

**Higher Education Emergency Relief Fund (HEERF)  
Using HEERF (a)(2) Grant Funds for Construction, Renovation, and Real  
Property Projects<sup>1</sup>**

Frequently Asked Questions (FAQs)

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<sup>1</sup> Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

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The following FAQs describe the new flexibilities and requirements related to the use of HEERF (a)(2) grant funds for construction, renovation, and real property projects in the Consolidated Appropriations Act, 2022 (Pub. L. 117-103), signed by the President on March 15, 2022. The Act included language intended to allow HEERF (a)(2) grant recipients to use (a)(2) funds toward construction and the acquisition of real property to prevent, prepare for, and respond to coronavirus.

## A. General Questions

- 1. Question:** What entities can now use their remaining HEERF grant funds for construction, renovation, and real property projects?

**Answer:** After receiving approval for a project from the Department, grantees that have received grant funds under one or more of the HEERF (a)(2) programs may now use those funds for construction, renovation, and purchasing of real property to “prevent, prepare for, and respond to coronavirus.” HEERF (a)(2) includes the following programs:

- Historically Black Colleges and Universities (HBCUs) (ALN 84.425J)
- Tribally Controlled Colleges and Universities (TCCUs) (ALN 84.425K)
- Minority Serving Institutions (MSIs) (ALN 84.425L)
- Strengthening Institutions Program (SIPs) (ALN 84.425M)

For details on receiving project approval, see Question 4.

- 2. Question:** Which HEERF grant funds can those grantees use for construction, renovation, and purchasing of real property that is meant to “prevent, prepare for, and respond to coronavirus?”

**Answer:** This flexibility extends to all HEERF (a)(2) grant funds received under all three HEERF laws, namely, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136), the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116-260), and the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2).

The new flexibility does not allow an institution to use its HEERF (a)(1) Student Portion, (a)(1) Institutional Portion, (a)(3),<sup>2</sup> or (a)(4) grant funds on construction, renovation, or real property projects. HEERF (a)(3) funds that may not be used for construction, renovation, or real property projects include awards made under the SAIHE and SSARP programs that were awarded to make up for a shortfall of HEERF (a)(2) grant funding.

However, as detailed in previous guidance, institutions can use the (a)(1) Institutional Portion and (a)(3) grant funds on projects characterized as “minor remodeling,” like the

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<sup>2</sup> HEERF (a)(3) grant programs include the Institutional Resilience and Expanded Postsecondary Opportunity (IREPO) program (ALN 84.425P), the Supplemental Assistance to Institutions of Higher Education (SAIHE) program (ALN 84.425S), and the Supplemental Support under American Rescue Plan (SSARP) program (ALN 84.425T).

installation or renovation of an HVAC system. For more information regarding minor remodeling, see Question 24 of the [ARP HEERF III FAQs](#).

**3. Question:** What sort of construction or renovation projects can now be supported with HEERF (a)(2) grant funds?

**Answer:** Generally, any construction or renovation project must be connected to the purpose of the HEERF program, which is to “prevent, prepare for, and respond to coronavirus.” This could include, but is not limited to, the following types of construction projects:

- Dorm facility expansion or remodeling (including constructing smaller/individual housing units) for increased social distancing
- Classroom expansion or remodeling for increased social distancing
- Constructing or expanding student support services for childcare based on increased need as a result of the pandemic
- Remodeling campus buildings to improve ventilation and social distancing
- Constructing new buildings where pre-existing buildings cannot be structurally remodeled to improve ventilation and social distancing
- Constructing new or renovating old space for COVID-19 vaccination/testing site(s)
- Constructing new or renovating old space for campus-based food pantries based on increased need as a result of the pandemic
- Constructing permanent modular buildings for increased social distancing

In proposing a construction or renovation project to help “prevent, prepare for, and respond to coronavirus,” an institution’s proposal does not need to match the current public health recommendations of the geographic area of the construction or renovation project but should focus on well-established procedures and design considerations to reduce the spread of COVID-19.

