



ARKANSAS  
DEPARTMENT  
OF EDUCATION

## FREQUENTLY ASKED QUESTIONS

### American Recovery and Reinvestment Act of 2009

*Updated May 17, 2009*

*This document provides many of the common questions and answers that the Arkansas Department of Education has received concerning the ARRA. Please note that as further guidance from the federal and state government is collected, answers may have to be adjusted.*

#### **Section A - State Fiscal Stabilization (SFS) Fund Questions**

1. On page 2 of *Guidance for Arkansas Local Education Agencies*, reference is made to funds that can be used for budget shortfalls. Can that be a Local Education Agency (LEA) shortfall or is that only at the state level?

**Answer: This reference is to state shortfall. Arkansas does not have a shortfall within its K-12 system since the state's per student funding has not decreased. It may not necessarily be good policy for an LEA to keep teachers on salary with these funds if an LEA has declining enrollment.**

2. When can projects be initiated --placed under contract-- to get construction underway?

**Answer: LEAs may start to enter into contracts before they submit their plans to the Arkansas Department of Education (ADE). HOWEVER, LEAs take these contracts and any funds they spend under their own risk until the ADE has a chance to review the plans. Also, LEAs should be aware that new guidance issued by the U.S. Department of Education (USDoE) on May 11, 2009, discourages LEAs from using SFS Funds for construction of new buildings, citing the effect that such use may have on the LEA's ability to meet other essential needs, in particular school reform initiatives. (In fact, the guidance indicates that any decision to use the Governor's state-level SFS funds for construction may be held against the state if it subsequently applies for competitive Race to the Top funding under the ARRA.) The new guidance does not discourage use of SFS Funds for modernization, renovation, and repairs, which are more clearly provided for under the statutory provisions for the SFS Fund program. As we have previously advised informally, use of SFS Funds allocated to LEAs for the construction of new buildings is authorized, and that fact is not changed by the new USDoE guidance. At the same time, given USDoE's position, the increased reporting burdens and other requirements ("Buy American", "Davis Bacon", etc.) that apply when SFS funds are used for infrastructure, and the possibility that federal auditors may look for opportunities to question use of SFS Funds for construction of new buildings, we advise LEAs to be cautious in using this source of funds for new construction of school buildings. If it is possible to use other funds for this purpose – for example, any capital funds that are freed up as a result of using SFS funds for modernization, renovation, and repair – LEAs may be well advised to use such other funds for new construction.**

3. May LEAs use SFS Funds to purchase real estate?  
**Answer: The answer to this question is unclear. For the reasons provided in the answer to question 2 above, ADE would advise that LEAs generally not use SFS funds for these purchases. LEAs should not do so absent a compelling need and strong justification that the aggregate costs of constructing a new building and obtaining the real estate for that purpose are more cost effective than simply modernizing or renovating an existing building to meet the district's needs, and any acquisition of real estate should be incidental to immediate construction of non-athletic, non-administrative facilities.**
4. Can SFS Funds be used to build or renovate a physical education facility?  
**Answer: An LEA must be able to justify the primary use of this facility is for the academic needs for students. Funds cannot be spent on athletic facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public. This includes roof replacement. See answer to question 2 on new construction.**
5. Can SFS Funds be used to cover sidewalks on school grounds?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*).**
6. Can this money be used to asphalt student, teacher and bus parking areas?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*).**
7. Can this money be used for increasing size of cafeteria?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*).**
8. Can SFS Funds be used to purchase cafeteria equipment and furniture?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*).**
9. Can this money be used for a new road on school grounds going to new school?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*). Also, the road must be on the LEA property.**
10. Can LEAs replace a floor to help make the building "green"?  
**Answer: Yes, but LEAs must justify how this project will meet one of the four goals (see *Guidance for Arkansas Local Education Agencies*).**
11. If an LEA did not apply for any 2009-2011 Partnership Program funds, will they be allowed at this late date to apply for these funds so they can match SFS Funds with state funds?  
**Answer: The Division of Public School Facilities and Transportation (Division) cannot accept applications now since the partnership program dates are set by law and are tied to the school district's Master Plan. The submission date for projects to be considered for 2009-11 was May 2008. Also, the dates are set to correspond with the legislative sessions and the budget for the next year has been set.**

12. Since new construction is a part of the allowable expenditures using the SFS Funds, can LEAs use this money to subsidize portions of the new building projects that are underway or that could be underway after the approved projects list come out on May 1.

**Answer: SFS Funds can be used with partnership funds, BUT the criteria of the project must meet those established in the state's guidelines for SFS Funds. Just because a project is on the partnership list does not mean it meets the criteria of the state's guidelines on the use of SFS Funds. Also, all contracts must meet the federal guidelines (ex: Buy American, Davis Bacon). If the current contract does not meet the federal guidelines then this causes problems and ADE cautions LEAs from changing contracts in the middle of a project. See answer to question 2 on new construction.**

13. What process will be used to inform the Division of construction projects?

**Answer: LEAs will have to identify in their plan each expenditure and project they intend to apply SFS Funds toward. Once the application is reviewed, the LEA will be notified of their next steps by the Division.**

14. If an LEA has a project that is on the master plan but is scheduled past the 2009-11 funding biennium will they be allowed to bump the projects up and use these funds, and if so, what will be the process we need to follow.

