

Supplement, Not Supplant Guidance

Title III – Language Instruction for English Learners
and Immigrant Students

Use of Funds in OMB Circular A-87

Office of Management and Budget (OMB) Circular A87 requires that the use of funds for a specific purpose be:

“Necessary and reasonable for the proper and efficient performance and administration of the program; and authorized and not prohibited under State and local laws or regulations.”

Source: http://www.whitehouse.gov/omb/circulars_a087_2004#43

Federal Criteria: All Costs Must Be:

- **Reasonable**

- ✓ A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost

- **Allocable**

- ✓ A cost is allocable to a cost objective if the goods or services involved are chargeable or assignable to the cost objective in accordance with the relative benefits received

- **Allowable**

- ✓ A cost is allowable if it is necessary and reasonable for proper and efficient performance of the award and allocable to the award.

- Consistent with state and local policies

- In accordance with Generally Accepted Accounting Principles (GAAP)

- Adequately and properly documented

Source: 2 CFR Part 200, Subpart E - Cost Principles

Looking at Reasonable Costs

- Activity does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost

Looking at Allocable Costs

- Assignable or chargeable to the grant in accordance with relative benefits received by the grant during the grant period.
- Must demonstrate how a particular cost benefits the specific population being served in the grant (ex: English learner and Immigrant students).
- If a cost benefits one grant program, the entire cost can be charged to that single grant program.
- If a cost benefits more than one grant program, the cost must be allocated among the grant programs (i.e., split-funded) in accordance with the relative benefits received by each program.

Looking at Allowable Costs

All costs must be:

1. Necessary, Reasonable, Allocable, and Allowable
2. Consistently treated as either a direct cost or indirect cost
3. Conform with federal law and grant terms

Looking at Necessary Costs

- **Not** “nice to have.”
- If you catch yourself or someone else saying, “It would be nice to have...”, then most likely it is not **necessary** to accomplish the objectives of the program as it is not vital or required.
- **Necessary** means it is vital or required in order to meet the objectives of the grant or for the grant to be successful.

Direct Costs **2 CFR §200.413**

- Cost that can be identified specifically with a particular final cost objective. A cost that directly benefits the grant (specific to Title III)
- These costs are typically:
 - Salaries and benefits of personnel who work on that award
 - Equipment, supplies, materials, and purchased services, and other expenses incurred specifically for the federal award.

Direct Costs (cont.) 2 CFR §200.413

- Administrative and clerical costs are allowable only if:
 - Services are integral to a project or activity
 - Individuals involved can be specifically identified with the project or activity
 - Costs are explicitly included in the budget or have prior written approval
 - Costs are NOT also indirect costs

Indirect Costs **2 CFR §200.414**

- Costs occurred for common or joint purposes benefitting more than one cost objective
- These costs are typically:
 - General administration
 - Accounting
 - HR
 - Payroll
 - Clerical staff
 - Space related costs
- Title III – maximum of 2% for administrative expenses

Supplementing, Not Supplant

Per USED, in practice, the prohibition against supplanting under Title III means that recipients may not use those funds to pay for services that, in the absence of Title III funds, would be necessary to be provided by other Federal, or State, or local funds.

Supplement, Not Supplant

Supplement – to add to; to enhance; to expand; to increase; to extend; to create something new.

Supplant – to take the place of; to replace by something else.

- An LEA must be able to operate its schools and its core foundation programs without any federal funds.
- Federal grant funds may be used ONLY to supplement the educational programs generally offered with state and local funds.
- They may be used ONLY to provide supplemental services that would not have been provided had the federal grant funds not been available.

Supplement, Not Supplant – Guiding Questions

To determine if a cost is supplemental, use these four guiding questions to make supplement, not supplant determinations:

1. What is the instructional program/service provided to all students?
2. What does the LEA do to meet Lau requirements?
3. What services is the LEA required by other Federal, State, and local laws or regulations to provide?
4. Was the program/service previously provided with State, local, and Federal funds?

Am I Supplanting?

Ask yourself:

If I did not have federal funds available to conduct this activity or service, would I still conduct it with state or local funds anyway?

