

## Emergency Repair Program: Frequently Asked Questions

Amendments to the Emergency Repair Program (ERP) Regulations became effective upon their approval by the Office of Administrative Law on August 31, 2009.

### **Q: What were the amendments to the ERP Regulations?**

**A:** Amendments were made in the following sections of the Regulations:

- Time Limit on Grant Apportionment
- Return of Savings to the State, including Interest earned on State funds remaining after completion of the projects.

Form SAB 61-04 (Rev. 12/08), pertaining to the timely reporting of expenditures and Form SAB 61-03 (Rev. 12/08) pertaining to the grant application, were also revised, and these current versions were posted in fill-in form on the web.

### **Q: What was the extension given on the Time Limit?**

**A:** The Time Limit on Grant Apportionment was extended by three months.

Local Educational Agencies (LEAs) were allowed an extension of three months in the time limit to complete all the work funded from an ERP Grant and prepare a warrant for the return of the savings. This extension applies only to grants with a Time Limit on Grant Apportionment on or after August 31, 2009.

Prior to the amendment, the Time Limit on Grant Apportionment required the LEAs to complete the emergency repairs within 12 months from the ERP Grant apportionment date (or 18 months, if approval is required from the Division of the State Architect on any of the projects). The extension means that LEAs are allowed additional time to complete all the work outlined in the Grant Request, Form SAB 61-03 (Rev. 12/08) AND prepare and submit to the Office of Public School Construction (OPSC) the Expenditure Report Form SAB 61-04 (Rev. 12/08). For those LEAs affected by the change, the new time limit would be 15 months from the date of SAB apportionment (or 21 months if approval is required from the Division of the State Architect on any of the projects).

### **Q: What happens if the LEA exceeds this time limit?**

**A:** If the projects are not completed and Form SAB 61-04 is not submitted within the new time limit, the entire apportionment will be rescinded. The application (including any reimbursement projects that may be included) and funds associated with it must be immediately returned by the LEA to OPSC, together with the corresponding interest from the time of apportionment. See amended ERP Regulation Section 1859.330 for reference.

### **Q: What happens if the LEA is not able to use all the funding apportioned to an approved application?**

**A:** The amended regulations provide that savings on ERP Grant funds, as well as interest, shall either be:

- applied to eligible costs for the project, as approved by the State Allocation Board (SAB); or
- returned to the State at the same time that the LEA submits the Form SAB 61-04 to the OPSC.

See Regulation Section 1859.324.2 for reference.

### **Q: How is the money returned to the State?**

**A:** A check must be issued to the State of California. Write the ERP application number on the check.

Mail the amount of savings and interest earned, shown in Part F of the Expenditure Report (Form SAB 61-04), together with the completed Expenditure Report (Form SAB 61-04) to the Department of General Services, Office of Public School Construction, Attention: Accounting, 707 3<sup>rd</sup> Street, West Sacramento, CA 95605.

### **Q: What are the changes to the ERP Forms?**

**A:** Forms SAB 61-03 and 61-04 have been revised. The form versions that are in current use are: Form SAB 61-03 (Rev. 12/08) and Form SAB 61-04 (Rev. 12/08).

Major changes in the forms include the following:

- As an attachment to Form SAB 61-04 (Rev. 12/08), the LEA must complete and submit the ERP Detailed Listing of Warrants Worksheet.
- Additionally, for Force Labor Account Projects, pursuant to Public Contracts Code (PCC) Section 20114 (a), the LEA must submit the OPSC Force Labor Account Worksheet or other documentation that contains employee name(s), number of hours each employee spent on the project, and hourly wages.

**Q: Where do I find the new Regulation changes and forms?**

**A:** For a complete text of the amended ERP Regulations, please go to:

[http://www.documents.dgs.ca.gov/opsc/Regulations/SFNAGP-ERP\\_Regs.pdf](http://www.documents.dgs.ca.gov/opsc/Regulations/SFNAGP-ERP_Regs.pdf)

To download, fill-in and print specific forms from the OPSC website please go to the following:

FORM SAB 61-03: [http://www.documents.dgs.ca.gov/opsc/Forms/SAB\\_61-03.pdf](http://www.documents.dgs.ca.gov/opsc/Forms/SAB_61-03.pdf)