**Answer: If the project is approved for SFS Funds then it can be moved up and the LEA will amend their master plan accordingly. See answer to question 2 on new construction. See #11 above.**

15. How will all of the projects completed with the SFS Funds make their way back to the master plan information?

**Answer: The project will be tracked through the Computerized Maintenance Management System (CMMS) and if it is a correction of deficiencies noted on the school district's deficiency list then it will be updated when the next plan is submitted in February 2010. If it is a new construction project the same applies.**

16. Most of the projects that will be completed with these funds will most likely be over \$20,000, so will a construction approval form and all the other required information be required by the Division or will these projects be completely separate.

**Answer: The federal guidance and the ARRA make it clear that no state laws are changed as a result of the stimulus funds. All state laws, policies and procedures will remain in effect and apply to the expenditures of SFS Funds in addition to those federal requirements added as a result of the ARRA.**

17. When looking at the timelines for these funds, it says that all SFS Funds must be obligated by September 30, 2011. Obligated means a lawfully executed and signed construction contract. Then it says that all SFS Funds must be liquidated within 90 days of the allowable period and the allowable period ends September 30, 2011. It goes on to say funds must be spent and dispersed by December 29, 2011. Does this mean all projects must be finished by December 29, 2011 or is this pertaining to the state and when they must have the funds disbursed?

**Answer: The dates refer to LEAs in this case. The Recovery Act states that the issuance of funds by the state to the LEA does not count as obligated. Therefore, the obligation and hence the liquidation or disbursement date applies to LEAs. Obligation means that you need an invoice showing it had been ordered before September 30 and will be paid on or before December 29. SFS Funds dedicated to the project must be obligated and liquidated by the dates above (absent an extension approval), however that does not mean the project must be completed by these dates if local funds will finish the project**

**after SFS Funds are used. LEAs should properly plan for their entire project and ensure that sufficient funds are available and dedicated to a project through completion.**

18. Can LEAs do projects with the SFS Funds that are not listed on the Master Plan? If so what will be the process?

**Answer: Yes. All projects must be entered through the CMMS after the LEA's plan for the stimulus money is reviewed.**

19. Does the provision for indirect cost recovery apply to the SFS Fund?

**Answer: Assuming the question is referring to the regular indirect costs that may be recovered under federal grants, the answer is yes. Indirect costs can be charged to the SFS Funds using the recipient's negotiated rate.**

20. May these funds be used for ADA compliance upgrades – including ADA compliance for gyms and stadiums – since these areas are utilized by the LEA for activities besides athletic events?

**Answer: Yes. ADA compliance is an allowable expenditure, but only if the facilities are not used primarily for athletic contests or exhibitions or other events for which admission is charged to the general public. If they are used primarily for those events, SFS Funds may not be used for these upgrades, despite the fact that the facilities also may be used for other activities. If not used primarily for athletics, ADE cautions LEAs and asks that ADA projects for gyms and stadiums be limited to access to the facility for the purposes of participation. Making stadium press boxes accessible is not considered within this definition. For students with disabilities (who would need access to attend events in a gymnasium such as school assemblies and programs, a prom, a graduation ceremony, a school play, etc.), it may be necessary to give equal opportunity of access to non-academic and extra-curricular activities so as to be non-discriminatory on the basis of disability.**

21. Is there a limit on the percentage of SFS Funds that can be used for modernization, renovation, or repair?

**Answer: No.**

22. Can SFS Funds be used to expand pre-school classrooms and facilities as well as training, staffing, and supplies?

**Answer: Yes.**

23. Can SFS Funds be used for video and audio technologies to enhance the classroom climate and improve instruction to aid in peer review and coaching?

**Answer: Yes.**

24. If an LEA buys a smart board and has it installed, must the installer's employees receive Davis Bacon wages?

**Answer: The Davis Bacon Act is to insure that any contractor on a contract which is supported by federal funds is not paying his employees less than the prevailing wage rate as established by the Secretary of Labor. If the installer is paying a wage w/ fringe benefits exceeding the minimum then it is not an issue. If the installer is not, then they need to pay that wage as a minimum, at least for the work they are doing with federal funds.**

25. Can LEAs use a construction manger (CM) with SFS Funds?

**Answer: Yes, BUT it is best if the method used is an “Agency CM” or “At Risk CM” as these require competitive bidding. The ARRA states that to the maximum extent possible Fixed Price Contracts will be used. While the CM method as a contract is not fixed price, when divided into its component parts and each package is competitively bid it comes the closest to meeting the definition. However, ADE would suggest that the LEA examine very closely why a fixed price contract was not used in lieu of a CM. Just as a reminder - the Buy American Act and federal Wage Rates apply to all bid packages.**

26. Can LEA's use SFS Funds to differentiate salaries for teachers in high need subject areas?

**Answer: The best way to provide differentiated salaries during the ARRA timeframe is through a bonus system. If the district wishes to pay the added funds as part of the teacher's salary, it would have to be added as a supplement to the district's salary schedule and be part of the district's personnel policy. Once the stimulus money runs out, the district must send each teacher receiving the extra salary a partial nonrenewal of that portion of their contract, or continue to meet the added salary out of district funds.**

27. Can SFS Funds be used for reduction in class size?

**Answer: Yes, however it is important to remember that these funds will cease to exist in the fall of 2011.**

28. Can SFS Funds be given to staff for self improvement for advanced training and degrees, i.e. masters?

**Answer: Yes. ADE would recommend that the LEA put a system in place to require the funds be used for said purpose. If abuse or fraud occurs with these funds the staff member shall be required to return the funds.**

29. Can SFS Funds be used to place pertinent technology in the hands of children based on needs, i.e. laptops?

**Answer: Yes.**

30. Can SFS Funds be used for summer and/or before or after school programs?

**Answer: Yes.**

31. Can SFS Funds be used to buy school supplies for all children K-12?

**Answer: Yes.**

32. Can SFS Funds be used for adult education, ELL and parenting skills training and hiring ELL facilitators at each school site?

