, supplies, and/or services **received** after the period of performance would not be allowable.
 - ESSER 2.0 and ARP IDEA: **December 2023**
 - ESSER 3.0: **December 2024**
- Please see the [Period of Performance Overview](#) for specific examples with timelines.





How Long May ESSER-Funded Activities Continue?

- According to the United States Department of Education (ED), in [question E-3.d. of the ESSER and GEER Use of Funds FAQs](#) it **may** be allowable after the obligation and liquidation period.
 - Fact specific and should be considered by the SEA on a case-by-case basis*
- Factors to consider:
 - Whether the funds were properly obligated and liquidated in a timely manner
 - Whether the extended activities constitute a reasonable and necessary use of Federal funds
 - Whether prudent business practices (2 C.F.R. §200.404(b) & (d)) and internal controls would support the continued activities for the length of time proposed
 - Whether the educational services to students or supports for learning are disrupted (not salaries).*





How Long May ESSER-Funded Activities Continue?

- Other Factors for LEAs to consider:
 - Contractor’s history of performance
 - Discounted costs
 - Service/product is an identified need
 - Data demonstrating success of service/product



How Long May ESSER-Funded Activities Continue?

For Example:

- It **may** be reasonable and necessary for an LEA to enter a multi-year software licensing contract with a vendor during the period of performance of ARP ESSER.
 - The LEA could pay for the **contract portion** within the liquidation period.
 - Under the contract, the vendor would continue to provide the services for some time after the funds have been liquidated.
 - The contract would then be paid out of another funding source for any remaining years.



How Long May ESSER-Funded Activities Continue?

ESSER 3.0 Period Of Performance Example

	<u>IF</u> obligated by Sept. 30, 2024,	<u>AND</u> received and paid for by December 2024,	<u>THEN</u> may be utilized until the end of 2024- 2025 school year and through summer programming	<u>BUT</u> <u>NOT</u> continued in the 2025- 2026 school year and beyond
Benchmarking Software	Yes	Yes	Yes	NO – Use Other Funding Source
Textbook Consumables	Yes	Yes	Yes	NO – Use Other Funding Source





Relief Funds and Employee Pay

- Services provided by an employee are considered obligated when the services are rendered, or the work is performed [34 C.F.R. § 76.707(b)].
- Payroll expenses for employees may only be charged to the grant for services provided through the end of the obligation period (Sept. 30, 2024, for ESSER 3.0).





Relief Funds and Employee Pay

An LEA may not use ESSER 3.0 funding to pay an employee's salary and benefits after Sept. 30, 2024, since the obligation of funds for an employee does not occur until the work is performed. Thus, payroll expenses for employees of the state or subgrantee may only be charged to the grant for services provided through the end of the obligation period.



Relief Funds and Employee Pay Example

ESSER 3.0 Example

Examples of personal services for the 2024-2025 school year	When are these services obligated?	Are these personal services allowable after Sept. 30, 2024?
Teacher employed by LEA	When the work occurs	No
Company under contract to provide ongoing PD to teachers	On the date on which there is a binding written commitment to obtain the services.	Yes
ESSER Administrator hired by LEA	When the work occurs	No
Company under contract to place substitutes	On the date on which there is a binding written commitment to obtain the services.	Yes



Preparing for Grant Close-out

Relief Funds Period of Performance vs. State Fiscal Year



Grant	State Fiscal Year End	Relief Funds Period of Availability Ends
ESSER 3.0 (ARP ESSER)	June 30, 2024	Sept. 30, 2024
ARP Homeless 1.0 ARP Homeless 2.0 Systems Navigator	June 30, 2024	Sept. 30, 2024



ESSER 3.0 and ARP Homeless Final Closeout

- All remaining ESSER 3.0 and ARP Homeless funds must be obligated by **Sept. 30, 2024**.
- All ESSER 3.0 and ARP Homeless funds will be liquidated by Dec. 15, 2024.*, **

**Recommended deadline to ensure funds are reimbursed in ePlan for adequate time for grants to close.*

***The department will continue to monitor the liquidation of ESSER 3.0 funds to determine if requests to ED for liquidation extensions will be necessary. Extension of liquidation will provide an additional 14 months for LEAs to draw down these funds, which will extend the period of performance for the grant.*