**4. Question:** What do institutions need to do to take advantage of this flexibility?

**Answer:** HEERF (a)(2) institutions wishing to use their (a)(2) funds for construction, renovations, and real property projects must receive approval from the Department prior to beginning their construction, renovation, or real property projects.

As described in our instructions here, institutions must submit the following documentation to their HEERF Department of Education program contact:

- a. HEERF (a)(2) Prior Approval Request Form;
- b. [OMB Standard Form \(SF\) 424D Assurances for Construction Programs form](#); and
- c. [ED 524 Form](#)

Please refer to the instructions for information on when and how to complete the HEERF (a)(2) Prior Approval Request.

Please note that prior approval is not needed for projects characterized as “minor remodeling,” such as the installation or renovation of an HVAC system. For more information regarding minor remodeling, see Question 24 of the [ARP HEERF III FAQs](#).

5. **Question:** When does a construction or renovation project help “prevent, prepare for, and respond to coronavirus”?

**Answer:** In general, construction or renovation projects that address a student or institutional need that has arisen in whole or part as a result of the coronavirus, such as those that are geared toward improving ventilation or allowing for greater physical distancing, will be allowable uses of HEERF (a)(2) grant funds. However, whether a construction or renovation project would help prevent, prepare for, or respond to the coronavirus will be determined based on the needs of individual institutions.

In submitting a proposal to the Department for a construction, renovation, or real property project, institutions must describe how the proposed project is connected to preventing, preparing for, or responding to coronavirus.

6. **Question:** Are there limits on the sort of construction, renovation, and real property projects HEERF (a)(2) grant funds can now support?

**Answer:** Yes. As before with other types of expenditures in the HEERF program, projects cannot support work on facilities related to athletics, sectarian instruction, religious worship, or marketing and recruitment. This is described in more detail in Section C, Questions 13-17.

7. **Question:** May institutions purchase real property with HEERF (a)(2) grant funds?

**Answer:** Yes. Institutions may purchase real property with HEERF (a)(2) funds in order to respond to pandemic-related needs for additional real estate, including to support construction or renovation projects described under Question 3.

However, institutions may not use HEERF (a)(2) grant funds just for purchasing land when there are no immediate plans to acquire, renovate, or construct a building on that land, because the purchase of land alone will not generally help an institution or its students prevent, prepare for, or respond to coronavirus.

Institutions choosing to purchase real property must comply with the Uniform Guidance’s Real Property regulations in [2 CFR §§ 200.310 – 200.312](#) and [200.330](#), and the assurances contained in the [OMB SF-424D](#) form. These requirements are described in more detail in Question 19.

8. **Question:** What are the regulatory requirements that institutions must follow when beginning a construction, renovation, or real property project supported by HEERF (a)(2) grant funds?

**Answer:** Generally, HEERF grantees must follow all the usual Federal requirements when supporting their construction or real property projects with HEERF (a)(2) grant funds. These requirements include the following:

- a. Meet the overall purpose of the HEERF program, which is “to prevent, prepare for, and respond to” coronavirus (see also Question 5);
- b. Comply with the [Cost Principles in 2 CFR part 200, subpart E](#) of the Uniform Guidance (e.g., the cost must be “necessary and reasonable”);
- c. Comply with the Uniform Guidance’s requirements Procurement Standards in [2 CFR §§ 200.317-200.327](#) (see also Question 20) and Property Standards in [2 CFR §§ 200.310 – 200.312](#) and [200.330](#) (see also Question 19);
- d. Comply with the [Davis-Bacon Act](#) prevailing wage requirements (see also Question 21);
- e. Comply with the [Copland Act](#) anti-kickback requirements;
- f. As applicable, comply with the Department’s regulations regarding construction at [34 CFR §§ 75.600-75.617](#) (see also Question 18); and
- g. Properly report construction, renovation, and real property expenditures on the HEERF quarterly and annual reports (see also Question 26).