**Answer: Yes.**

33. Can SFS Funds be used for gym floor refinishing?

**Answer: No, this is a maintenance project and is not an approved use of funds.**

34. The law prohibits the use of SFS Funds on maintenance activities. How is maintenance defined?

**Answer: Maintenance is a routine activity that is done periodically to keep the facility or component in its original condition. Activities to maintain property in its current condition that do not involve new construction, modernization, renovations, or repairs would not be allowable.**

35. Can funds be used for asbestos removal?

**Answer: Yes.**

36. If an LEA has selected a contractor (based on price and qualifications) for on call projects would it be legal to use them on a stimulus project as long as they pay Davis Bacon wages?

**Answer: Yes, as long as the delivery orders exceed \$2,000. But watch the upper limit and be careful not to violate any other procurement regulations pertaining to bidding.**

37. If an LEA is in the middle of a construction project and they want to start using SFS Funds, would Davis Bacon and Buy American apply only for the time when the federal funds are used or do LEAs have to go back and apply the possible increase in funds to the entire project?

**Answer: Any project that mixes federal funds with non-federal funds takes on the conditions of the federal funds. If the original contract did not contain federal clauses as specified in ARRA then the contract would have to be modified to do so and it would apply to all aspects of the contract from that time forward. Amending contracts in the middle of a project can be very complicated. ADE does not recommend this process without careful consideration. If federal funds are used on a project it is best they are applied to the entire contract. See answer to question 2 on use of SFS funds for construction projects.**

38. Would an LEA have to exhaust their bonds before using SFS Funds as a local match for building funds or can the federal funds be used at the same time?

**Answer: The two funds are not related. Rules applicable to the expenditure of bond funds still pertain to the bond funds. Mixing the funds on the same project takes on the precautions as stated in Question #37.**

39. Can LEAs use SFS Funds to purchase and install a traffic safety light off campus property to keep student walkers safe?

**Answer: No. This is not a normal expense of an LEA. Signage on non-LEA property such as streets and roads are the responsibility of either the local government or highway department.**

40. Will LEAs be required under the Davis-Bacon Act to provide a copy of the Davis-Bacon and related Acts in the official bid documents of the projects that will come under AARA funding? If so, will the Davis-Bacon Act and Related Acts be provided to LEAs?

**Answer: The bid specifications for the construction contract should reference the requirement to meet the federal wage rates. Putting the entire act in the bid specifications should not be necessary.**

41. Does the hard bid inclusion in federal regulations for the stabilization funds still apply if you are using a construction manager?

**Answer: As the Act reads "To the maximum extent possible, fixed price contracts will be used." The way to meet both requirements is in the type CM contract one uses.**

42. If an LEA is using a part of its money as a portion of the match on a building program it is about to start, will the entire project have to be bid using the Davis-Bacon provision and labor costs?

**Answer: Any construction project using federal funds must include the Davis-Bacon prevailing wage rates.**

43. Similar to the state procurement procedures beginning at \$20,000, is there a starting point for the Davis-Bacon wage rates to take effect?

**Answer: See #36 above.**

44. Can we use stimulus money to move a modular building from a campus we're closing to one we're expanding?

**Answer: If the move is a part of a construction, renovation, modernization project then the answer is yes. If it is just to move the building for moving sake, then no.**

45. If these funds are used to fund a part of a bigger project (such as building a new school and the stimulus is only going to be used for electrical and HVAC) , will the entire project have to be completed by Dec. 2011, or just the part funded by the SFS Funds?

**Answer: The deadlines included in the Act are for the expenditure of funds not the completion of projects. However, a plan should be in place for how the project will be completed after SFS Funds have been liquidated. See answer to question 2 regarding use of SFS funds for construction.**

46. Several LEAs will want to use SFSF funds on projects that are under construction as we speak. If they did not bid with Davis-Bacon and Buy American, and they have not been sending the weekly or monthly statements that are required, how will we fit this project under these particular funds?

**Answer: You cannot back date a contract to correct contract clauses. The contractor is very unlikely to agree to this as it would make him liable for something he/she may have done commensurate with the original clause, which is now in contravention to clauses which if applied the way the question suggests, makes it retroactive to the original signing. This could also be costly to the school districts as every trade will have the right to raise, if applicable, their employee salary and benefits not to mention the administrative requirements of the wage act. It's best to leave existing contracts alone.**

47. For projects already underway, how will LEAs prove that all payrolls meet the Davis-Bacon Act? How difficult would that be?

