

## Deadline for Spending ESSER Funds Approaches

August 20, 2024

### I. Introduction

The Massachusetts Office of the Inspector General (OIG) has a statutory mission under Chapter 12A of the Massachusetts General Laws to prevent and detect fraud, waste, and abuse in the expenditure of public funds, whether state, federal, or local. Pursuant to this authority, the OIG is issuing this advisory to assist Local Educational Agencies (LEAs or “you”) in spending remaining Elementary and Secondary School Emergency Relief Fund (ESSER) awards in advance of the upcoming September 30, 2024 obligation deadline.

In 2021, Massachusetts received approximately \$1.83 billion in ESSER funds from the federal government, and the U.S. Department of Education (USED) approved the Massachusetts Department of Elementary and Secondary Education (DESE) to administer the program. DESE made grants to public school districts and approved charter schools, known in program terms as Local Educational Agencies. As an LEA, you are responsible for preventing and detecting fraud, waste, and abuse of ESSER funds. **You must obligate ESSER funds by September 30, 2024.**

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*According to the U.S. Department of Education, LEAs still had over 35% of their ESSER funds to spend as of June 30, 2024. You should be mindful of the September 30, 2024 ESSER obligation deadline.*

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### II. Overview of ESSER

ESSER funds are intended to support the Commonwealth’s schools’ safe reopening and to meet the academic, social, emotional, and mental health needs of students resulting from the COVID-19 public health emergency. Specifically, the ESSER program seeks to address the disproportionate impact of the COVID-19 public health emergency on historically disadvantaged communities in the Commonwealth.

ESSER funds are designed to support evidence-based interventions for the benefit of students most impacted by the COVID-19 public health emergency.

**According to USED, LEAs still had over 35% of their ESSER funds to spend as of June 30, 2024. You should be mindful of the September 30, 2024 ESSER obligation deadline.** You should refer to [DESE and USED rules](#) to ensure expenditures are eligible under program rules and should make certain to follow federal procurement regulations, including [Chapter 2, Part 200 \(known as the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards\)](#), Subpart D, §§ 200.331 to 200.333. If you engage subrecipients, pay particular attention to §§ 200.331 to 200.333 of Subpart D, which describe subrecipient relationships and monitoring regulations and provide information to help you determine the nature of relationships with third party recipients (subrecipient versus contractor).

You may allocate ESSER funds among 12 eligible spending categories. While generally given wide latitude to allocate the funds among these categories, you are required to spend at least 20% of ESSER funds on intervention programs to address lost instructional time. These intervention programs must be evidence-based and respond to students' social, emotional, and academic needs. They must also address the disproportionate impact of COVID-19 on underrepresented student groups.

### **III. Recommendations**

The OIG makes the following recommendations to LEAs across the Commonwealth to guide the administration of existing programs and allocation of remaining ESSER funds. If you have remaining ESSER funds, find the time now to implement these measures.

#### **(1) Implement effective subrecipient monitoring and oversight mechanisms**

You are responsible for monitoring subrecipients who receive ESSER funds. If you have not yet implemented policies outlining subrecipient monitoring practices, it is not too late to start, and you should do so. These monitoring practices should reflect 2 C.F.R. §§ 200.331 to 200.333 and include reviewing subrecipient financial and performance reports. You should also review audit reports and perform on-site monitoring reviews of subrecipient program operations.

Determining the difference between a subrecipient and a vendor under the federal rules can be difficult at times. Nonetheless, 2 C.F.R. § 200.331 provides factors to consider in this analysis. LEAs should provide guidance to schools on the difference and why that difference is important. Tailor your oversight practices with the difference in mind.

#### **(2) Collect data to evaluate project success**

You should collect and use data to determine whether ESSER projects are working. Although the ESSER obligation deadline is approaching, data analysis does not necessarily need to take place prior to the end of the program. While the data you collect may only reflect a short time period (between the time of the procurement and the liquidation deadline in January 2025), you may still be able to make use of this data in future procurements, or for the program itself if it will continue after federal funding expires.

Data is information organized in a way that assists discussion and decision-making. It enables you to identify trends, make comparisons, and determine which interventions are effective and areas that require attention. Data allows you to make informed decisions about a project or determine whether a project is successfully achieving its purpose.

Data can be qualitative (capturing narrative information and concepts not represented numerically) or quantitative (capturing numerical information, including anything that can be counted, measured, or given a numerical value). Quantitative data is preferable to qualitative data because quantitative data often yields objective results from large datasets using numerical values rather than the subjective information yielded from qualitative data.

One way that you can collect quantitative data is by using key performance indicators (KPIs). KPIs are quantifiable measures of performance – they are values that you can track to determine whether your project is working. For example, if you pursue a project focused on keeping students enrolled in a school program, the number of students who drop out per month would be a useful KPI on which to collect data. If fewer students unenroll from your program than were initially unenrolling before the project, your project may be successful. If the same number of students (or more) are unenrolling after your project, then the jurisdiction may have to make changes to make the project successful.