## B. Timing Questions

9. **Question:** How long do institutions have to complete a construction, renovation, or real property project?

**Answer:** Generally, construction or real property projects must be completed during the HEERF (a)(2) grant performance period. Current HEERF grant performance periods for all grantees, including HEERF (a)(2) grants, are set to expire through June 30, 2023.<sup>3</sup> All HEERF grantees are eligible to receive a no-cost extension (NCE) for one additional year through June 30, 2024.

Institutions must provide information on their expected timeline to complete proposed projects on the HEERF (a)(2) Prior Approval Request Form. Projects approved with a timeline from the institution that extends beyond June 30, 2023, will be granted an extension of their HEERF (a)(2) performance period solely for the purposes of completing their approved construction, renovation, or real property project, as appropriate.

10. **Question:** May an institution use HEERF (a)(2) grants as reimbursement for construction, renovations, or real property expenditures that occurred prior to March 15, 2022?

**Answer:** No. Grantees may only use HEERF (a)(2) grants for permissible construction, renovation or real property expenditures that occurred on or after March 15, 2022, the date of the passage of the Consolidated Appropriations Act, 2022.

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<sup>3</sup> The Department announced this new flexibility on April 4, 2022, in a notice published in the *Federal Register* available at <https://www.federalregister.gov/d/2022-07053> (87 FR 19496).

**11. Question:** May an institution incur pre-approval costs prior to seeking approval of a construction, renovation, or real property project from the Department?

**Answer:** Yes. Institutions may incur reasonable and necessary pre-planning costs on or after March 15, 2022 as they develop their construction, renovation, and real property projects prior to receiving approval from the Department. This could include costs for hiring an architect, receiving an appraisal, or developing a proposal that is submitted to the Department.

However, as with any grant, pre-approval costs incurred for projects are at the grantees own risk and are not considered an allowable cost if a form of the project is ultimately not approved. Additionally, under [34 CFR § 75.605\(b\)](#), institutions may not begin contractual bidding or actual construction or renovation prior to the Department's approval. More information about the approval process is described in Question .

**12. Question:** If my institution has existing plans to construct or renovate a building, but has not begun the project, can it be supported using HEERF (a)(2) grants?

**Answer:** It depends. Buildings that were planned—but had not begun construction—prior to this new flexibility for HEERF (a)(2) grants that will be utilized to prevent, prepare for, or respond to the coronavirus may be eligible. This may include construction or renovation projects that were previously included in an institution's strategic plan or were previously contemplated prior to the beginning of the pandemic but did not begin construction.

In submitting a proposal to the Department for a previously planned construction or renovation project, institutions must describe how the proposed project is connected to preventing, preparing for, or responding to the coronavirus. Additionally, if the existing proposal now has outdated cost estimates due to more recent cost increases, those cost increases, along with the original estimated costs, can be supported using HEERF (a)(2) grants. That is, any existing proposal that has not begun construction will be reviewed and can be supported in the same way a new construction or renovation project will be reviewed and can be supported using HEERF (a)(2) grants.

Institutions with existing proposals may incur reasonable and necessary pre-planning costs from March 15, 2022 onward to update their existing project plans prior to receiving approval from the Department (see also Question 11).

However, if an institution has recently constructed or renovated a building, or begun contractual bidding or actual construction or renovation, that building will not be supportable using HEERF (a)(2) grants because the project did not receive the prior approval of the Department under [34 CFR § 75.605\(b\)](#).

## C. Allowability Questions

**13. Question:** May HEERF (a)(2) grants support construction, renovation, or real property projects that support facilities associated with athletics, sectarian instruction, religious worship, or marketing and recruitment?

**Answer:** No. Institutions cannot use HEERF grants to support facilities associated with athletics, sectarian instruction, religious worship, or marketing and recruitment. This includes, for athletic facilities, for example, swimming pools, tennis courts, and rock-climbing walls. However, institutions may use non-HEERF grants to support those portions of the construction that would be otherwise unallowable using HEERF (a)(2) grants.