**Answer: Contact the Federal Wage Board at the reference given on the ADE Recovery Web site. LEAs will find that they might discourage back dating a contract to change wages because there is no way to back date signed payroll sheets and wage inspection sheets. This is not a good idea and is more costly to LEAs since they are waived under Arkansas law from having to use the prevailing wage rates. LEAs might find a substantial increase in project cost.**

48. What is the step-by-step process from the Division to carry out construction projects using SFS Funds? Will there be required construction approval form submissions, separate approval of plans, project status report requirements, updates using School Dude (CMMS), etc.?

**Answer: Training will be conducted beginning May 12, 2009 and will run through June at the Education Service Cooperatives. LEA's are also reminded that state laws/rules pertaining to the construction and construction approval and review process are not set aside by ARRA. All procedures in place used for the state construction process will remain in place regardless of the source of funds. Stimulus funds are looked upon as being "LFIs" (Locally Funded Initiatives), subsequently construction procedures are the same.**

49. LEAs need to know what will be required of them from the Division for construction projects done with stimulus money. Do LEAs need to submit construction approval forms, plans for approval, project status reports, etc, or will these projects be done strictly through the ADE?  
**Answer: ARRA does not supplant any state laws. Laws and rules in effect for LEA construction projects will be met as if the project was funded from any source of funds. School construction forms, state construction standards, plans and specifications review by state agencies and construction approvals are all in effect. There are no special reports required. The Division will determine from the entries in the Computerized Maintenance Management System the project completion.**
50. Can SFS Funds be used for demolition?  
**Answer: Demolition as such is not an authorized use of SFS funds. An LEA that decides to use SFS funds for this purpose is likely at risk for an audit exception.**
51. Can SFS Funds be used to renovate leased buildings?  
**Answer: Yes, but an LEA needs to be able to justify the costs of renovation as properly allocable and reasonable under applicable cost principles. Incurring significant costs to renovate a building for which the LEA holds only a limited-term lease may not meet these standards.**
52. If districts use their own people (already hired in the district for other purposes) for a construction project, does Davis-Bacon apply?  
**Answer: No. ADE believes that Davis-Bacon does not apply if an LEA is using their own people because the LEA is just supplanting their operational funds with Federal funds so they can use their money where they want.**
53. If a district is upgrading their technology by doing “trenching”, putting in T-1 or 3 lines, etc., does Davis-Bacon apply?  
**Answer: Yes. It is not recommended to use LEA personnel for this kind of project because it is very dangerous. Arkansas has specific laws dealing with trenching. ADE would strongly recommend that LEAs consult an engineer or Department of Labor. The fine for violating the trenching law is very steep.**

## **Section B: Title I Questions**

1. Can the Title I ARRA funds be used at schools that are currently not identified as Title I schoolwide or targeted schools? If so, are any procedures required in order to become schoolwide, etc.  
**Answer: No - Schools must be identified as schoolwide or targeted assisted to receive Title I funds. Schools desiring to become schoolwide may invoke section 1114 of P.L. 107-110 (NCLB). Please keep in mind that LEAs are required to submit an intent form and document the activities as required on the Schoolwide Planning Checklist. Schools will receive a letter indicating approval of their Schoolwide status. Also, the school must comply with sanctions associated with identified levels of improvement.**

**According to the March 2006 Guidance from USDoE, entitled, *Designing Schoolwide Programs...* "an exception to this general rule [one year of planning], can be made if the school's LEA determines, after considering the recommendation of state-supported technical assistance providers, that the school needs less time to develop and implement its schoolwide program." Many LEAs work with vendors, design models, etc., that serve in the capacity of technical assistance providers to facilitate and/or**

**conduct components of the schoolwide requirements (e.g. needs assessment, high quality professional development, strategies to increase parental involvement, conducting activities to ensure that students who experience difficulty attaining proficiency receive effective, timely, additional assistance, etc.). For the time period of the stimulus funding, credence may be given to the ACSIP planning process itself since all of the components of schoolwide are required components of school improvement planning and considered sound educational practices for schools that are not Title I schools.**

2. If LEAs are allowed to use the Title I ARRA funds at newly designated Title I schools, do the set-asides for professional development, Supplemental Education Services, parental involvement, and choice apply to those schools?

**Answer: Yes.**

3. Will there be a budgeting piece for the Title I ARRA funds (like in ACSIP) that completes the calculations for Indirect, allows for set-asides at the district level, calculates per-pupil at the building level, includes private school, etc?

**Answer: The ACSIP software can be used to calculate per-pupil at the building level. Title 1 ARRA will need to be combined with the 2009-2010 Regular Title 1, Part A, allocation in order to calculate set-asides. The 2009-2010 ACSIP software will allow ARRA allocations to be entered so the correct set-asides can be calculated. The budgeted indirect cost pertaining to Title 1 ARRA will have to be calculated manually.**

4. Can Title I ARRA funds be used before July 1, 2009? Would funds spent from Title I ARRA before July 1, 2009 be considered revenue and expenditures for 2008-2009? If, so will LEAs need to amend their ACSIPs?

**Answer: Yes, Title I ARRA funds can be used for programs, projects or items used before July 1, 2009 (back to February 17, 2009). These funds are a part of an LEA's 2009-2010 allocation and so therefore the ACSIP will not have to be amended. However, any funds received or expended prior to July 1, 2009 will be recorded in the school districts 2008-2009 fiscal year.**

5. Can Title I ARRA funds be used to build OR renovate PK classrooms?

**Answer: No. Title I funds can only be used for minor remodeling and not for renovations and new construction.**

6. With a 15% carryover limit for all Title 1 funds, will there be a point when LEAs can take their unspent set aside amounts and reallocate it to the buildings?