FORM SAB 61-04: [http://www.documents.dgs.ca.gov/opsc/Forms/SAB\\_61-04.pdf](http://www.documents.dgs.ca.gov/opsc/Forms/SAB_61-04.pdf)

APPLICATION SUBMITTAL REQUIREMENTS CHECKLIST:

[http://www.documents.dgs.ca.gov/opsc/Forms/Checklists/ERP\\_Rqmt\\_Chklst.pdf](http://www.documents.dgs.ca.gov/opsc/Forms/Checklists/ERP_Rqmt_Chklst.pdf)

DETAILED LISTING OF WARRANTS WORKSHEET:

[http://www.documents.dgs.ca.gov/opsc/Forms/Worksheets/ERP\\_Warrant\\_WS.pdf](http://www.documents.dgs.ca.gov/opsc/Forms/Worksheets/ERP_Warrant_WS.pdf)

FORCE LABOR ACCOUNT WORKSHEET:

[http://www.documents.dgs.ca.gov/opsc/Forms/Worksheets/Force\\_Account\\_Labor\\_WS.xls](http://www.documents.dgs.ca.gov/opsc/Forms/Worksheets/Force_Account_Labor_WS.xls)

**Q: What are some of the things to do to successfully comply with the new ERP regulations, forms and procedures?**

**A:** LEAs are advised to:

- Submit Form SAB 61-04 as soon as the projects are completed without waiting for the due date;
- Read all the SAB Forms' instructions carefully. Per the form's instructions, the Expenditure

Number Lines on the Form SAB 61-04 must coincide with the corresponding Project Detail boxes on Form SAB 61-03. Questions on how the Grant was utilized may occur if the Project Activities authorized in the Grant do not coincide with the Expenditure Details;

- Filling out the form clearly and correctly also demonstrates that the scope of the work applied for, as contained in the Grant Request (Form SAB 61-03) corresponds to the work completed, as contained in Expenditure Report (Form SAB 61-04). If work is undertaken outside of the scope of work originally approved by the SAB, and is not for an eligible use of the grant, the expenditure would be disallowed, and the Grant would be rescinded.

- If the cost of the project(s) has been marked as "Actual" in the Grant Request (Form SAB 61-03), and it is indicated that all of the expenditures are complete for all projects associated with the Grant request, the request will be deemed a Reimbursement. Thus, the LEA must have also included the corresponding Expenditure Report (Form SAB 61-04) concurrently with the Form SAB 61-03. Delay in processing the reimbursement may occur if the Expenditure Report is not submitted concurrently with the Grant application that appears to be a reimbursement of actual expenses.

- Once the LEA determines it has savings from the Project(s), it may return the savings at any time.

This way the LEA avoids incurring any additional interest on the savings.

**Q: If the Grant Request stated that the project did not require Division of the State Architect (DSA) approval, and eventually needed an approval from the DSA, what must the LEA do?**

**A:** The LEA must inform OPSC immediately which project(s) require(s) DSA approval, and an

explanation of the reason for the DSA requirement, as well as the DSA Tracking Number. OPSC will note the request and consider giving the LEA a six-month extension on its Time Limit on Grant Apportionment and submittal of its Expenditure Report (Form SAB 61-04).

**Q: Can the LEA modify the OPSC Worksheets attached to Form SAB 61-04?**

**A:** Yes, the LEA, may provide its own version of the program Detailed Listing of Warrants Worksheet and the Force Account labor worksheet as long as the worksheets contain the same information. Use of the transaction record, in lieu of a warrant number on the Detailed Listing of Warrants Worksheet, is acceptable for Force Account Labor expenditures.

**Q: If the work cannot be finished on time, is there a further extension that could be granted by OPSC?**

**A:** No, the Regulations do not provide for extensions to the Time Limit on Apportionment.

**Q: What is a Grant Adjustment and when do these occur?**

**A:** Grant adjustments occur after a review of Form SAB 61-04. Projects that require a Grant Adjustment will be presented to the Board for approval based upon one of the following review determinations:

