

Library Construction and the American Recovery and Reinvestment Act

With the passage of the American Recovery and Reinvestment Act (ARRA), a considerable amount of funding will be flowing to the states from Congress. There are many opportunities for libraries of all types to benefit from this unprecedented level of funding.

The largest source of funding libraries of all types can benefit from in the ARRA is the State Fiscal Stabilization Fund. While how the funding from the ARRA is spent is, for the most part, at the discretion of the governors, according to the federal government ARRA funds can be spent on construction and modernization. This includes construction and modernization of libraries.

On April 1, the U.S. Department of Education issued guidance on the State Fiscal Stabilization Fund and how the funds can be spent. Below is a list of questions and answers on construction and modernization contained in the guidance. The guidance can be found here <http://www.ed.gov/programs/statestabilization/applicant.html>

The ALA Washington Office has created www.ala.org/knowyourstimulus as a one-stop source guide on how to make sure libraries benefit from the package and the most up-to-date information on the stimulus. As information becomes available, the ALA Washington Office will post updates on this page with details, such as how funding will be distributed and how to apply.

May a State use its Government Services funds for construction or infrastructure support?

Yes. The scope of allowable activities for the Government Services funds is broad, and is not limited to modernization, renovation, or repair of public school facilities or IHEs. Subject to the limitations in section 14004(c) of the ARRA, construction and infrastructure support are allowable uses of Government Services funds. If a State uses Government Services funds for construction, alteration, maintenance, or repair of a public building or public work, it must comply with specific requirements relating to the use of American iron, steel, and manufactured goods used in the project. (See Section 1605 of the ARRA.)

May a State use Government Services funds to construct, modernize, renovate, or repair a *private* school facility?

Yes. A State may use these funds to construct, modernize, renovate, or repair a private school facility. However, the limitations referenced in Question IV-3 apply to such uses of funds. For example, a State is prohibited from using Government Services funds for construction, modernization, renovation, or repair of facilities (a) that are used for sectarian instruction or religious worship; or (b) in which a substantial portion of the functions of the facilities are subsumed in a religious mission. (See *generally* Section 14004(c) of the ARRA.)

May Stabilization funds be used for construction?

Stabilization funds may be used to support construction as follows:

- **By LEAs under the Education Stabilization Fund** – An LEA (including a charter school LEA) may use Education Stabilization funds for construction of new public school facilities because section 14003(a) of the ARRA authorizes an LEA to use its funds for any activities authorized under the ESEA (and certain other Federal education laws), and construction is an activity authorized under Title VIII of the ESEA (Impact Aid).

- By Governors under the Government Services Fund – A Governor may use Government Services funds for construction because section 14002 of the ARRA authorizes the use of funds for “public safety and other government services”, and construction may be considered a government service.

All construction activities under the ARRA are subject to the applicable requirements in the ARRA and other Federal statutes and the assurances that the Governor provides in the State’s Stabilization program application.

May Stabilization funds be used for modernization, renovation, or repair?

Stabilization funds may be used to support modernization, renovation, and repair as follows:

- By LEAs under the Education Stabilization Fund – An LEA (including a charter school LEA) may use Education Stabilization funds for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green-building rating system. (See Section 14002(a) of the ARRA.)
- By IHEs under the Education Stabilization Fund – An IHE may use Education Stabilization funds for modernization, renovation, or repair of IHE facilities that are used primarily for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system. (See Section 14004(a) of the ARRA.)
- By Governors under the Government Services Fund – A Governor may use Government Services funds for modernization, renovation, or repair of public school facilities and IHEs, including modernization, renovation, and repairs that are consistent with a recognized green building rating system. (See Section 14002(b)(1) of the ARRA.) Under the authority to use funds for “public safety and other government services”, a Governor may also support other types of modernization, renovation, and repair activities with Government Services funds.

These activities are subject to the applicable requirements in the ARRA and other Federal statutes and the assurances that the Governor provides in the State’s Stabilization program application.

Are there specific types of construction, modernization, or repair activities that may not be supported with Stabilization funds?

There are specific prohibitions that apply to the use of ARRA funds by any entity. For example, entities may not use ARRA funds for any casino or other gaming establishment, aquarium, zoo, golf course, or swimming pool. (See Section 1604 of the ARRA.) In addition, there is an express prohibition against any entity using Stabilization funds for: (a) modernization, renovation, or repair of stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; or (b) modernization, renovation, or repair of facilities used for sectarian instruction or religious worship, or in which a substantial portion of the functions of the facilities are subsumed in a religious mission. These limitations also apply to construction activities that an LEA supports under the Education Stabilization Fund and that a Governor supports under the Government Services Fund. (See *generally* Section 14004(c) of the ARRA.)