Extensions

- **Obligation period may not be extended.**
 - Set in statute and requires Congressional action.
- **Liquidation Extension**
 - U.S. Department of Education (ED) allowed requests for CARES Act (ESSER 1.0), and CRRSA (ESSER 2.0)
 - [ARP ESSER Liquidation Extension Letter](#) – Released by ED, Sept. 18, 2023
 - ED does not encourage planning for the granting of an extension.
 - Tennessee did not apply for a CARES Act or CRRSA liquidation extensions on behalf of any LEAs.
 - The department will continue to monitor the liquidation of ESSER 3.0 to determine if liquidation extension requests are necessary.





ESSER 3.0 Closeout Options

Option #1

- Submit budget revisions to the department in a timely manner to obtain necessary local and state approvals.
- Submit reimbursement requests timely.
- All funds must be obligated and liquidated by **June 30, 2024**.
- Complete the Final Expenditure Report (FER) in ePlan; beginning **July 1, 2024**.





ESSER 3.0 Closeout Options

Option #2 – Funds not liquidated by June 30, 2024

- FY24 FER submitted no later than the date in July 2024 which will be set by the fiscal team.
 - Allowed for budgeting of carryover, if applicable
 - To release funds that are not used
 - [The Release of Funds](#) form must be uploaded in ePlan, and the applicable grant manager must be notified if any funds are being released.
- FER approved by the department
- FY25 ESSER 3.0 carryover funds became available in ePlan as soon as the department approves the FER
 - 67 LEAs took advantage of the carryover option for CRRSA/ESSER 2.0 funds



Check for Understanding






The Health & Safety Plan no longer must be posted on the district website.

- True
- False



Only the contractor must retain weekly wage documentation for construction projects under Davis-Bacon requirements.

- True
- False



Payroll expenses for employees paid from ESSER 3.0 may be charged to the grant for services provided through the 2024-2025 school year.

- True
- False



LEAs may not continue to use benchmarking software purchased with ESSER 3.0 funds after Sept. 30, 2024.