- If the expenditures are less than the Grant, the Grant will be deemed the full and final apportionment for the project and the OPSC shall recommend to the Board that the Apportionment be reduced by the amount of savings realized by the LEA. The savings, which include any interest earned on the Grant funds, either declared by the LEA or determined by the OPSC, must be returned to the State when the LEA submits the Form SAB 61-04 to the OPSC. If the LEA fails to make the required payment, the OPSC shall notify the Controller and the LEA in writing, and the Controller shall deduct an amount equal to the amount due from the LEA's next principal apportionment or apportionments of state funds to the LEA, other than basic aid apportionments required by Section 6 of Article IX of the California Constitution. Any amounts obtained shall be deposited into the School Facilities Emergency Repair Account and will be made available for the funding of future ERP Grants and Grant Adjustments.
- If the expenditures are greater than the Grant apportionment, provided the additional expenditures are associated with the project's original scope, the OPSC shall recommend to the Board that the Apportionment be increased. The Grant Adjustment will be deemed as the full and final apportionment for the project.
- If the expenditures are equal to the Grant, no further Board action is necessary. The Grant will be deemed as the full and final apportionment for the project.

**Q: Who do I contact for any question on the Regulation changes?**

**A:** Please contact the ERP Supervisor Brigitte Baul (916-375-5984)

The 2008/09 State Budget Act revision made changes to the Deferred Maintenance Program (DMP) and the Restricted Routine Maintenance Account (RRMA) deposit requirements. These changes, as contained in Senate Bill (SB) X3 4, Section 15, impact the ERP in several ways. Below is a list of commonly asked questions that pertain specifically to the ERP. They do not constitute a complete analysis of Educational Budget changes contained in SB X3 4 (enacted February 20, 2009).

**Q. Does my Local Educational Agency (LEA) need to make the matching deposit into DM account in order to continue to participate in the ERP?**

**A:** No. During the 2008/09 – 2012/13 time period identified in the law, the LEA may exercise the option to

not make its DMP deposit while still being able to participate in ERP. This is because SB X3 4 waives the local DMP deposit requirement for the specified time period. It is important to note that the laws governing the ERP require participating districts to use ERP dollars to supplement, and not supplant funds available for maintenance. This provision is still applicable during the time period effected by SB X3 4. However, the ERP Regulation that implements the "supplement, not supplant" provision by requiring applicable deposits to be made is not applicable during fiscal years 2008/09 through 2012/13.

**Q. My LEA received State funding for DMP under the provisions of SB X3 4. Does my LEA need to expend, encumber or dedicate all the funds in the DM account for maintenance projects?**

**A.** No. However if the LEA decides to use the State DMP apportionment for purposes other than maintenance, as a condition of receipt of funds, the governing board of the school district, at a regularly scheduled open public hearing shall take testimony from the public, discuss, and approve or disapprove the proposed use of funding as stated in Education Code (EC) Section 42605.

**Q. SB X3 4 reduces the school districts' deposit requirement for the RRMA for five years. Does the LEA's decision to lower its deposit into the RRMA apply to districts who participated in the ERP program?**

**A.** The flexibility afforded to LEAs to reduce their RRMA deposit, per EC Section 17070.766, is applicable to LEAs who have participated/are currently participating in the ERP. If the LEA elects to take advantage of the flexibility to reduce its RRMA deposit or use its DM Funds for educational purposes other than DM, it may still retain its ERP grant and proceed with the project. The LEA is still subject to the requirements of ERP supplement not supplant requirements (see EC Section 17592.72) and must exercise due diligence in maintaining its school facilities.

**Q. If a LEA gives back the ERP Grant Apportionment for the project that has not yet started construction will the LEA be able to take advantage of the flexibility for the Routine Restricted Maintenance match? Or, does the fact that the LEA participated in the ERP program at all preclude it from using this flexibility?**

**A.** The LEA is entitled to use ERP Grant Apportionment to perform the work detailed in its Grant Request (Form SAB 61-03) and still take advantage of the flexibility for the new RRMA/DM provisions so long as it complies with the aforementioned EC sections.

**Q. Does my LEA need to abide by the "old" RRMA deposit requirements of three percent?**

**A.** No. Senate Bill X3 4 reduces the school districts' deposit requirement for the RRMA for five years. The LEA is now required to deposit one percent of the total expenditures from its general fund in their RRMA rather than the previously required three percent.

**Q. Does the new flexibility provided for categorical programs extend to the ERP?**

**A.** No. All ERP projects must still be completed as funded and the LEA cannot use ERP grant funds for anything other than the ERP project.