If institutions plan to include athletic, sectarian instruction, religious worship, or marketing and recruitment spaces as a portion of their overall HEERF-supported construction project, they should separately account for the costs of building or renovating those spaces and carefully document how the institution calculated the portion of costs attributable to the construction that cannot be supported by HEERF grants.

One way an institution might calculate unallowable costs is to determine the square footage of the unallowable construction and subtract the costs of constructing that square footage from the total square footage of the proposed construction or renovation project.

**14. Question:** May an institution include a wellness or meditative space for students in a proposed construction project?

**Answer:** Yes, if the project addresses needs that have arisen in response to the pandemic, such as addressing mental health.

**15. Question:** May an institution use HEERF (a)(2) grants to build a student gym in a new dorm?

**Answer:** No. A student gym is a “facility associated with athletics” and cannot be supported using HEERF (a)(2) grants. However, as described in Question 14, institutions may separately account for the costs of building or renovating spaces that are an unallowable use of HEERF (a)(2) grants.

**16. Question:** May an institution use HEERF (a)(2) grants on deferred maintenance projects, such as repairs to campus buildings?

**Answer:** Yes. Institutions may use their HEERF (a)(2) grants on deferred maintenance projects, provided that the deferred maintenance will help the institution to prevent, prepare for, or respond to coronavirus.

If, for example, a building needed a new sewer system prior to the pandemic and the institution would like to use the building to support the institution in prevent, preparing for, or responding to coronavirus, HEERF (a)(2) grants would support the replacement of the entire system so that the building would be fully functional and therefore support the institutions use for the intended purpose..

In submitting a proposal to the Department for their deferred maintenance projects, institutions must describe how the proposed project is connected to preventing, preparing for, or responding to coronavirus.



**17. Question:** May an institution use HEERF (a)(2) grant funds to support the development of broadband or Wi-Fi infrastructure?

**Answer:** Yes. Institutions may want to build broadband or Wi-Fi infrastructure as part of their response to preventing, preparing for, or responding to coronavirus. Institutions can use their HEERF (a)(2) grants to support these kinds of construction projects including, for example, construction of a broadband tower or renovating classrooms to incorporate smart classroom technology.

## D. Grant Administration Questions

**18. Question:** What are the Department's regulations regarding construction or renovation projects under 34 CFR §§ 75.600-75.617 that apply to HEERF (a)(2) grants?

**Answer:** Generally, grantees proposing construction or renovation projects must do the following under the Department's construction regulations in [34 CFR §§ 75.600-75.617](#):

- a. As applicable, develop an environmental impact assessment ([34 CFR § 75.601](#) and Question 22);
- b. As applicable, describe any impact or involvement with a building listed on the National Register of Historic Places or eligible under [criteria established by the Secretary of Interior](#) for inclusion in the National Register of Historic Places ([34 CFR § 75.602](#));
- c. In purchasing real property, obtain a full title or interest to the site sufficient to ensure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer ([34 CFR § 75.603](#), and Question 19);
- d. Ensure any construction is functional, economical, and not elaborate in design or extravagant in the use of materials ([34 CFR § 75.607](#));
- e. Comply with Federal, State, and local safety and health standards ([34 CFR § 75.609](#));
- f. Comply with access for individuals with disabilities ([34 CFR § 75.610](#));
- g. To the extent feasible, design and construct facilities to maximize the efficient use of energy by using current ASHRAE standards ([34 CFR § 75.616](#) and Question 23); and
- h. As applicable, comply with the Coastal Barrier Resources Act and avoid flood hazards ([34 CFR §§ 75.611](#) and [75.617](#)).

**19. Question:** What are the regulations and requirements concerning real property projects that apply to HEERF (a)(2) grants?

