

**Issue date: 12/1/2024**

The purpose of this Commissioner’s Memo is to provide guidance to Arkansas LEAs. LEAs using a combination and/or all generations of federal relief funds Elementary and Secondary School Emergency Relief (ESSER), having capital outlay expenses of a single project totaling $1 million or more in the areas of major construction projects or acquisition of real estate, must record the federal government’s interest. The document is referred to as a ***Notice of Federal Interest (NFI)*** and is recorded through the local county recorder’s office

**Reporting:**

The reporting requirement ([2 CFR § 200.330](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR36520e4111dce32/section-200.330)), set by the Office of Management and Budget (OMB), provides that grant and subgrant recipients must report annually, for at least the first 15 years, on the status of the real property in which the Federal government has made a monetary investment and therefore has an ongoing interest. The Federal interest *recording* requirement ([2 CFR § 200.316](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR8feb98c2e3e5ad2/section-200.316)), in combination with the OMB construction grant assurances, provides Federal agencies with discretion as to when recipients are required to locally record notices of Federal interest (or other public notices of record, such as liens) regarding that Federal interest. In general, these longstanding requirements help ensure that a facility can continue to be used for educational purposes after a grant has ended; establish the level of public investment in the facility that may be recouped if the property is subsequently transferred to private ownership; and promotes nondiscrimination, including accessibility, while the property is used for a grant’s educational purpose.

Grantees or subgrantees with a renovation, major remodeling, construction, or real property project where the Federal interest is significant—typically, that use more than ***$1 million in COVID-19 relief funds***—**must record the notice of Federal interest (NFI)** in the official real property records for the jurisdiction in which the improved or purchased property is located. All grantees and subgrantees that have a renovation, major remodeling, construction, or real property project of $1 million or more in funds from these programs must record all NFIs by ***January 28, 2025****.*

**Regulatory Basis for Reporting on Real Property:**

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal Government retains an interest unless the federal interest in the real property extends 15 yearsor longer.

**Circumstances Requiring Reporting:**

All grantees and subgrantees that have property that was improved or purchased, in whole or in part, by federal grant funds from the programs described above must submit the following documents to the Federal Programs Unit for the Arkansas Department of Education:

1. Notice of Federal Interest (***One Time Process***)
2. Real Property Status Report (Cover Page) (SF-429) [Real Property Status Report](https://grants.gov/forms/forms-repository/post-award-reporting-forms)
3. SF-429 Attachments (A or C). [Real Property Status Report](https://grants.gov/forms/forms-repository/post-award-reporting-forms)

LEAs will need to complete and submit the SF-429 Cover Page, the SF-429A Attachment A (***and only SF-429C for Disposition if applicable***) Please email the forms to the Federal Programs Unit: Eric.james@ade.arkansas.gov and Jayne.Green@ade.arkansas.gov

**General Requirements for NFI:**

1. The NFI must reference the appropriate P/R Award Number, i.e., P425XXXXXXX (this can be found in Box 2 of your Grant Award Notification (GAN)).

2. The description of the project should clearly describe the approved construction project, renovation, or purchase supported in part or whole by grant funds.

3. The legal description should preferably be the full legal description of the property in the deed. However, Township and Range, or Map, Block, and Lot number will be accepted. A physical address may be included, but it does not constitute sufficient legal description by itself.

4. The NFI's signatory should be the property owner or authorized representative. This indicates the owner’s consent to have a lien filed on the property.

5. The NFI must then be notarized and embossed with a notary seal.

6. The NFI must then be recorded with applicable jurisdiction.

[US DEPT of ED (2024) Reporting and Recording Federal Interest](https://www.ed.gov/sites/ed/files/2024/05/DCL-and-Guidance-Recording-and-Reporting-Federal-Interest-4.2.24-with-corrections.pdf)