**Q. How do I know if I am eligible to apply for an Emergency Repair Program (ERP) grant?**

**A.** ERP Regulation Section 1859.324 indicates which schools are eligible to apply for an ERP grant. The following time periods specify which schools can apply for ERP, determined by the OPSC received date of an application.

Eligibility Period	School Academic Performance Index (API) Ranking	Contracts must have been entered into and all funds expended on or after...	Supplement, Not Supplant Requirement Applies to all Eligibility Periods
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			(ERP Reg. 1859.328)
5.31.2005– 6.30.2007	Deciles 1-3, based on 2003 API,  Originally constructed prior to 1.1.00	9.29.2004	Must deposit the required funding level in the Routine Restricted Maintenance Account (if participating in the School Facility Program).
7.02.2007 – 10.1.2007	Deciles 1-3, based on 2003 API, Originally constructed prior to 1.1.00 & Deciles 1-3, based on 2006 API	9.29.2004 for schools based on 2003 API  7.1.2005 for schools based on 2006 API	If participating in the Deferred Maintenance Program, must deposit the Local Educational Agency's (LEA's) maximum basic amount based on the latest determination <u>and</u> the next scheduled determination. The LEA shall not transfer excess local funds made from the deposits.
10.2.2007 – 6.30.2010	Deciles 1-3, based on 2006 API	7.1.2005 for schools based on 2006 API	If the above are not applicable, the LEA must budget for the current fiscal year an amount not less than the average maintenance budget for the previous three fiscal years.  The LEA must expend, encumber, or dedicate the above funds.

**Q. What projects are eligible for funding?**

**A.** The ERP is a grant program and is for emergency repair or replacement projects that pose a health and safety threat to pupils and staff. Education Code Section 17592.72 lists 8 specific conditions that would be eligible to receive funding for repair or replacement under this program. Although this list is not exhaustive, it provides insight into the nature of the projects that would be considered for funding under the ERP. The ERP projects will be repairs or replacement of existing items in order to restore them to a safely functioning state. Please note that the LEA is only eligible to receive funding for the minimum work required to mitigate the health and safety hazard.

Examples of Common ERP Funding Requests

The general guiding principle behind whether something should be funded is 1) a system/component is broken or not functioning properly and a repair or replacement is to be made, and 2) the system/component creates a health and safety hazard. Following are some examples of items LEAs have asked to be reimbursed and whether the items are typically considered eligible or ineligible. For items considered typically eligible, the assumption is that the LEA has substantiated a health and safety hazard.

Items Commonly Requested for Funding

System/ Component	Notes	Typically Eligible	Typically Ineligible
Asbestos	Typically, not eligible unless the abatement is		X

Abatement	necessary work in completion of another ERP project and a qualified individual or firm provides documentation that it must be done.		
Carpet	<ul style="list-style-type: none"> <li>· Ripped or torn carpet creating tripping hazard</li> <li>· Holes in carpet</li> </ul>	X	
Electrical	<ul style="list-style-type: none"> <li>· Replacing an electrical socket because it was not functioning</li> </ul>		X
Graffiti	<ul style="list-style-type: none"> <li>· Removal of gang-affiliated graffiti</li> </ul>	X	
Ground	<ul style="list-style-type: none"> <li>· Cracked cement creating tripping hazard</li> <li>· Filling holes creating tripping hazard</li> </ul>	X	
HVAC	<ul style="list-style-type: none"> <li>· Adjusting a thermostat</li> <li>· Adding new coolant</li> <li>· Cleaning ducts</li> <li>· Replacement of fuses and batteries</li> </ul>		X
HVAC	<ul style="list-style-type: none"> <li>· Any actual repair to make functional</li> </ul>	X	
Insurance Proceeds	<ul style="list-style-type: none"> <li>· Emergency repairs normally covered by insurance (including, but not limited to fire, flood, or earthquake) unless the facilities were uninsurable or the costs of insurance were prohibitive</li> <li>· Insurance deductibles</li> </ul>		X
Irrigation and Landscape	<ul style="list-style-type: none"> <li>· Sprinkler heads</li> </ul>		X
	<ul style="list-style-type: none"> <li>· Repairs where the district has indicated a health and safety hazard (holes in ground, tripping, etc.)</li> <li>· Drainage systems (where potential flooding exists)</li> <li>· Irrigation system supply lines</li> </ul>	X	
Kitchen Equipment	<ul style="list-style-type: none"> <li>· Non-functioning refrigerator, stove, dishwasher, etc.</li> </ul>	X	
Lighting	<ul style="list-style-type: none"> <li>· Replacing light bulbs</li> </ul>		X
	<ul style="list-style-type: none"> <li>· Ballast replacement</li> </ul>	X	
Lunch tables	<ul style="list-style-type: none"> <li>· Indoor lunch table repairs (i.e. furniture)</li> </ul>		X
	<ul style="list-style-type: none"> <li>· Outdoor lunch table repairs allowed only <i>if permanently fixed to the ground</i></li> <li>· Indoor lunch table repairs allowed only <i>if permanently attached to the building</i></li> </ul>	X	
Mold Remediation	<ul style="list-style-type: none"> <li>· Any repair where district has substantiated a health and safety threat. The threat must be tested and verified by a qualified individual or firm. Must be a toxic mold, such as Stachybotrys Chartarum.</li> <li>· If the mold remediation involves major structural repair, the LEA may need to apply for a Facility Hardship or Rehabilitation grant.</li> </ul>	X	
Playground Equipment	<ul style="list-style-type: none"> <li>· Broken playground equipment creating a health and safety hazard</li> </ul>	X	
Ramps	<ul style="list-style-type: none"> <li>· Repairs to broken ramps or railings</li> </ul>	X	
Remodels	<ul style="list-style-type: none"> <li>· In order to be eligible, LEA must substantiate a health and safety hazard for project as a whole and for each system/component within the project</li> </ul>		X