**Answer: LEAs must meet all regulations regarding the requirements of choice transportation and SES before funds can be reallocated. Reallocation is accomplished by amending the Title I Target Area Selection page on the District plan where it allows the district to set per-pupil allocations. This step in turn establishes the Building Allocation once the per-pupil amount has been calculated. Having accomplished this step then the building plans are amended to reflect the revised building allocation.**

7. Must a school receiving Title I, Part A ARRA funds meet the comparability requirements in section 1120A(c) of the ESEA?

**Answer: Yes, all of the same rules and regulations apply to Title I ARRA funding as they do to regular Title I funds.**

8. Will the LEAs still have to use each building's Free and Reduced Lunch percentages to calculate per pupil allocation levels for each site and rank them accordingly?  
**Answer: Yes, all of the same rules and regulations apply to Title I ARRA funding as they do to regular Title I funds.**
9. Is there a formula for the percentage of funds that must be used on school improvement interventions/initiatives?  
**Answer: No, however strong consideration is expected and should be made in regards to using these funds for low performing schools.**
10. What waivers are available to LEAs and what is the process for applying for waivers?  
**Answer: ADE is awaiting guidance from the USDoE on the process for applying for waivers. Waivers that may be available to LEAs include (see #20 below):**
- **A school in improvement's responsibility to spend 10 percent of its Title I funds on professional development.**
  - **An LEA in improvement's responsibility to spend 10 percent of its Title I, Part A, Subpart 2 allocation on professional development.**
  - **An LEA obligation to spend an amount equal to at least 20 percent of its Title I, Part A, Subpart 2 allocation on transportation for public school choice and on SES.**
  - **An LEA's responsibility to calculate the per-pupil amount for SES based on an LEA's FY 2009 Title I, Part A, Subpart 2 allocation.**
  - **The prohibition on an SEA's ability to grant to its LEAS waivers of the carryover limitation more than once every three years.**
  - **The Title I, Part A maintenance of effort requirements.**
11. Can LEA's serve non-Title I schools with the Title I ARRA funds?  
**Answer: No. LEA's must use their Title I funds on designated school-wide and targeted schools.**
12. If a private school has declined participation for this year (or previous years), are they 'eligible' to participate in Title I ARRA funds?  
**Answer: Yes.**
13. If new schools are designated as schoolwide Title I schools during the ARRA timeframe, what does an LEA do with the newly designated schools after the ARRA funds are gone?  
**Answer: Once the ARRA funds expire the LEA will continue its normal "Allocation of Resources" which existed prior to the availability of ARRA funds. This means that an LEA would have to establish schools in greatest need based on poverty data and serve those schools in rank order of need. That being said, to avoid funding cliffs and initiatives devoid of funding and to continue to meet the needs of students, LEAs should carefully review funding streams and appropriately align them with identified and allowable services. Another option would be to use SFS Funds to implement a short-term, intense capacity building initiative that would sustain itself as improved knowledge-based instruction continues in the school.**
14. Can an LEA choose to allocate all or a percentage of their Title I ARRA funds at the district level to support district initiatives in Title I schools? If so, how does that affect services to private schools?  
**Answer: Yes. Title I regulations permit LEAs to reserve funds at the district level that are reasonable and necessary to serve homeless children who do not attend Title I**

**schools and children in institutions for neglected and delinquent children; to provide financial incentives and rewards for teachers who serve in Title I schools identified for interventions; to meet requirements for choice-related transportation and supplemental educational services; to meet the professional development needs of instructional staff; to meet parental involvement requirements; to conduct other authorized activities such as school improvement and coordinated services; and to provide equitable services to eligible private school students. This generally should not affect the level of services that must be provided to eligible private school children. The duty to provide equal expenditures for eligible private school children proportionate to their numbers applies with regard to services to children, as well as services to teachers and parents, provided with funds reserved at the district level in addition to services provided with funds allocated to school attendance areas. (However, funds reserved for choice-related transportation and supplemental educational services, school improvement, and rewards for teachers in Title I schools identified for interventions are available only for services in public schools.)**

15. How does an LEA calculate funds for private school students?

**Answer: Funds for eligible private school children must be equal to the proportion of funds allocated to eligible school attendance areas and funds reserved at the district level for services to students, teachers, and parents based on the number of children from low income families who attend private schools.**

16. Do LEAs calculate Title I set-aside on the total Title I ARRA allocation or a percentage?

**Answer: LEAs will calculate their set-aside amounts based on their TOTAL Title I allocation (Title I regular + Title I ARRA funds) for the 2009-2010 school year.**

17. How do LEAs calculate indirect costs with ARRA Title I funds.

**Answer: LEAs may use their current negotiated indirect cost rates.**

18. Is Title 1 funding restricted to being spent at campuses that are designated as Title 1 schools or may it be spent for Title I eligible purchases district-wide?

