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ESSER Funds and Construction Dollars Being Allocated



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In this presentation we are going to be discussing concepts at a very broad level. The Administration of each School District has worked hard to develop appropriate plans for the expenditure of ESSER funds.

This presentation is in no way intended to call into question recommendations made to a School Board by its Administration.

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Topics for Discussion

Types of ESSER Funds

- ESSER I (CARES Act; March 27, 2020)
- ESSER II (CRRSA Act; December 27, 2020)
- ARP ESSER (ARP Act; March 11, 2021)

Frequently Asked Questions

- Federal
- State

Expenditures that are not Allowed

ESSER Challenges for School Districts

References and Resources

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ESSER I

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ESSER I

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law. As part of the CARES Act, Congress set aside approximately \$13.2 billion of the \$130.75 billion allotted to the Education Stabilization Fund for the Elementary and Secondary School Emergency Relief (ESSER) Fund.

The United States Department of Education (USDOE) awarded these grants to state educational agencies (SCDOE) for the purpose of providing local educational agencies (school districts) with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

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ESSER I

South Carolina has received \$216,311,158 in ESSER I funds from the CARES Act, of which 90 percent (\$194,680,042) will flow through to school districts with amounts determined in proportion to the amount of Title I, Part A funds they received in Summer 2019 from funds under the Every Student Succeeds Act (ESSA). The remaining funds (\$21,631,116) will be used for state-level activities to address issues caused by COVID-19.

Lowest Allocation - \$252,588

Highest Allocation - \$19,306,291

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/south-carolina-department-of-education-elementary-and-secondary-school-emergency-relief-fund/>

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ESSER I

Authorized Purposes:

1. Any activity authorized by the Elementary and Secondary Education Act of 1965 (ESSA), including the
 - Individuals with Disabilities Education Act (IDEA),
 - Adult Education and Family Literacy Act,
 - Carl D. Perkins Career and Technical Education Act of 2006, and
 - Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act.
2. Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus.

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ESSER I

3. Providing principals and others school leaders with the resources necessary to address the needs of their individual schools.
4. Activities to address the unique needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including how outreach and service delivery will meet the needs of each population.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies.
6. Training and professional development for staff of the local educational agency on sanitation and minimizing the spread of infectious diseases.

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ESSER I

7. Purchasing supplies to sanitize and clean the facilities of a local educational agency, including buildings operated by such agency.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, how to provide technology for online learning to all students, how to provide guidance for carrying out requirements under the Individuals with the IDEA and how to ensure other educational services can continue to be provided consistent with all Federal, State, and local requirements.
9. Purchasing educational technology (including hardware, software, and connectivity) for students who are served by the local educational agency that aids in regular and substantive educational interaction between students and their classroom instructors, including low-income students and students with disabilities, which may include assistive technology or adaptive equipment.

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ESSER I

10. Providing mental health services and supports.
11. Planning and implementing activities related to summer learning and supplemental afterschool programs, including providing classroom instruction or online learning during the summer months and addressing the needs of low-income students, students with disabilities, English learners, migrant students, students experiencing homelessness, and children in foster care.
12. Other activities that are necessary to maintain the operation of and continuity of services in local educational agencies and continuing to employ existing staff of the local educational agency.

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ESSER I

School District Budgets – Uses of ESSER I Funds

- Educational Technology – 32%
- Continuity of Operations – 30%
- PPE Cleaning – 23%
- Other Categories – 15%

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ESSER I

Funds must be expended by September 30, 2022

Quarterly Reporting Requirements - Subgrantees must report the following within five days after each calendar quarter:

- Amount of subgrant funds requested in GAPS and received within the quarter;
- Actual expenditures and unliquidated obligations within the quarter;
- Estimated number of FTE equivalent jobs created or retained with ESSER funds; and
- Amounts should tie back to spending plan categories

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ESSER II

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ESSER II

On December 27, 2020, the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act was signed into law. The USDOE is providing an additional \$54.3 billion for the ESSER Fund (ESSER II).