Restrooms	· Unclogging toilets or sinks		X
	· Plumbing work · Toilet and sink repairs	X	
Roofing	· Leaking roofs · Roofs with flying debris	X	
Security	· Re-keying a school because a key was lost by staff member · Cleaning or adjusting locks		X
	· Repairing a door lock · Repairing fences and gates · Replacing existing locks if broken	X	
Tree Removal	· Disallowed unless application includes documentation from an arborist verifying the tree must be taken down		X
Vermin	· Spraying for ants, spiders, roaches, gophers, etc. (unless part of a major infestation) · Trapping/Baiting · Monthly pest control services		X
	· Eradicating an infestation	X	
Water	· Adjusting water pressure		X
	· Drinking fountain repairs	X	
Walls	· Painting and other repairs (only where the district has substantiated a health and safety hazard) · Repairing holes in walls (where district has substantiated a health and safety hazard)	X	

**Q. Is there any specific documentation that I need to submit with my Grant Request (Form SAB 61-03)?**

**A.** Yes, a list of required documentation and information is on the first page of the Grant Request (Form SAB 61-03) and Expenditure Report (Form SAB 61-04). You can also use the [Application Submittal Requirements Checklist](#) (PDF). In addition to submitting documentation to substantiate a health and safety hazard, the LEA must submit a cost estimate that details all expenditures for the projects. For a list of other required documentation the LEA must retain in their file, see the instructions included with the *Grant Request* (Form SAB 61-03) and the *Expenditure Report* (Form SAB 61-04). The LEA will need to produce this documentation when the project is audited.

**Q. How can I be certain that my repair project will qualify for a grant? Is there a pre-approval system?**

**A.** Under the previous ERP provisions, the OPSC provided a letter to LEAs that submitted a "Pre-Assessment Request" indicating whether their projects appear to qualify for ERP funding. Under AB 607 Regulation changes (effective July 2, 2007), the OPSC will no longer be accepting the Pre-Assessment Requests. Instead, the LEA would submit a completed Form SAB 61-03 along with the required documents to request a grant and determine project eligibility.

**Q. What if the expenditure amounts reported on the Expenditure Report (Form SAB 61-04) do not match the apportioned grant based on the cost estimate reported on the Grant Request (Form SAB 61-03)?**

**A.** If the actual eligible expenditures are greater than the initial apportionment, the OPSC will prepare an adjusted grant request to the State Allocation Board, provided there are still sufficient funds. If funds are insufficient for a given month, all grant adjustments will be placed on an unfunded list. Grants will be funded

first with any remaining funds, while grant adjustments will be funded second.

If the actual eligible expenditures are less than the initial apportionment, the OPSC will request that the excess funds are returned to the State. If the actual eligible expenditures equal the initial apportionment, no adjustment will be made.