**Answer: Title I funds at the district level must be used only for district level initiatives and/or programs that support Title I schools.**

19. Will LEAs plan for their total amount of Title I funding or a percentage of their allocation?

**Answer: LEAs shall submit plans for their total Title I ARRA allocation.**

20. Do LEAs have to reserve 20% for SES and choice-related transportation and if so, what would it be used for?

**Answer: Yes, unless a waiver is allowed. ADE is waiting on the waiver process to be announced by the USDoE. The use of funds must be in compliance with the regulations concerning SES and choice-related transportation. See #10 above.**

21. If an LEA provides a 5 week summer school for elementary students scoring *Basic* from the Title I schools with Title I ARRA Funds, can students from non-Title 1 schools attend if the LEA doesn't fill all of our slots with Title 1 school children?

**Answer: Services for students who do not attend Title I schools or who are not Title I eligible cannot be served with Title I funds. However, funds can be used from other sources so those students can attend a similar program.**

22. Can an LEA buy band instruments with Title I ARRA funds?

**Answer:** The answer is generally no. Title I funds must be used to help eligible children meet state academic standards. However, a schoolwide program school may consolidate funds from Federal, State, and local sources [Section 1114(a)(1)]. The purpose of consolidating funds is to help a schoolwide program school effectively design and implement a comprehensive plan to upgrade the entire educational program in the school based on the school's needs identified through its comprehensive needs assessment. (See "Designing Schoolwide Programs" non-regulatory guidance at <http://www.ed.gov/policy/elsec/guid/designingswpguid.doc>). Consolidating funds in a schoolwide program means that a school treats the funds it is consolidating like they are a single "pool" of funds. In other words, the funds from the contributing programs in the school lose their individual identity and the school has one flexible pool of funds. The school uses funds from this consolidated schoolwide pool to support any activity of the schoolwide program (as identified through its comprehensive needs assessment) without regard to which program contributed the specific funds used for a particular activity, as long as it meets the intent and purposes of those programs and the needs of the intended beneficiaries are met. In addition, a schoolwide school must identify in its schoolwide plan which programs are included in its consolidation and the amount each program contributes to the consolidated schoolwide pool. [Section 1114(b)(2)(A)(iii)].

Thus, if a Title I schoolwide programs allocates federal funds for the purchase of band instruments, the comprehensive needs assessment must identify how this expenditure of funds would address the needs on the intended beneficiaries and how does this address student achievement. Key Question – Does this expenditure meet the intent and purpose of Title I?

23. Will checks for Title I Regular and ARRA reimbursements be sent together or separately?

**Answer:** ARRA funds will be shown separately, even if on a remittance statement with other revenues. Therefore, districts will have no problem receipting them separately with the applicable Fund/Source of Fund codes. The applicable Fund/Source of Fund code will also be shown on the remittance statement.

### **Section C: IDEA Questions**

1. Can LEAs use some of their IDEA ARRA money to purchase a van or bus to transport disabled students?

**Answer:** Yes, however LEAs must go through the normal approval process through ADE's Special Education Unit and the Division. The LEA must prove that the purchase of the vehicle is necessary and meets all required specs and standards. A form for obtaining that approval is located on the ADE's Recovery Information page as well as on the Special Education Unit's website.

2. Can a bus or van that is purchased with IDEA ARRA funds be used to transport non-disabled students if those students are on the same bus route?

**Answer:** ADE has received clarification from the USDoE on one issue concerning purchasing buses with IDEA Part B funds (regular or ARRA). If a district currently has one or more students with disabilities that require specialized transportation and, thus, need a bus equipped for that purpose, they may use IDEA funds to purchase an appropriately equipped bus. Such a bus may also be used to transport non-disabled students as long as no student with a disability in need of specialized transportation is displaced by a non-disabled student being on the bus.

**It is not yet clear if a district can use the IDEA funds to ‘proactively’ purchase a new bus that is equipped to transport students with disabilities who are in wheelchairs or need special harnesses, tie downs, etc. if they don’t as yet have such a student. ADE is working on getting an answer to that question from the USDoE.**

3. Can IDEA ARRA funds be spent to expand instructional space/services for 3-5 year olds?

**Answer: Yes.**

4. How does an LEA determine what the private school amount is to be obligated out of the IDEA ARRA funds?

**Answer: In calculating the proportionate share required under IDEA, an LEA must first aggregate the FY 2009 funds received under the Grants to States regular and ARRA awards and apply the formula outlined in 34 CFR §300.133 to the aggregated amount. To facilitate this process, the ADE Special Education Unit will provide each LEA with the amount to be obligated for parentally-placed private school students.**

5. Can an LEA use the dollars saved in the MOE flexibility opportunity to pay for special education teacher salaries? Or can IDEA ARRA funds be used for the same purpose above and beyond what is required in the Standards for Accreditation?

**Answer: Yes, this would be an allowable use of these funds. The LEA must spend the ‘freed-up’ local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965. See the April 1, 2009 Guidance on Funds for Part B of the IDEA made Available Under the ARRA of 2009, U.S. DoE, question D-6 and D-8.**

6. Can IDEA and/or IDEA Preschool ARRA funds be used to build OR renovate non-classroom space that serves the professional development needs for teachers?

