



Retrofitting America's Schools: The Facts About ESSER Funding

During the past year, we have learned that indoor air quality (IAQ), especially ventilation, has a high impact on our ability to control the spread of the SARS-CoV-2 virus. This has put a spotlight on the country's school systems, many of which are long overdue for an upgrade and need proper ventilation to create the healthiest environment possible for students.

The good news is that the federal government has appropriated **\$176.3 billion** to help K-12 schools (called Local Education Agencies or LEAs in the legislation) improve conditions in their facilities as children go back to in-person learning. Some of these funds, specifically in the [Elementary and Secondary School Emergency Relief \(ESSER\) fund](#), may be available to help finance ESCO projects in K-12 schools, which is a tremendous opportunity for schools to make these critical upgrades.

However, there are misconceptions regarding whether ESSER funds can be used for building renovation, including retrofits such as ventilation upgrades. Without clearer guidance from SEAs and LEAs, school systems nationwide could be missing out on funding to support these critical upgrades for their attendant occupant wellbeing and long-term budget savings.

Let's clear things up.



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The Facts About ESSER Funding

1. Can ESSER funds be used for construction efforts?

Yes, as stipulated by Congress, the legislation designates several areas of construction where deployment of ESSER funds is allowed. This is the biggest misconception we're seeing across the country, and we encourage SEAs to provide clearer guidance.

In Subtitle A, Part 1, Section 2001 of the American Rescue Plan Act, the Elementary and Secondary School Emergency Relief (ESSER) fund was established. Language (Section 2001(e)(2)) from that legislation that provides support for building renovation is repeated below:

(O) 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.

(P) 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.

(Q) Developing strategies and implementing public health protocols including, to the greatest extent practicable policies in line with guidance from the Centers for Disease Control and Prevention for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff.

(R) 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.

To further support that construction is allowed, the agreements signed by each state include references to [OMB Standard Form 424D](#) (Assurances for Construction Programs) lending assurance that construction is expected in the use of these funds. ESCOs should be aware that the use of ESSER funds may trigger Davis-Bacon and Buy American requirements and reporting requirements on the use of the funds.



2. Why is it important for schools to make ventilation upgrades, and what is the most resource efficient means of doing so?

First, the most immediate reason for making ventilation upgrades is to reduce the spread of SARS-CoV-2, the virus that causes COVID-19. Long-term benefits for these upgrades include:

- Advancements in student learning and success, which decades of research suggest are directly linked to the improved health outcomes that building performance upgrades can provide
- Reductions in energy usage resulting in significant continuous budget savings
- Reductions in buildings' operational greenhouse gas (GHG) emissions

Through ESSER funding and ESPCs, schools across the country have access to aid and a network of companies to help them make these critical upgrades that they otherwise might not have access to. This is especially important for schools in high-poverty communities where lower property tax revenues weigh on local institutions' capacities to provide the conditions most appropriate for student health, wellness, and learning. Using COVID-19 relief funds to make these upgrades will have positive impacts for children in schools now and for years to come.

3. Can ESSER funds be used within an Energy Savings Performance Contract?

Yes, ESSER II funds may be used as long as the project enables operation of schools to reduce risk of virus transmission and exposure to environmental health hazards and to support student health needs and meets the requirements outlined in 34 CFR 75.616.



4. What is the argument for using performance contracts?

There is only enough ESSER funding to pay for quick fix retrofits (e.g., better filters and increased fan speeds and run times), but the ventilation systems in most schools need comprehensive retrofits (filters, fans, motors, ductwork, boilers, chillers and/or controls) to make them safe and efficient for the next generation. Performance contracts, by repurposing money currently spent on wasted energy and the maintenance of decrepit equipment to repay private investors, can provide the financing to do the job right.

5. Where can I find the requirements for spending this money?

Each state has [entered into an agreement with the US Department of Education](#) regarding the expenditure of the ESSER Funds. These agreements outline the various statutes and reporting required by each state. ESCOs should be aware that the disbursement of the funds and the rules about the uses of the funds are the responsibility of the state departments of education.

6. How much government funding can the ESCO industry anticipate through ESSER?

Of the three funding bills that have been passed by Congress, funding included in the December 2020 and March 2021 legislation can be used for school building construction. These funding amounts are reflected in the below table from the [U.S. Green Building Council's Center for Green Schools](#):

Bill	Passed	TOTAL Appropriation	PK-12 Public Education Allocation	% Funds to LEAs	Must spend by
CARES Act	3/27/2020	\$2.2 Trillion	\$13.5 Billion	90%	12/30/2021
December Relief Act	12/27/2020	\$900 Billion	\$54.3 Billion	90%	9/30/2022*
American Rescue Plan Act	3/11/2021	\$1.9 Trillion	\$122 Billion	87.5%	9/30/2023*

Figure 1: Funding table provided by USGBC Center for Green Schools



While it is unclear how much of the total amounts school districts (LEAs) will use for building renovation, a rough guide is to look at [past school expenditure](#) amounts and apply that distribution to the ESSER Funds. Further, the mission critical facilities proposal that the National Association of Energy Service Companies (NAESCO) has promoted to Congress states that for every dollar of federal funding, ESCOs will add four dollars from savings-funded private financing.

- *Total ESSER Funds available that can include building renovation = \$54.3B + \$122.0B = \$176.0B*
- *Total ESSER Funds that are likely to be used for building renovation = 14.25% x \$176.0B = \$25.08B*
- *Applying the industry ability to leverage these funds = \$25.08B + 4 * \$25.08B = \$125.4B*
- *Percent of all K-12 Public School Expenditures on physical plant = 14.25%**

Thus, the ESCO industry could implement approximately \$125.4B of K-12 building improvements if we are able to leverage the ESSER funding in performance contracts.

7. What method of procurement is allowed for an Energy Savings Performance Contract?

The agreements for each state include a reference to [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#) (Uniform Guidance) ([2 CFR §200.320](#) is the pertinent section). In particular, the OMB Guidance for this section of law is found [here](#). In the OMB guidance, §200.320(d) provides a method of procurement by competitive proposals. The competitive process enacted through state energy savings performance contract procedures or policies can be used to satisfy the selection requirements. §200.320(b)(2)(i-iii) outline the requirements necessary for the proposal process. Note that the proposal can be for a cost-markup model or investment grade audit price but cannot be based upon qualifications.

8. Can multiple funding sources be combined using ESSER Funds?

There is nothing in the law that prohibits using multiple funding sources in an ESSER funded project. For example, ESSER Funds and private financed energy savings funded monies can be used in the same project.