A public IHE may use Education Stabilization funds for the modernization, renovation, or repair of IHE facilities that are primarily used for instruction, research, or student housing. (See Section 14004(a) of the ARRA.)

An LEA may use Stabilization funds for modernization, renovation, or repair of public school facilities. (See Section 14003(a) of the ARRA.) However, an LEA is prohibited from using Stabilization funds for: (a) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; (b) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; and (c) school modernization, renovation, or repair that is inconsistent with State law. (See Sections 14003(b) and (c) of the ARRA.)

All construction, modernization, renovation, or repair activities under the ARRA are subject to the applicable requirements in the ARRA and other Federal statutes and the assurances that the Governor provides in the State's Stabilization application.

What is meant by the term “modernization, renovation, or repair”?

The term “modernization, renovation, or repair” includes altering, remodeling, repairing, or retrofitting an existing facility. Depending on the nature of the project, permissible activities might involve work related to electrical systems, plumbing systems, sewage systems, heating, ventilation or air conditioning systems, the installation of energy- efficient windows, the repair or replacement of roofs, asbestos abatement or removal, bringing facilities into compliance with fire and safety codes, making facilities accessible, or upgrading facilities to support new programs or services.

The Department strongly encourages entities to engage in modernization, renovation, and repairs that are consistent with a recognized green-building rating.

May an LEA use Education Stabilization funds for modernizing, renovating, or repairing public school facilities?

Yes. Under section 14002(a) of the ARRA, LEAs (including charter school LEAs) may use Education Stabilization funds for modernization, renovation, or repair of public school facilities, including modernization, renovation, and repairs that are consistent with a recognized green-building rating system.^[1] In conducting these activities, LEAs are encouraged to consider how schools might be adapted to better accommodate the needs of the community and serve as community centers.

As noted in the response to Question III-D-2, however, there are certain prohibitions that apply to an LEA's use of Education Stabilization funds, including prohibitions against using funds for: (a) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public; (b) improvement of stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities; and (c) school modernization, renovation, or repair that is inconsistent with State law.

In addition, if an LEA uses Education Stabilization funds for modernization, renovation, or repair of public school facilities, it must comply with specific requirements relating to the use of American iron, steel, and manufactured goods used in the project. (See Section 1605 of the ARRA.)

May an LEA use Education Stabilization funds for construction activities that are not considered to be modernization, renovation, or repair?

Yes. Construction of new school buildings is an authorized activity under the Impact Aid construction program in section 8007 of the ESEA. Thus, subject to the ARRA statutory requirements and prohibitions governing the uses of Education Stabilization funds, an LEA (including a charter school LEA) may use the funds to support the construction of new school buildings, including construction activities that are consistent with a recognized green-building rating system.

An LEA may not use Education Stabilization funds for construction of (or modernization, renovation, or repair of) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public, or stand-alone facilities whose purpose is not the education of children, including central office administration or operations or logistical support facilities. If an LEA uses Education Stabilization funds for construction, it must comply with specific requirements relating to the use of American iron, steel, and manufactured goods used in the project. (See Section 1605 of the ARRA.)

May an IHE use Education Stabilization Funds for modernizing, renovating, or repairing facilities?

Subject to all applicable ARRA statutory requirements and prohibitions, an IHE may use these funds for modernization, renovation, or repair of IHE facilities that are used primarily for instruction, research, or student housing, including modernization, renovation, and repairs that are consistent with a recognized green building rating system. If an IHE uses Education Stabilization funds for modernization, renovation, or repair of IHE facilities, it must comply with specific requirements relating to the use of American iron, steel, and manufactured goods used in the project. (See Section 1605 of the ARRA.)

May Education Stabilization funds be awarded to *private* IHEs to modernize, renovate, or repair their IHE facilities?

No. Education Stabilization funds may not be awarded to private IHEs for any purpose. However, a Governor has the discretion to use funds from the State's Government Services Fund to modernize, renovate, or repair private IHE facilities, subject to applicable requirements in the ARRA and other Federal laws.

May an IHE use Education Stabilization funds to support new construction?

No. An IHE may use Education Stabilization funds only for the modernization, renovation, or repair activities described in response to Question III-E-4, or for education and general expenditures. Construction is a *capital* expenditure and not a general expenditure. Thus, construction is not an allowable use of Education Stabilization funds by an IHE.^[2]