**Answer: Although IDEA Part B funds may be used for new construction or renovation, it is generally tied directly to special education instructional facilities or those used for provision of related services such as physical, occupational and speech therapies. If a non-classroom space will be used for general professional development, it is not appropriate to charge off the cost of its renovation or construction solely to special education funding sources, unless it is strictly for special education usage, which is not likely nor a good use of funds. With the exception of a very few LEAs, most preschool special education is provided through the Education Services Cooperatives, all of which have available space for professional development activities for its member LEA personnel, including but not limited to, special education staff. If these facilities need to be renovated or expanded, or new facilities constructed, it would only be appropriate for a percentage of the cost to be borne by special education given that these are multi-purpose usage training facilities.**

7. Can an LEA take advantage of the 50% Maintenance of Effort (MOE) flexibility provided in law with the IDEA ARRA funds?

**Answer: Yes, an LEA may take advantage of the 50% MOE flexibility if it experiences an increase in Title VI Part B funds and if it is not prohibited from doing so by other provisions of the IDEA that limit whether an LEA may reduce local effort under IDEA section 613(a)(2)(C) and 34 CFR §300.205. If the ADE determines that an LEA is not meeting the requirements of Part B, including meeting targets in the state’s performance plan, the ADE must prohibit that LEA from reducing its MOE under IDEA section 613(a)(2)(C) for any fiscal year. Therefore, an LEA must receive a determination under section 616 of the IDEA of “Meets Requirements” from the state in order to take**

**advantage of this flexibility. An LEA also cannot be found to have significant disproportionality that would require an LEA to set aside 15% of its Part B allocation to spend on Coordinated Early Intervening Services (CEIS), (an aggregate of the regular Part B grant to states and the ARRA funds. Question D-7 thru D-12 of the USDoE Guidance for IDEA ARRA funds also responds to this question.**

8. How do LEAs determine their 50% MOE reduction?

**Answer: See question D-10 in USDoE April, 2009 guidance on Part B, IDEA for an example of how to determine an LEA's 50% MOE reduction. For further assistance, contact ADE's Special Education Unit.**

9. What State/Local Fund/Source of Funds will be considered when getting the amount of Maintenance of Effort for Special Education for the 2008-2009 Fiscal School Year?

**Answer: In 2008-09, State/Local funds used to determine MOE for Special Education will be Fund/Source 1000 and 2000 with program code 200 and special education expenditures from Fund/Source 1281 and 2281. In 2009-10, State/Local funds used to determine MOE for Special Education will be Fund/Source 1000 and 2000 with program code 200 and Fund/Source 1281 and 2281 with program 201 through 216.**

10. Can IDEA ARRA funds be used for new construction? If they can, how does an LEA determine how much can be spent? What are the parameters for using IDEA ARRA funds for construction?

**Answer: Yes. See question D-3 in USDoE April, 2009 guidance on the ARRA of 2009. 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. The state makes these determinations for LEAs. In general, to be able to use IDEA funds for these costs, LEAs will need to obtain prior approval from the ADE. 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) 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 an 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.**

**There does not appear to be a limit on the amount of IDEA Part B ARRA funds that an LEA may use on new construction, with the exception of any required set asides, so long as the LEA has received prior approval from the ADE based on the parameters noted in this response.**

11. How does an LEA indicate in the ARRA tracking software that it wants to use the flexible authority under IDEA to reduce their MOE?

**ANSWER:** Reduction of MOE (State & Local Maintenance of Effort) is NOT part of the ARRA funds; therefore, it does not need to be included in the ARRA tracking software. For an LEA to take advantage of this flexibility, its total Title VI-B grant allocation for FY 2009-10 must exceed its total Title VI-B grant allocation for FY 2008-09. ARRA's only role in an LEA's eligibility to reduce MOE is simply the fact that it causes an increase in Title VI-B federal funds for FY 2009-10. LEAs that are able to reduce their MOE for FY 2009-10, will need to indicate their desire to do so in their FY 2009-10 Special Education Budget Application.

During the first year of the MOE flexibility reduction, an LEA must spend the full amount of the MOE flexibility reduction for ESEA activities. These activities will be tracked by using financial accounting Fund/Source codes 1000 or 2000 and Program code 250 for its MOE Set-Aside flexibility budget and expenditures.

In order for an LEA to take advantage of this MOE flexibility, it must receive from the state a determination of "Meets Requirements" under section 616. Also, IDEA section 613 (a) (2) (C) (iii) requires the SEA to prohibit an LEA from reducing its MOE if the LEA has been identified as having significant disproportionality under 34 CFR §300.646.

12. In what instances would districts need to use the Fund/Source code 6722 IDEA CEIS-ARRA?  
**ANSWER:** An LEA that is required to use 15 percent of its IDEA Part B allocation on CEIS because the LEA has been identified as having significant disproportionality under 34 CFR §300.646 **MUST** use Fund/Source code 6722 for 15 percent of its ARRA IDEA Part B allocation. All other districts may voluntarily use up to 15 percent of their ARRA IDEA Part B allocation for CEIS activities. Districts that voluntarily use IDEA Part B ARRA funds for CEIS would also use Fund/Source code 6722 IDEA CEIS-ARRA.

#### **Section D: Grant Questions**

1. What grants are available to LEAs through the ARRA?  
**Answer:** Arkansas will receive funds for the following grants:
- **School Lunch Equipment Assistance Grants (The grant application is available – see Commissioner's Memo FIN-09-079.)**
  - **Education for Homeless Children and Youth Grants (Grant application will be released by the end of May, 2009.)**
  - **Title I School Improvement Grants**
  - **Enhancing Education Through Technology (EETT) Grants**
  - **Teacher Incentive Fund (TIF) Grants**
  - **Invest in What Works Innovation Grants**
2. When will the grants be available? Who will be eligible to apply? What will the process be to apply?  
**Answer:** The application for the School Lunch Equipment Assistance Grants is available through Commissioner's Memo FIN-09-079. The Homeless Grant application should be available by the end of May.