- True
- False

Resources & Closing



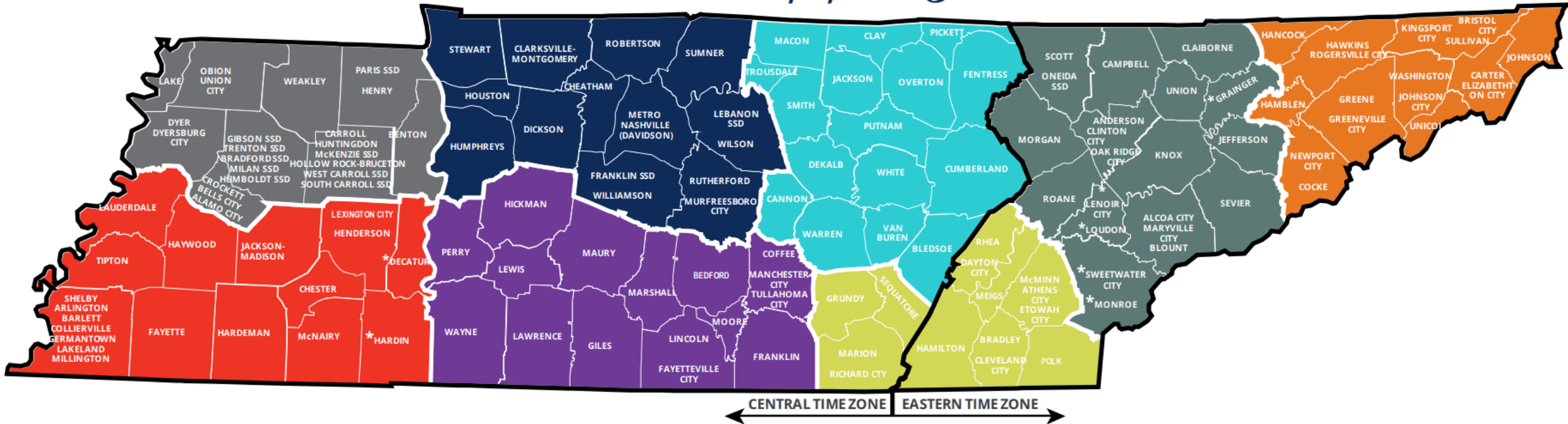
Resources

- ePlan > [TDOE Resources](#) > Relief Funding > ARPA Act/ESSER Fund 3.0
- [Davis-Bacon and Related Acts | U.S. Department of Labor \(dol.gov\)](#)
- [Office of Elementary and Secondary Education Davis-Bacon Overview](#)
- [Fact Sheet #66: The Davis-Bacon and Related Acts \(DBRA\) | U.S. Department of Labor \(dol.gov\)](#)
- [29 C.F.R. Part 5 — Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction \(Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act\)](#)
- [Appendix II to Part 200, Title 2 — Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#)



Regional Finance Consultant District Map

As of 10/1/2023



Northwest	Southwest	Mid Cumberland	Upper Cumberland	South Central	Southeast	East TN	First TN
Joshua Dehnz	Meribeth Carpenter	Rob Mynhier	Brian Trisdale	Jasmine Taylor	Taffe Bishop	Shelby Ownbey	Jill Lewis
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*Districts that are assigned to a finance consultant in a different CORE region.



Thank You!

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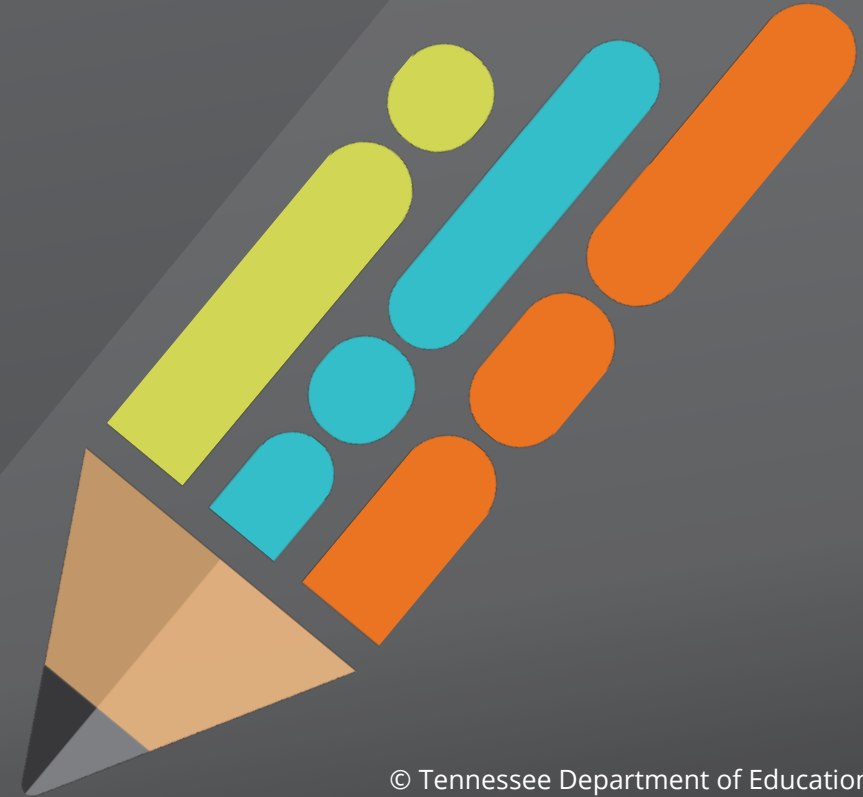
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https://stateoftennessee.formstack.com/forms/fpo_professional_development_survey



Fraud, Waste or Abuse

Citizens and agencies are encouraged to report fraud, waste, or abuse in State and Local government.

NOTICE: This agency is a recipient of taxpayer funding. If you observe an agency director or employee engaging in any activity which you consider to be illegal, improper or wasteful, please call the state Comptroller's toll-free Hotline:

1-800-232-5454

Notifications can also be submitted electronically at:

<http://www.comptroller.tn.gov/hotline>