This legislation awarded these grants to the SCDOE for the purpose of providing school districts with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

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ESSER II

South Carolina received \$940,420,782 in ESSER II funds from the CRRSA Act, of which 90 percent (\$846,378,704) will flow through to school districts with amounts determined in proportion to the amount of Title I, Part A funds they received in Summer 2020 from funds under the ESSA. The remaining funds (\$94,042,078) will be used for state-level activities to address issues caused by COVID-19.

Lowest Allocation - \$970,928

Highest Allocation - \$72,492,356

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/sc-esser-ii-fund-district-allocation-table/>

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ESSER II

Authorized Purposes

All 12 ESSER I Purposes

New Authorized Purposes

13. Addressing learning loss among students, including low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care of the local educational agency, including by:
 - Administering and using high-quality assessments that are valid and reliable to accurately assess students' academic progress and assist educators in meeting students' academic progress and assist educators in meeting students' academic needs, including through differentiating instructions;

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ESSER II

- *Implementing evidence-based activities to meet the comprehensive needs of students;*
- *Providing information and assistance to parents and families on how they can effectively support students in a distance learning environment; and*
- *Tracking student attendance and proving student engagement in distance education.*
- 14. *School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.*
- 15. *Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.*

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ESSER II

Funds must be expended by September 30, 2023

Quarterly Reporting Requirements - Subgrantees must report the following within five days after each calendar quarter:

- Amount of subgrant funds requested in GAPS and received within the quarter;
- Actual expenditures and unliquidated obligations within the quarter;
- Estimated number of FTE equivalent jobs created or retained with ESSER funds; and
- Amounts should tie back to spending plan categories

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ARP ESSER

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ARP ESSER

On March 11, 2021, the American Rescue Plan (ARP) Act was signed into law. The USDOE is providing an additional \$121.9 billion for the ESSER Fund (ARP ESSER). This legislation will award these grants to the SCDOE for the purpose of providing school districts with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation.

South Carolina will receive \$2,112,051,487 in ARP ESSER funds from the ARP Act, of which 90 percent (\$1,900,846,338) will flow through to school districts with amounts determined in proportion to the amount of Title I, Part A funds they received in Summer 2020 from funds under ESSA. The remaining funds (\$211,205,149) will be used for state-level activities to address issues caused by COVID-19.

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ARP ESSER

Two-thirds of the total allocation will be distributed to each school district initially and the last one-third will be distributed subsequently.

Lowest Allocation - \$2,718,758

Highest Allocation - \$163,231,134

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/arp-esser-funding-information/arp-esser-allocation-table/>

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ARP ESSER

Authorized Purposes:

The ARP ESSER purposes are substantially the same as ESSER II. Note that 20% must be used on learning loss.

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ARP ESSER

ARP ESSER and ESSER II have the following additional authorized purposes:

- School facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs.
- Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

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ARP ESSER

Funds must be expended by September 30, 2024

Quarterly Reporting Requirements - Subgrantees must report the following within five days after each calendar quarter:

- Amount of subgrant funds requested in GAPS and received within the quarter;
- Actual expenditures and unliquidated obligations within the quarter;
- Estimated number of FTE equivalent jobs created or retained with ESSER funds; and
- Amounts should tie back to spending plan categories

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FREQUENTLY ASKED QUESTIONS REGARDING THE USE OF ESSER FUNDS FOR CONSTRUCTION, RENOVATION AND REPAIRS

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USDOE – FAQs

Q: Can ESSER funds be used for construction?

A: Yes, construction is authorized under Title VII of the ESEA (Impact Aid) and therefore is an allowable use of ESSER Funds under the CARES Act, the CRRSA Act, and the ARP Act.

Impact Aid has a broad definition of construction which includes new construction as well as remodeling, alterations, renovations and repairs under which many activities related to COVID-19 would likely fall.

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USDOE – FAQs

The USDOE on to say, however, that it *discourages* school districts from using ESSER funds for new construction because this use of funds may limit a school district's ability to support other essential needs or initiatives. Remodeling, renovation, and new construction are often time-consuming, which may not be workable under the shorter timelines associated with ESSER funds.