**ADE has not received guidance from the USDoE on the other grants listed above. Further information will be sent to LEAs once that guidance is received.**

## **Section E: Planning, Tracking and Reporting Questions**

1. Do all stimulus dollars go into the ASCIP plan or just in the COGNOS Planning and Tracking Tool?  
**Answer: Stimulus dollars only go into the COGNOS Planning and Tracking Tool.**
2. If a Superintendent/Director and/or General Business Manager (GBM) will no longer be employed at the LEA in 2009-1010, who should sign the Statement of Assurance?  
**Answer: The statement of assurance should be signed by the Superintendent and GBM that is employed at the time the plan is submitted.**
3. Where can the Statement of Assurance be found?  
**Answer: [http://recovery.arkansas.gov/ade/ade\\_index.html](http://recovery.arkansas.gov/ade/ade_index.html)**
4. We don't have a general business manager at this time. Does my bookkeeper need to sign the ARRA Statement of Assurance instead?  
**Answer: By law, every LEA must have a general business manager. Please have that individual sign the Statement of Assurance.**
5. When is the LEA Plan and Statement of Assurance due?  
**Answer: ADE has not put a deadline on receiving the LEA's Plan and Statement of Assurance; however no funds will be transferred to the LEA until ADE receives these documents. Also, the first report to the federal government will be published July 10, 2009 and a district would be omitted from that report if their plan and assurance has not been submitted.**
6. Will there be a list of approved expenditures made available?  
**Answer: Please see the *Guidance for Arkansas Local Education Agencies* and other documents located on the ADE Web page on the Arkansas Recovery Website: [http://recovery.arkansas.gov/ade/ade\\_index.html](http://recovery.arkansas.gov/ade/ade_index.html)**
7. Do LEAs have to address stimulus funding at all in ACSIP with any kind of an action?  
**Answer: No. LEAs will use the ACSIP only as an allocation tool. Only this tool in ACSIP will be available from May 18 through May 31, 2009. The rest of the ACSIP will open up after June 1.**
8. Will LEAs be submitting Phase I and Phase II applications or a 2 year application? Will LEAs plan for the total amount of funding or a percentage of stimulus money?  
**Answer: LEA's shall turn in their plans for 100% of their allocations for Title I ARRA Funds, IDEA ARRA Funds and SFS Funds. However, each of these pots of funding may be submitted at different times (although all together is preferred).**
9. When does ADE expect the actual application process to be available?  
**Answer: ADE's target date to open the planning and tracking tool is May 15<sup>th</sup>.**
10. When should LEAs expect approval of their plans?  
**Answer: ADE will be turning around the plans as quickly and efficiently as possible. Until the plans start coming in however, it would be premature to state an actual timeframe.**
11. When will funds start to flow from the various stimulus pots to LEAs?

**Answer: After ADE receives an LEA's plan and Statement of Assurance, 5% of the LEA's allocation (available to the state) will be sent to the LEA (out of each pot of funds).**

12. How much money can LEAs spend at any one time from their allocations of SFS, Title I, and IDEA ARRA Funds?

**Answer: A cap has not been set on the amount of funds that can be spent at any one time. LEAs cannot spend more than the state has allocated to them, however.**

13. If an LEA spends more than the 67% of their SFS Fund allocation (or more than 50% of Title I or IDEA ARRA Fund allocation) before the remaining amount is available to the state, should the LEA post these expenditures as usual to APSCN.?

**Answer: Yes.**

14. Must an LEA expend funds before posting the expenditure on APSCN or can the funds just be obligated?

**Answer: Funds must be spent or the invoices posted to accounts payable.**

15. How will updates to the Cognos plan be entered and accepted?

**Answer: ADE will provide dates each month for districts to update their plan. The district or Education Cooperative will simply add additional information or change information previously submitted to ADE. Those updated plans will be reviewed by ADE.**

16. How often do LEAs have to update their progress in the planning and tracking tool?

**Answer: Monthly.**

17. Will the LEAs be reimbursed based upon an encumbrance in APSCN. This would be greatly appreciated. We would be able to receive funding for a legal obligation of the LEA. (Of course these fund would be going out to the vendor as soon as the goods are received or the services are preformed.)

**Answer: Only expenditures defined as cash disbursements and/or invoices posted to accounts payable will be considered for reimbursement. This will ensure that the goods or services have been received by the school district prior to reimbursement by ADE.**

18. When is the beginning date when LEAs may request reimbursement on previous projects which are now completed?

**Answer: The first pull-down for expenditures will be on June 20. All expenditures that LEAs want to be reimbursed for must be properly coded and submitted by June 19 to be included in that pull-down.**

19. What happens if schools are opening and closing in a district during this 2 year timeframe?

**Answer: If a district has schools opening or closing during the next two years of ARRA availability, they may have to amend their plans in order to re-allocate ARRA funds to the school level. It will not affect the allocation from the state to the district.**

20. Will journal entries get pulled in for payment on COGNOS?

**Answer: Yes, anything recorded as an expenditure will get pulled in for payment.**