**Note: The following question and answer apply to ERP applications submitted prior to the enactment of SB X3 4:**

**Q. Do I have to wait until the end of the fiscal year to submit my applications because of the "supplement, not supplant" regulations? What is meant by "dedicating" the funds and what paperwork does the LEA need to have for dedicated funds?**

**A.** An LEA may submit a grant request at any time of the year and does not need to wait until the end of its fiscal year in order to ensure compliance with the "supplement, not supplant" requirement of the ERP. Furthermore, the LEA does not need to have all the funds expended from the Deferred Maintenance and Routine Restricted Maintenance accounts in order to submit an ERP application.

Legislation that established the ERP (Senate Bill 6, Chapter 899, Statutes of 2004) specified that the funds available for the program shall be used to supplement, not supplant, existing funds available for maintenance of school facilities. In order to comply with this provision, an LEA must ensure that it meets the deposit requirements specified in Regulation Section 1859.328 and expends, encumbers or dedicates all funds available from the deposits made. The requirement to dedicate the funds implies that the LEA has a plan for use of the funds, in other words, the funds are set aside for a legitimate purpose.

Once the project is audited, the OPSC will be verifying that the LEA made the required deposits into the Deferred Maintenance and Routine Restricted Maintenance accounts. In addition, the LEA may be asked to provide its plan for the maintenance budgets. The OPSC does not define the format for these plans. LEAs can provide the plan in a format that is already in place at the district level.

**Q. May we use LEA employees to perform the repairs / replacements?**

**A.** Yes, to the extent that it is permitted by Public Contract Code Section 20114. If an LEA has used force account labor to complete the project, it may submit a Force Account Labor worksheet in lieu of the cost estimate with the Form SAB 61-03. This worksheet is located on the OPSC website. The LEA must retain the employees' salary information on file.

**Q. Is there a minimum dollar amount for a grant request?**

**A.** Yes, projects must meet a minimum \$5000 threshold. However, the ERP regulations now allow for multiple projects to be submitted in one application, provided all of the emergency repairs are at the same site. If all of the eligible projects at a particular site total less than \$5000 in a fiscal year, the LEA can submit an application once per year and explain the reason for a smaller request in Part B of the Form SAB 61-03.

**Q. Do I have to (or may I) bundle my grant requests by repair type, project, etc.?**

**A.** When applying for ERP funding, the LEA may include multiple projects for one site in the application. The LEA may combine projects of one type and report them on separate lines of the Grant Request (Form SAB 61-03). For example, the LEA can combine multiple window projects and report them in Part A, Section 1. The LEA may then report multiple HVAC projects in Part A, Section 2. Please note that the grant request for all projects should include only the costs directly related to and necessary to mitigate the health and safety hazard.

If the LEA requests for funding for multiple projects in an application, it must complete all projects within the 12 months (18 months if DSA plan approval is required) of apportionment or else the entire application will be rescinded and the LEA must return the grant apportionment and reapply for funding.

**Q. What is required if the system/component was replaced?**

**A.** Section 323.1 of the ERP Regulations specifies that the LEA may receive full funding of eligible project costs to replace a system/component only if it is more cost effective to do so. The regulation defines "cost effective" to mean "the estimated cost of an eligible repair is at least 75 percent of the cost of replacement." If the LEA chooses to replace a system/component, the LEA prepare a cost estimate that compares the estimated cost to repair with the estimated cost to replace with a like-kind system/component. This cost estimate must be prepared by a qualified individual or firm.

The LEA may still replace a system/component if it is not cost-effective to do so. However, ERP Regulation, Section 1859.323.1 stipulates that the LEA is only eligible to receive an amount equal to the estimated cost to repair. The LEA must report only the eligible expenditures on its Form SAB 61-03 and Form SAB 61-04.

**Q. Can the LEA replace the system/material using an alternate system/material?**

**A.** The LEA may use an alternate system/material for replacement, but the cost comparison prepared must also include an estimated cost to replace the system/component with an alternate system/material. If the replacement with an alternate system/material is more costly than replacement with a Like-Kind system/material, ERP Regulation Section 1859.323.1 stipulates that the LEA is only eligible to receive an amount not to exceed the estimated cost to replace with a Like-Kind system/component. The LEA must report only the eligible expenditures on its Form SAB 61-03 and Form SAB 61-04. If the replacement is not cost effective (see previous question), the LEA is only eligible to receive an amount equal to the estimated cost to repair.