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USDOE – FAQs

These types of activities are also subject to a number of additional Federal requirements, detailed below.

- For example, the school district has the responsibility of assuring that individual costs (1) comply with the Cost Principles (the costs must “necessary and reasonable”; (2) meet the overall purposes of the ESSER programs which is “to prevent, prepare for and respond to” COVID 19; and (3) are consistent with the proper and efficient administration of these programs.
- The burden is on the school district to maintain appropriate documentation that supports proper expenditures.

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USDOE – FAQs

School districts using ESSER funds for remodeling, renovation and new construction must comply with additional Federal requirements. These projects require:

- Prior written approval of the SCDOE;
- Approved projects must comply with applicable Uniform Guidance requirements;
- Davis-Bacon Act prevailing wage requirements; and
- All of the USDOE Regulations regarding construction.

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USDOE – FAQs

Some of the relevant requirements that must be considered before a new construction project is initiated include:

- Has the grantee completed an environmental impact assessment before initiating the construction and fully considered any potential environmental ramifications before proceeding with the project (34 CFR § 75.601);
- Has the grantee considered the probable effects of proposed construction on any district, site, building, or structure that is included or eligible for inclusion in the National Register of Historic Places (34 CFR § 75.602);

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USDOE – FAQs

- Does the grantee have title or other interest in the site, including right of access, that is sufficient to ensure that the grantee will have use and possession of the facility for 50 years or the useful life of the facility, whichever is longer (34 CFR § 75.603);
- Can the grantee begin the approved construction in a reasonable time period and have the final plans been approved before the construction is advertised or placed on the market for bidding (34 CFR § 75.605);
- Can a grantee complete the project in a reasonable time period and consistent with the approved plans and specifications (34 CFR § 75.606);

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USDOE – FAQs

- Is the construction functional, economical, and not elaborate in design or extravagant in the use of materials as compared to other facilities in the State or other applicable geographic area (34 CFR § 75.607);
- Do the grantee's plans and designs for the facilities comply with applicable Federal, State and local health and safety standards, as well as Federal requirements regarding access by persons with disabilities. (34 CFR §§75.609 and 75.610); and
- Does the grantee have sufficient operational funds to operate and maintain the facility once the construction is complete and will the grantee operate and maintain the facility in accordance with all applicable Federal, State, and local requirements (34 CFR §§ 75.614 and 75.615).

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USDOE – FAQs

Q: May ESSER funds be used for renovation, including for such projects as making improvements to a school facility to improve indoor air quality (such as heating, ventilation, and air conditioning (HVAC) systems), and projects that would promote social distancing and safe in-person instruction?

A: Yes. ESSER funds may be used to make necessary improvements, for example to improve air quality and support social distancing, so that teachers and students may safely return to and continue in-person instruction. Costs must be reasonable and necessary to meet the overall purpose of the program (to prevent, prepare for, and respond to COVID-19).

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USDOE – FAQs

Renovation or remodeling activities might include renovations that would permit a school district to clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g. bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing).

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USDOE – FAQs

Under ARP ESSER, these projects may also include:

- School facility repairs and improvements to enable schools to reduce the risk of virus transmission and exposure to environmental health hazards, and to support student health needs; and
- Inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

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USDOE – FAQs

As with construction projects, renovation and remodeling activities are subject to all of the requirements previously discussed. Please see slides 29 through 33 hereof.

If a school district uses ESSER funds to establish a program for assessing and improving HVAC systems, such a program could require verification that proper ventilation is occurring, such as through the use of carbon dioxide monitors.

If a school district uses funds for HVAC systems, Federal regulations require the use of American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) standards.

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USDOE – FAQs

Q: May a school district use ESSER funds to purchase trailers or modular units?

A: Yes. The relevant definition of equipment means “tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.”

