



OFFICE OF SPECIAL EDUCATION AND EARLY INTERVENTION SERVICES

APPROPRIATE USE OF FUNDS GUIDELINES FOR CONSTRUCTION

In general, the Michigan Department of Education (MDE), Office of Special Education and Early Intervention Services (OSE-EIS) has made the determination to allow the expenditure of Part B, Section 611, **IDEA ARRA** funds on the alteration, and construction of facilities in order to improve the programs and services provided to Students with Disabilities. The following will provide guidance as provided by the United States Department of Education (USED) and the MDE, OSE-EIS and outline the process that Intermediate School Districts (ISDs), Local Education Agencies (LEAs) and Public School Academies (PSAs) must follow when requesting to use the Part B, Section 611, IDEA ARRA funds for these purposes.

FEDERAL GUIDANCE

Taken From:

**GUIDANCE
Funds for Part B of the
Individuals with Disabilities Education Act
Made Available Under
The American Recovery and Reinvestment Act of 2009**

Question D-3: May IDEA funds, including IDEA Part B ARRA funds, be used for construction or alteration of facilities?

Section 605 of the IDEA authorizes the Secretary to allow the use of IDEA funds, including IDEA Part B ARRA funds, for construction or alteration of facilities if the Secretary determines that the program would be improved by allowing funds to be used for those purposes. In general, to be able to use IDEA funds for these costs, states will need to obtain prior approval from the Department; and LEAs will need to obtain prior approval from the state. (See 2 CFR Part 225, Appendix B, 15.b.) Any construction or alteration of facilities must comply with Appendix A to part 36 of title 28, Code of Federal Regulations, the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities" or Appendix A of subpart 101-19.6, of title 41, Code of Federal Regulations the "Uniform Federal Accessibility Standards." (34 CFR §300.718) States and LEAs also must comply with requirements in 34 CFR Part 76 regarding construction, including the requirements in 34 CFR §§75.600-75.617 that are incorporated by reference in 34 CFR §76.600.

Additionally, if a state or LEA uses IDEA Part B ARRA funds for construction, it must comply with specific requirements relating to the use of American iron, steel and manufactured goods used in the project (ARRA section 1605), as well as the wage rate provisions of ARRA section 1606. Also, ARRA section 1604 prohibits the use of any ARRA funds, including IDEA Part B ARRA funds, for any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Required Federal Assurances for the use of Part B, Section 611, IDEA ARRA funds for the Alteration, Renovation or Construction of Facilities:

- Must comply with the American with Disabilities Accessibility Guidelines (34 CFR §300.718)
- Must comply with the Uniform Federal Accessibility Standards (34 CFR §300.718)
- Must comply with the requirements in the Education Department of General Administrative Regulations (EDGAR) (34 CFR §§75.600-75.617)
- Must comply with the general criteria under OMB Circular A-87 (2 CFR Part 225)
- States and LEAs also must comply with requirements in 34 CFR Part 76 regarding construction, including the requirements in 34 CFR §§75.600-75.617 that are incorporated by reference in 34 CFR §76.600.
- Must comply with the requirements relating to the use of American iron, steel, and manufactured goods (ARRA, section 1605)
- Must comply with wage rate provisions (ARRA, section 1606)

STATE REQUIREMENTS AND PROCESS

Prior to an ISD, LEA or PSA spending or recoding Part B, Section 611, IDEA ARRA funds for the alteration or construction of a facility (that will be paid for in part or full with Federal, Part B, Section 611, IDEA ARRA funds) the ISD, LEA, or PSA must receive prior approval of the expenditure(s) from the MDE, OSE-EIS per 2 CFR Part 225, Appendix B, 15.b. Requests for approval of Part B, Section 611, IDEA ARRA alteration or construction projects must be submitted to the MDE, OSE-EIS through the Intermediate School District following the process outlined below. In addition, it is expected that the ISD, LEA or PSA abide by established bidding procedures and adhere to them in all purchases of supplies and equipment in excess of the threshold amount indicated in the Revised School Code, Sections 380.623, 380.1267, and 380.1274.

Approval – Instructions, Requirements and Process:

The following **must** be submitted to MDE, OSE-EIS in order for the Department to consider providing approval for a school building alteration or construction project to paid for, in part or fully with Part B, Section 611, IDEA ARRA funds:

Step 1:

The ISD, LEA or PSA **must**:

- Submit a request for approval letter describing the alteration or construction project to be completed. The request for approval should be submitted in hard copy and document the original signatures of all of the following: LEA Superintendent and Director/Supervisor of Special Education (if applicable), ISD Superintendent and ISD Director of Special Education.
- The request **must** include:
 - A description and explanation of the purpose of the project
 - An explanation indicating, specifically, how the completed project will benefit students with disabilities. How will it enhance the current programs and services currently being provided?
 - Estimated project start and end date
 - Estimated project costs
 - Indication of fiscal year in which funds will be obligated
 - Indication if the project will be funded in full or part with Part B, Section 611, IDEA ARRA funds and an estimated cost breakout.

Step 2:

Submit the request to the MDE, OSE/EIS who will:

- Complete a thorough review of the request including an evaluation of the description of how the alteration or construction project will improve the programs and/or services for students with disabilities
- Complete and/or apply any other review criteria/requirements/procedures as deemed necessary
- Provide a written response indicating approval or denial of the proposed project costs and associated expenditures

Step 3:

Amendment to ARRA Flowthrough Application:

Upon receipt of the approval of the alteration or construction project from MDE, the ISD, LEA or PSA **must** submit an amendment for approval in the MEGS. The ISD, LEA or PSA should complete a program design and amend the budget to account for the activity and cost of the alteration or construction project. The ISD, LEA and/or PSA will also provide, via attachment through MEGS, a signed copy of the assurances required for the purposes of alteration or construction project.

Step 4:

Approval of Amendment to MEGS Application:

Upon receipt of the amended ARRA Flowthrough application within the MEGS, the MDE, OSE-EIS will review the amendment and assurances and provide the necessary amendment approval within MEGS. ISDs, LEAs or PSAs should not spend or recode any Part B, Section 611, IDEA ARRA funds on the alteration or construction project until after approval of the amended application is received. Any expenditures paid for prior to the date of approved amendment could be considered unallowable.

DEFINITIONS

For the purpose of the review and approval of alteration or constructions projects, the definitions as found in the 2006 Michigan Building Code will be used and they are as follows. Please note that building repairs (or maintenance) are not an allowable expenditure.

CONSTRUCTION. Means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures. 1972, pa 230

ALTERATION. Any construction or renovation to an existing structure other than repair or addition. Alterations are classified as Level 1, Level 2, and Level 3. 2006 Michigan Rehabilitation Code

403.1 Scope. Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose.

404.1 Scope. Level 2 alterations include the reconfiguration of space, the addition or elimination of any door or window, the reconfiguration or extension of any system, or the installation of any additional equipment.

405.1 Scope. Level 3 alterations apply where the work area exceeds 50 percent of the aggregate area of the building.

ADDITION. An extension or increase in floor area or height of a building or structure. MBC 2006

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.