**Supplement Not Supplant**

The “supplement not supplant” provision requires that federal funds be used to augment the regular educational program, not to substitute for funds or services that would otherwise be provided during the time period in question. Under most major elementary and secondary education programs, the statute requires that SEAs and LEAs use federal funds only to supplement the amount of funds available from nonfederal sources for the education of students participating in the program. The SEA and LEA cannot use federal funds to supplant nonfederal funds that would otherwise have been used for the expenditure in question. A handful of federal programs, including IDEA and Title III (English language acquisition), require that the program funds supplement not only state and local funds, but also other federal funds.

1. **Tests Applied by Auditors**

The OMB A-133 Compliance Supplement, which is the roadmap used by auditors in conducting single audits, describes two instances when it is presumed that supplanting has occurred:

1. If the funding recipient uses federal funds to provide services that it was required to make available under other federal, state or local laws. An example would be if federal funds were used to provide services to children with disabilities needed to meet the IDEA requirement for states to provide a “free appropriate public education.”
2. If the funding recipient uses federal funds to provide services that it provided with nonfederal funds in the prior year. An example would be to fund a reading specialist with Title II money who was funded with state or local money in the previous year.
3. **Rebutting the Presumption of Supplanting**

After enumerating the three tests that auditors should use in evaluating for supplanting, the Compliance Supplement explains that these presumptions of supplanting are rebuttable if the funding recipient can demonstrate that it would not have provided the services in question with nonfederal funds had the federal funds not been available. In other words, what would have happened in the absence of the federal funds? If the grantee or subgrantee would not have provided the service without the available funds-either because there was a reduction in nonfederal funds to pay for the activity or grantee priorities changed-then it can overcome the presumption of supplanting that would otherwise arise.

It is very important that the funding recipient possess contemporaneous written documents, such as school board minutes or itemized budget documents from one year to the next, demonstrating that the decision not to fund an activity with state or local funds was made without regard to the availability of federal funds.

It is difficult to rebut the assumption of supplanting in instances where services are mandated by state, local or federal law. However, 2004 ED guidance for the NCLB Title II, Part A program provides an example of how to rebut the presumption when federal funds are used for state-mandated activities. (Although no specific state mandate was cited in the guidance, it is clear from the context that ED has in mind state mandates for class-size reduction, which is an eligible activity under Title II). A successful rebuttal depends on whether nonfederal funds are already available to carry out activities in the state-mandated plan. If not, federal funds might legitimately be used to address the state mandate.

It is important to note that if federal funds are used to support activities that otherwise would be funded with state or local funds, the activities funded might be eligible under the federal program that provides the funds.

In general, a supplanting analysis starts by looking at services provided; for example, was the service in question previously funded by state and local funds?

1. **Supplanting Federal Funds**

A recent ED action has highlighted the importance of complying with rules prohibiting supplanting federal funds under those programs that have such a limitation.

Specifically, the department issued nonregulatory guidance for the Title III English language program that severely restricted eligible activities under that program. Title I, Part A mandates that SEAs and LEAs perform a variety services for limited English proficient (LEP) students as a condition for receiving Title I funds. ED officials determined that many education agencies were using Title III funds for services that supplanted required Title I services for LEP students.

**Audit Tips:**

1. Check your individual program statue to see whether the requirement to “supplement not supplant” applies to your specific program.
2. Keep solid documentation to rebut the presumption of supplanting. If you used federal funds to pay for something supported with nonfederal funds the prior year, or that is mandated by state law, you’ll need programmatic and fiscal documentation of state or local legislative action, minutes from board meetings, budget histories or other information to show the cost would not have been incurred without federal funds. Your school board may even go so far as to “fire” employees previously paid with nonfederal funds and “re-hire” them using federal funds in the same meeting to show the intent not to supplant.

Referenced from: Federal Education Grants Management: What Administrators Need to Know, 3rd Edition, Thompson Publishing Group