Generally, a trailer or modular unit meets this definition. Accordingly, a school district may use ESSER funds to purchase trailers or modular units if such purchases are necessary to create additional safe learning spaces due to the COVID-19 pandemic (e.g., for more effective social distancing consistent with CDC guidance)

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USDOE – FAQs

The use of ESSER funds to purchase equipment requires prior written approval. As with all costs, they must be reasonable and necessary. It may be beneficial for the school district to do a cost analysis comparing the cost of buying trailers and modular units with the cost of leasing, for example.

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SCDOE FAQs

Q: We have a gym roof that is leaking and is contributing to poor indoor air quality. Classes are conducted in the building as well as sporting events. We have made numerous repairs to the existing roof but need a new roof. Can we pay for a new roof with ESSER II Funds? If so, do we contact a contractor and get an estimate and contact the SCDOE Office of School Facilities (OSF) or does the SCDOE handle that internally?

A: Yes, however they would need to follow all state procurement procedures and work with OSF.

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SCDOE FAQs

Q: Do you have any suggestions on how we can prove/prioritize the air quality of a school? I know our principals are all jumping on board that they need new HVAC but trying to find a way to prove and see the true needs for air quality.

A: The ASHRAE is a well-known and recognized source for Design Professionals when determining how to address air quality. According to ASHRAE, 15 years is an average HVAC expected life. Some districts (e.g. Horry & Charleston) are replacing their units that are 14-17 years old.

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SCDOE FAQs

Q: Was the decision to not allow funds to build new facilities made by SCDOE or the Feds? Is there an appeal process?

A: After further review, the SCDOE has learned that new construction may be allowable. The district needs to clearly delineate on its spending application. For any Alteration Level 2 or Level 3 facilities request, the district would likely get a conditional approval on its ESSER II spending plan, and then be required, working with its design professional and the SCDOE OSF to take the necessary steps for full approval of the use of funds. It is important to note that to meet the standard of reasonable cost, the district must 1) provide documentation that new construction is a cost savings over repair and renovation to new facilities, 2) provide documentation that the new construction is due to or caused by COVID-19, and 3) ensure that applicable ESSER II funds are expended on or by September 30, 2023.

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SCDOE FAQs

Because ESSER funds may be used for “any activity authorized by the ESEA,” and construction is an allowable activity under the ESEA’s Impact Aid program, a district may use ESSER funds for construction, subject to prior written approval by the SCDOE (See section 18003(d)(1) of the CARES Act, Title VII of the ESEA, and 2 CFR § 200.439(b)(1)). Specifically, the Impact Aid definition of “construction” includes remodeling and renovations, under which many activities related to COVID-19 would likely fall.

As is the case with all activities charged to the ESSER Fund, construction costs must be reasonable and necessary to meet the overall purpose of the program, which is “to prevent, prepare for, and respond to” the COVID-19 pandemic (See CARES Act Department of Education, Education Stabilization Fund heading and 2 CFR §§ 200.403-200.405).

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SCDOE FAQs

Therefore, any construction activities, including renovations or remodeling, that would be necessary for a school district to prevent, prepare for, and respond to COVID-19 would be permissible. This might include renovations that would permit a school district to clean effectively (e.g., replacing old carpet with tile that could be cleaned more easily) or create a learning environment that could better sustain social distancing (e.g., bringing an unused wing of a school into compliance with fire and safety codes in order to reopen it to create more space for students to maintain appropriate social distancing).

Approved construction projects must comply with applicable Uniform Guidance requirements, as well as the USDOE's regulations regarding construction at 34 CFR § 76.600.

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SCDOE FAQs

As is the case with all construction contracts using laborers and mechanics financed by federal education funds, a district that uses ESSER funds for construction contracts over \$2,000 must meet all Davis-Bacon Act prevailing wage requirements and include language in the construction contracts that all contractors or subcontractors must pay wages that are not less than those established for the locality of the project (prevailing wage rates). (See 20 U.S.C. 1232b Labor Standards.)

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SCDOE FAQs

Q: Does replacement of old carpeting qualify as an improvement to air quality since it will help air quality in classrooms and media centers?

A: Yes, however they would need to follow all procurement policies and procedures and work with the SCDOE OSF.