- If the answer is yes, you are most likely supplanting because it is no longer a supplementary activity.
- You must be able to demonstrate that you could not conduct the activity if it weren't for the federal funds.

Am I Supplanting?

- Is the program required by federal, state or local law?
 - If the answer is yes, you are supplanting because the activity is required and not supplemental.
 - A Core Language Instruction Educational Program is required by law, along with provision of services for Limited English Proficient (LEP) students. You may not use Title III funds to implement and maintain the core program required, but may use Title III funds to supplement (enhance) the core program.
- Were local funds used to pay for the program in prior years?
 - If the answer is yes, you are supplanting because federal funds are being used to replace local funds and not to provide new opportunities.

What is the EDGAR?

- Education Department General Administrative Regulations (EDGAR) covers general cost principles applicable to all education grants.
- In addition to general cost principles, each program has specific program requirements and restrictions.

Information for Title III Fund Use – Supplement, Not Supplant

All LEAs Have Language Assistance Obligations

All LEAs have language assistance obligations to LEP parents under Title VI and the EEOA and **MUST** ensure meaningful communication with LEP parents in a language they can understand and adequately notify LEP parents of information about any program, service, or activity of an LEA or State that is called to the attention of non-LEP parents to the extent practicable.

- *“in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.”*
- Title III funds may be used for **supplemental** translation and interpretation activities that are not provided by the LEA for all students, and for translation activities that are **specific to Title III**.

(Source www2ed.gov/programs/titleiparta/titleititleiii421.pdf)

Are Title III Funds for Translation and Interpretation Allowable?

- No, the use of Title III funds for translation and interpretation is NOT allowable and parents may not be charged for translation or interpreter services.
- Title III funds cannot be used to fulfill an LEA's obligation under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act.

All LEAs Must

- Provide language assistance to LEP parents effectively with appropriate, competent staff or appropriate and competent outside resources.
- Develop and implement a process for determining whether parents are LEP and what their language needs are.

LEAs May Use

Title III funds to supplement an LEA's activity, if the LEA is already meeting its obligation to ensure meaningful communication with LEP parents in a language they can understand.

Examples of Allowable and Unallowable Use of Funds

1. If an LEA has a contract with a translation company that provides translated notices for Federal programs, then only the portion of the contract that pertains to Title III notices may be paid for with Title III funds. **Allowable**
2. If the LEA or school communicates with all parents about their child's educational progress by mail, it would NOT be appropriate to use Title III funds to pay for the postage for LEP students, as this communication is paid for by the LEA or school for all students, and it is not Title III specific. **Unallowable**

(Source www2ed.gov/programs/titleiparta/titleititleiii421.pdf)

Can LEAs Use Title III Funds for the Annual ELP Assessment (WIDA ACCESS 2.0)?

- LEAs **MAY NOT** use Title III funds to administer the annual ELP assessment.
 - Because Title I requires LEAs to administer annual ELP assessments, in general it would be a violation of Title III supplement, not supplant requirements to use Title III funds to develop ELP assessments. This is because, in the absence of Title III funds, LEAs would still be required to administer an annual ELP assessment under Title I.
- LEAs **MAY NOT** use Title III funds for purposes related to identification of ELs.
- LEAs would be required to identify and make placement decisions for LEP students even without Federal funding.

Can LEAs use Title III Funds to Develop a Home Language Survey (HLS)?

No, an LEA **MAY NOT** use Title III funds for purposes relating to identification of ELs, including a screening assessment, home language survey, or other related tools.

The obligation to identify all ELs is part of an LEAs civil rights obligation under Title VI and the EEOA.

Can an LEA use Title III Funds for English as a Second Language (ESL) Classes for Families of ELs?

- An LEA may use Title III funds for ESL classes for families of ELs provided the LEA:
 - Carries out all of the **three required activities** for Title III subgrants: **1)** Language Instruction Educational Program (LIEP); **2)** Professional Development; and **3)** Parent, Family, and Community Engagement.
 - Ensures that the activity supplements use of local, State, and other Federal funds.
 - Offers these classes to families of ELs (***not families of non-ELs.***)

Note for LEAs

All supplement, **NOT** supplant determinations for expenditures under Title III **MUST** be fact specific and made on a case by case basis.

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