**Answer:** Generally, grantees proposing to use HEERF (a)(2) grants to purchase real property projects must comply with the following:

- a. The Uniform Guidance's Real Property regulations in [2 CFR §§ 200.310 – 200.312](#) and [200.330](#) which describe requirements concerning the insurance, title,

use, annual reporting, and disposition of real property acquired using Federal grant funds;<sup>4</sup>

- b. The assurances contained in the [OMB SF-424D](#) form, which require a grantee to (i) seek approval of the Department prior to disposing of, modifying the use of, or changing the terms of the real property title, (ii) record the Federal interest in the title of real property, and (iii) include a covenant in the title of real property to ensure nondiscrimination during the useful life of the project; and
- c. If constructing or renovating the property, the Department's property regulation at [34 CFR § 75.603](#), which requires a grantee to obtain a full title or other interest in the site, including right of access, that is sufficient to ensure the grantee's undisturbed use and possession of the facilities for 50 years or the useful life of the facilities, whichever is longer.

**20. Question:** Are institutions required to follow competitive procurement for construction and renovation projects supported by HEERF (a)(2) grants?

**Answer:** Yes. Specifically for construction and renovation projects, institutions must have competitive procurement policies in place prior to commencement of the construction or renovation project. These policies must follow the Uniform Guidance under [2 CFR §§ 200.317-200.327](#) and institutions must incorporate the contract provisions described under [Appendix II to Part 200](#) - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

**21. Question:** What is the Davis-Bacon Act and where can an institution go to learn more about complying with the requirements of the law?

**Answer:** The [Davis-Bacon Act](#), along with the Department's related act,<sup>5</sup> are a series of laws that require contractors and subcontractors working on federally assisted construction and minor remodeling projects over \$2,000 to (a) pay their laborers and mechanics at least prevailing local wages and (b) include language in their contracts that all contractors or subcontractors must pay wages that are not less than the prevailing local wages established for the locality of the project. Generally, the Davis-Bacon Act is considered the floor for the required level of wages and State and local jurisdictions may require higher standards for wages.

Recently, the U.S. Department of Labor announced a series of prevailing wage compliance seminars for Federal contractors, contracting agencies, unions, workers, and other stakeholders. More information regarding those upcoming seminars is [available here](#).

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<sup>4</sup> Please note that under 2 CFR § 200.311(c), an institution must compensate the Department if it later decides to sell the property acquired in whole or in part using HEERF grant funds or if real property is no longer needed for the originally authorized purpose.

<sup>5</sup> Pursuant to the Department's related act under Section 439 of the [General Education Provisions Act](#) (GEPA) (20 USC 1232b), the Davis-Bacon Act applies to all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects over \$2,000 supported by applicable Department programs, which includes HEERF.

**22. Question:** Is an institution required to do an environmental impact assessment under [34 CFR § 75.601](#) and the [National Environmental Policy Act](#) (NEPA) for a construction, renovation, or real property project supported by HEERF (a)(2) grants?

**Answer:** No. The Department does not exercise control over the use of the funds for any individual project as long as the project continues to meet all statutory and other applicable requirements (such as the Uniform Guidance and the Department’s administrative regulations). As a result, construction, renovation, or real property projects supported by HEERF (a)(2) grants are not considered a “major Federal action” under NEPA and are not subject to 34 CFR § 75.601.

While NEPA does not apply, the Department strongly encourages grantees to require some type of environmental assessment for projects that involve breaking new ground, such as projects to expand the size of an existing building or replace an outdated building. This may already be required by State law and would help to assess any potential environmental ramifications of expanding or replacing institution buildings.

**23. Question:** How can an institution maximize the environmental sustainability of any renovations or construction supported by HEERF (a)(2) grants?

**Answer:** To the extent feasible, grantees should follow [the current standards](#) of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), incorporated by reference in [34 CFR § 75.616](#), to support energy conservation in their construction or renovation projects.