### **(3) Ensure strong project management practices**

You should continue to employ project management best practices, including developing and implementing project administration plans for ESSER-funded projects. These plans should include the purpose of the project, a description of the project, a schedule for the project's performance, the identities of parties and individuals with a role in the project, oversight and monitoring practices, and reporting practices. You should incorporate the following specific practices into project plans: gateway reviews, key performance indicators (KPIs), financial and project review dates and timelines, post-project reviews, monitoring mechanisms, and a project administration file. For more information on project plans, [see the OIG's guidance from the Federal Acquisition Institute summarizing project management best practices](#). Some additional project management best practices include the following:

#### **A. Gateway reviews**

Gateway reviews are built-in monitoring check-ins that you can use to maintain control over a project. Gateway reviews are required before a project can advance to a successive stage. An LEA can use a gateway review in an agreement to determine the suitability of a vendor or subrecipient's work product before paying a subrecipient a milestone payment (payments attached to successful completion of certain project elements). Periodic reviews, including gateway reviews, enable an LEA to evaluate the project, address issues, and assess the feasibility of project completion with remaining funds. For example, an LEA pursuing a vaccination program could insert gateway reviews at multiple points during the project, including one after procuring vaccines, one after vaccine distribution, and one after collection and analysis of data.

## *B. Monitoring*

Additionally, an LEA should perform a variety of monitoring tasks throughout the project. You can conduct these monitoring tasks through different activities including desk reviews, on-site monitoring reviews (OSMRs), and audits.

Desk reviews are routinely used to evaluate the efficiency and effectiveness of a project. During a desk review, a project administrator reviews documents including receipts, reports, communications, data, and other information required under the applicable agreement. When conducting a desk review, an LEA should have processes in place to verify information received from contractors, subrecipients, and beneficiaries.

For on-site monitoring, an LEA has staff physically visit the location at which a project or procurement is taking place to observe project performance. For the vaccination example, an OSMR may be the most effective choice, because an LEA may decide it would like to tangibly assess the effectiveness of the project in person.

An LEA may also choose to pursue an audit. An LEA should have procedures that address when an audit is necessary; whether audits, in addition to those required by law, will be conducted for subrecipients, vendors, or both; and standards under which the audit will be conducted.

## *C. Project administration files*

Finally, an LEA should create a project administration file (PAF) for each project. Arguably the most important item an LEA should include in a PAF should be the project administration plan. In addition to the project administration plan, an LEA should include any related agreements with subrecipients and contractors (including RFPs and IFBs or other procurement documents). In addition, an LEA should include any communications in the PAF. An LEA should also include all documents related to oversight practices, including documents created as part of data collection initiatives, as well as oversight schedules (review dates, meeting times, and minutes). Lastly, an LEA should include the outcome of monitoring reviews including desk reviews, audits, and OSMRs.

Thank you for your commitment to ensuring strong program controls and oversight. By reviewing these recommendations and implementing strong project management practices with respect to ESSER expenditures, you are sending a strong message about the integrity of the program.

Please call the OIG's [Chapter 30B Technical Assistance Line](#) if you have any questions related to this advice.

## IV. Helpful Links

### *Federal government links*

- [USED ESSER Fact Sheet](#)

USED released this fact sheet shortly after ESSER was created. The fact sheet provides a short high-level overview of ESSER. Additionally, at the end of this document, USED includes a comprehensive comparison of each pandemic-era iteration of ESSER rules.

- [USED ESSER Use of Funds FAQs](#)

The purpose of this document released by USED is to provide answers to frequently asked questions (FAQs) regarding ESSER funds and how these funds can be used for the benefit of students. Additionally, the document is intended to provide clarity to the public regarding existing USED requirements and eligible use policies.

- [USED ESSER Use of Funds for Student Transportation FAQs](#)

You may use ESSER funds to hire additional school bus drivers or improve transportation for students to and from school. This document lists and answers frequently asked questions about the allowable uses of ESSER funds for transportation, including to address regional and national challenges with hiring and retaining enough school bus drivers.

- [USED Maintenance of Equity FAQs](#)

This FAQ document applies only to LEAs that serve large proportions of historically underserved groups of students and those LEAs that had to provide maintenance of equity assurances as a condition of receiving ESSER funds. This document is intended to provide LEAs with guidance to ensure they implement new requirements that help to serve large portions of historically underserved student populations.

### *DESE links*

- [Quick Reference Guide: District Preparation for ESSER III](#)

This guidance aims to provide Massachusetts LEAs with key information regarding the ESSER program including a short overview of ARPA and ESSER, allocation information, program requirements, and timelines for spending ESSER funds.

- [ESSER III DESE Webinar Slides](#)

In May 2021, DESE held an information webinar for ESSER III applicants where DESE provided helpful information including general ESSER information, a thorough examination of the ESSER III program, and a walkthrough of the DESE ESSER application.

## OIG links

- [Checklist of Requirements for Contracts Using Federal Grant Funds](#)

Federal law requires that agreements between non-federal recipients of federal awards (including local jurisdictions receiving federal grants) and transferees (subrecipients and contractors) include certain statutory and regulatory language. This checklist is intended to provide talking points for your conversation with your legal counsel to ensure that your agreement is compliant with federal rules.

- [Chapter 30B Manual](#)

This manual contains guidance for complying with Chapter 30B of the Massachusetts General Laws, the Commonwealth's Procurement Act. Chapter 30B governs the procurement and disposition of supplies, services, and real property by municipal governmental bodies. Chapter 30B applies to procurements made with federal funds, including ESSER.

- [Federal Acquisition Institute \(FAI\) Project Management Summary](#)

This short guide briefly summarizes advice about project management from the FAI, communicated in its Guide for Project Managers. This guidance breaks up the process of project management into discrete steps and provides a list of considerations that public leaders will find helpful as they approach projects. The [complete FAI project managers guidebook is available here](#).

## RESOURCES

OIG Fraud Hotline  
1-800-322-1323  
IGO-FightFraud@mass.gov

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