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SCDOE FAQs

Q: Also, can these funds be used for repairs and maintenance and air quality improvements for support buildings such as the district office, transportation department, etc.?

A: Yes, if the district can relate the repairs back to the COVID-19 pandemic with appropriate documentation.

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SCDOE FAQs

Q: What type of work can it cover? I expect that it covers the replacement of HVAC units. But if in replacing those, it triggers other code compliance upgrades to the building will those be covered? For instance, we know of one project we might like to accomplish will require the upgrade of the fire alarm system at the school at significant cost. Can the grant cover that or is that something the district needs to cover?

A: On page 5 of the USDOE's FAQ document, it gives the example of bringing an unused wing up to fire and safety codes to promote social distancing as an allowable cost. Therefore, if the district can prove that the repair and improvement is directly related to reducing the risk of virus transmission and environmental health concerns, it appears it is allowable. If the district simply wants to upgrade their fire alarm system and cannot provide an impact to health, then they should pay with some other district funding.

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SCDOE FAQs

If the district had to move or install a fire alarm device in order to install or remove a window or door related to air quality, the cost associated with moving the fire alarm device is allowed (including the door and window project). If the district wanted to upgrade their fire alarm system because it does not work properly, then it should pay with some other district funding.

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SCDOE FAQs

Q: Does this grant require that we follow Buy American guidelines? This could possibly affect what products are specified in the design. It could possibly prevent us from specifying the units/equipment that we want. Or, it could potentially prevent an otherwise “equal” product from being approved. How far does the requirement go? Most HVAC systems will include processors that are not made in the USA and we can’t determine where the precious metals are smelted.

A: There is no “Buy American” requirement. A school district should follow its written procurement code and document and monitor all procurements fully in compliance with 2 CFR Part 200.318-327. The Procurement Code and the Model Procurement Code both provide guidance on Resident Vendor preference including US end product and SC end product. Offerors have to certify and essentially “opt-in” on each line of a solicitation for which it applies, but it does not apply to all.

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SCDOE FAQs

No federal subgrant funds can be used for transactions prohibited by 2 CFR Part 200.216 Prohibition on certain telecommunications and video surveillance services or equipment, which implements National Defense Authorization Act (Public Law 115-232), Section 889. This prohibition includes contracts with the following telecom companies and any of their subsidiaries or affiliates: Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company.

Subgrantees are restricted from using the funds to procure or obtain, or enter into a contract for equipment, services and systems prohibited under Section 889. Recipients are responsible for ensuring funds are only used for allowable costs and would be obligated to refund the government for any costs that are unallowable.

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EXPENDITURES THAT ARE NOT ALLOWED

- Debt service on existing debt
- Repair, renovation or construction not related to COVID-19
- Expenditures not included in the approved plan

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ESSER CHALLENGES FOR SCHOOL DISTRICTS

- Compliance with SCDOE requirements
- Compliance with USDOE and other Federal requirements
- Accurate planning with costs estimates
- Following the approved plan
- Documentation and recordkeeping
- Not “falling off the cliff”
- Incorporating needs covered by ESSER funds with capital improvement plans
- Maintaining a program of millage stabilization

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REFERENCES AND RESOURCES

United States Department of Education – Frequently Asked Questions

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/arp-esser-funding-information/faq-for-esser-and-geer/>

South Carolina Department of Education

ESSER I

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/>

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/cares-act-funding-categories/>

ESSER II

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/>

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/esser-ii-spending-categories/>

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REFERENCES AND RESOURCES

ARP ESSER

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/arp-esser-funding-information/>

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/arp-esser-funding-information/arp-esser-spending-categories/>

Frequently Asked Questions

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/arp-esser-funding-information/faq-for-esser-and-geer/>

<https://ed.sc.gov/policy/federal-education-programs/esser-funding-information/esser-2-funding-information/esser-ii-faq/>

South Carolina School Boards Association – ESSER Funds

<https://scsba.org/wp-content/uploads/2021/05/210512-essr-payne.pdf>

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