Additionally, grantees should consider relevant green building guidance, benchmarking, specifications, and rating systems that lead to a positive impact on health and the environment.

**24. Question:** May an institution pool funds from other sources to support a HEERF construction, renovation, or real property project?

**Answer:** Yes. In some cases, it may be necessary to pool funds from other sources in order to complete the construction, renovation, or real property project. Institutions may use non-HEERF grants to do so, provided that the overall project complies with the requirements that apply to using HEERF grants (e.g., your institution is not developing an impermissible building such as a new athletic facility) and will result in a completed project (e.g., not result in only a half-completed building).

Please note that the use of other Federal funds to support a HEERF (a)(2) construction, renovation, or real property project must meet all applicable requirements that apply to the use and expenditure of those Federal funds, including, if applicable, the requirements for expenditures under Titles III and V of the [Higher Education Act of 1965](#), as amended (HEA).

**25. Question:** May an institution repurpose previously spent HEERF (a)(2) grants to unspent (a)(1) Institutional Portion grant funds to allow for additional spending under (a)(2) toward construction, renovation, or real property?

**Answer:** Yes. Beginning on or after March 15, 2022, institutions may repurpose previously spent (a)(2) grant funds to unobligated (a)(1) institutional grant funds to maximize the amount of HEERF grants available for construction, renovation, or real property projects. If an institution takes advantage of this flexibility, it must:

- a. Ensure the period of performance for all applicable HEERF grants is still open;
- b. Update all HEERF annual and quarterly performance reporting, including amending previously submitted and posted reports, to accurately reflect the institution's grant expenditures after the repurposing of (a)(2) funds; and
- c. If the decision to repurpose funds is made subsequent to the issuance of the single audit that covered the previously spent HEERF (a)(2) grants, consult with the auditor to determine whether an error correction or prior period adjustment to the Schedule of Expenditures of Federal Awards (SEFA) is warranted under Generally Accepted Accounting Principles (GAAP).<sup>6</sup>

For example, if an institution had a total HEERF (a)(2) grant award of \$300,000 and previously spent \$100,000 of these funds to discharge student debt as lost revenue, it currently has \$200,000 left over in (a)(2) grant funds available for construction, renovation, or the purchase of real property. However, if the institution has \$100,000 in unobligated HEERF (a)(1) Institutional Portion grant funds, it can now, consistent with the above, repurpose the previously spent \$100,000 in (a)(2) grant funds as an allowable expense under the institution's HEERF (a)(1) award. The institution would now have a total of \$300,000 in (a)(2) grant funds that could be used to cover construction, renovation or real property costs, and the amount of the institution's (a)(1) Institutional Portion grant funds would be diminished by \$100,000.

**26. Question:** How does an institution report construction or real property expenditures on the quarterly and annual HEERF reports?

**Answer:** Expenditures for construction, renovation, or real property must be reported on the 2022 HEERF Annual Report, which will be due in early 2023, and the Department will add a construction, renovation, and real property category to the HEERF quarterly report beginning with the report due on July 10, 2022. For more information, visit our [HEERF reporting page here](#).

**27. Question:** What documentation do institutions need to maintain for construction, renovation, or real property projects?

**Answer:** An institution must retain financial records, strategic plans, environmental assessments, blueprints, the calculation of how it separately accounted for any unallowable costs in a project, contract solicitations and bids, and all other institutional records pertinent to any construction, renovation, or real property project and the administration of the HEERF grant programs generally for a period of three years from the date of submission of the final expenditure report ([2 CFR § 200.334](#)).

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<sup>6</sup> Repurposing expended HEERF (a)(2) grant funds is allowed back to the date of the declaration of the national emergency, March 13, 2020.

**28. Question:** Will the Department host any webinars or trainings on the process to request approval for construction, renovation, and real property projects?

**Answer:** Yes. The Department will soon announce a series of webinars to support HEERF grantees as they explore using their HEERF (a)(2) grants for construction, renovation, or real property projects.