**Q. What if a repair to the system/component is impossible, and replacement is the only option?**

**A.** The following types of projects are considered repair projects under the ERP:

- Only parts within the system/component are being replaced in order to repair the system/component, but the original system/component will still exist.
- The original system/component is irreparable, and replacement is the only option.
- Parts necessary to repair the original system/component are no longer being manufactured, and replacement is the only option.

If any of the above are true, then the project is considered a repair. If the system/component is irreparable, or if the parts necessary to repair the original system/component are no longer being manufactured, the LEA must prepare documentation to substantiate this. For basic systems/components, like window repairs or carpet repairs, the LEA can either provide written verification from qualified LEA staff, or the LEA can simply include the information in the project description column on the cost estimate or within the Statement of Health and Safety Condition on the Form SAB 61-03. For specialized system/components, like HVAC systems, roofing systems, etc., the documentation must be prepared by a qualified individual or firm that specializes to that system/component.

For example, a classroom has carpet that contains large tears presenting a tripping hazard to staff and students. The LEA's staff have sufficient expertise to know that the carpet is irreparable, and the only possible repair is to replace it. Therefore, the LEA representative should indicate on its cost estimate that the original carpet is irreparable, and replacement is the only option. This project is considered a repair project, and does not require the cost comparison pursuant to Regulation Section 1859.323.1.

**Q. Does the formula for determining whether replacement is "cost-effective" take into account repair costs over time? Does the formula account for the fact that it may be cost-effective to replace an old system that is breaking down rather than pay for a repair now, even if that repair is not particularly costly, because the system is going to require repeated repairs that are going to add up quickly?**

**A.** The provisions of ERP do not allow for considering maintenance costs in determining whether a particular item is eligible for replacement. The LEA may consider replacement even if it is not deemed cost effective

under the ERP, and apply for ERP funding for the estimated cost of repair and supplement the project with LEA funds to be able to replace rather than repair.

**Q. Are there any penalties that might be imposed for having a project that qualifies for ERP funds?**

**A.** No, all LEAs have critical repair and replacement projects from time to time. The ERP funding is made available to assist LEAs in funding these projects.

**Q. Our LEA recently completed an emergency repair utilizing force account labor that meets Public Contract Code Section 20114 (a). The materials used to complete the repair were from the LEA's on hand inventory. What document(s) is/are required to be submitted with the application package in order to receive funding for the cost of materials?**

**A.** The LEA may receive funding for in-stock or on-hand materials by providing the following information on the Cost Estimate or on a separate document, such as a work order that identifies the materials obtained from the LEA's on-hand inventory:

- cost of each item (no lump sums)
- description of each item
- quantity of each item

**Q. Can LEA work orders be used as evidence to substantiate a health and safety hazard?**

**A.** Work orders can be used to substantiate a health and safety hazard. First, the LEA must state the health and safety hazard on the Grant Request (Form SAB 61-03). Second, the work recorded in the work orders must be repairs done to mitigate the health and safety hazard described. If the LEA work orders are illegible or not complete, the LEA may include supplementary documentation to report the work completed.

For example, the LEA is requesting reimbursement for the repair of a roof that presented a health and safety hazard to staff and students. The description of work in the work orders is illegible or incomplete and not sufficient for an OPSC reviewer to know whether the repair is eligible for a grant. The LEA may create a work order details log spreadsheet to provide additional information about the condition of the system/component and the work completed to mitigate the health and safety hazard.

**Q. An area of my school is not in compliance with the Americans with Disabilities Act (ADA) of 1990. Can I apply for an ERP grant to bring my school into compliance?**

**A.** The ADA of 1990 requires that public facilities are built or reconstructed to ensure a particular level of accessibility for individuals with disabilities. LEAs are required to have a transition plan to ensure all of their facilities meet ADA requirements. Those federal requirements have been absorbed into Title 24 of the California Code of Regulations, and are commonly referred to as access compliance. Because access compliance requirements pre-date the existence of the ERP, and because it was determined during the SAB Implementation Committee process that it is not the intent of the ERP to pay for ADA upgrades, grants will not be given for access compliance work. LEAs should note this because some projects may require a DSA review and access compliance upgrades are not eligible expenditures under the ERP.