



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

June 10, 2011

Mr. Robert Velasco II
Chief Executive Officer (Acting)
Corporation for National and Community Service
1201 New York Ave., NW
Washington, DC 20525

Dear Mr. Velasco:

I am writing in response to conversations between members of our staffs regarding allowable use of U.S. Department of Education funds by AmeriCorps grantees across the United States. The Corporation has inquired about the use of Federal funds under a number of the Department's programs to satisfy cost sharing requirements applicable to AmeriCorps grants. An AmeriCorps grant requires a 50 percent, dollar-for-dollar match, and many grantees have members serving in low-income schools across the country.

Your staff identified the following Federal education programs through which AmeriCorps grantees might receive funds as a direct grantee, as a subgrantee, or under contract with a school district:

- Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. §§ 6301 *et seq.*)
- School Improvement Grants under section 1003(g) of the ESEA (20 U.S.C. § 6303(g))
- Race to the Top under section 14006 of the American Recovery and Reinvestment Act of 2009 (ARRA)
- i3 awards under section 14007 of the ARRA
- High School Graduation Initiative under Title I, Part H of the ESEA (20 U.S.C. §§ 6551 *et seq.*)
- Full Service Community Schools under Title V, Part D, Subpart 1 of the ESEA (20 U.S.C. §§ 7243 *et seq.*)
- Promise Neighborhoods under Title V, Part D, Subpart 1 of the ESEA (20 U.S.C. §§ 7243 *et seq.*)
- 21st Century Community Learning Centers under Title IV, Part B of the ESEA (20 U.S.C. §§ 7171 *et seq.*)

If an AmeriCorps grantee receives funds under one or more of these programs, you asked whether it would be an allowable program cost if the AmeriCorps grantee uses such funds to meet the required cost share under its AmeriCorps grant. As we explain below, we believe that it

is allowable to use funds under these programs to satisfy the AmeriCorps cost sharing requirement.

The listed programs are governed by one of two Office of Management and Budget (OMB) cost circulars, each of which speaks to the use of Federal grant funds to meet a cost sharing requirement of another Federal grant. OMB Circular A-87 *Cost Principles for State, Local, and Indian Tribal Governments*,¹ Attachment A, Section C.1.h, now codified at 2 C.F.R. Part 225, Appendix A, provides that Federal funds may not “be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, *except as specifically provided by Federal law or regulation*” (emphasis added). The same requirement is set out in OMB Circular A-122 *Cost Principles for Non-Profit Organizations*,² Attachment A, Section A.2.f, now codified at 2 C.F.R. Part 230, Appendix A, but does not contain the italicized exception regarding specific statutory or regulatory authorization.

We examined the statutory and regulatory authorities relevant to the programs listed above to determine whether there is specific authority to permit, or an explicit prohibition against, the use of those funds to meet a cost sharing requirement of another Federal statute. Except for the prohibition in Circular A-122 discussed below, none of the statutes or regulations applicable to the listed programs specifically authorizes such use or expressly prohibits such use. As you know, however, section 121(e)(2) of the National and Community Service Act authorizes an AmeriCorps grantee or subgrantee to provide for the required cost share “through State sources, local sources, *or other Federal sources* (other than the use of funds made available under the national service laws)” (emphasis added).

With respect to the programs listed above that are subject to Circular A-87, funds under those programs may be used to satisfy the AmeriCorps cost sharing requirement because the AmeriCorps statute specifically provides for such a use. The language of section 121(e)(2) satisfies the requirement in Circular A-87 that Federal grant funds may be used to meet the cost sharing requirement of another Federal grant if expressly provided by statute or regulation.

The issue is more difficult with respect to the programs listed above governed by Circular A-122, however, because there is a contradiction between the AmeriCorps statute (which allows other Federal funds to be used to satisfy the cost sharing requirement) and Circular A-122 (which appears to preclude the use of Federal funds to satisfy cost sharing requirements in all circumstances). To the extent that these provisions are inconsistent, the statute must control over a contradictory regulatory requirement in the Circular. Because there is specific statutory authority allowing funds from “other Federal sources” to be used to satisfy the cost sharing requirement in the AmeriCorps statute, we believe that the statutory language controls over any contradictory language in the Circular that would preclude the use of Federal education funds for

¹ Circular A-87 applies to Title I, Part A, School Improvement Grants, Race to the Top, and the High School Graduation Initiative. It also applies to i3, Full Service Community Schools, and 21st Century Community Learning Centers if the grantee or subgrantee is an SEA or LEA.

² Circular A-122 applies to Promise Neighborhoods as well as i3, Full Service Community Schools, and 21st Century Learning Centers if the grantee or subgrantee is not an SEA or LEA.

that purpose. Therefore, it is our view that it also would be allowable under the programs listed above that are subject to Circular A-122's regulatory requirements to use those funds to satisfy the cost sharing requirement in the AmeriCorps statute.

Accordingly, we conclude that it would be allowable for an AmeriCorps grantee to use funds under one or more of the education programs listed above to meet the AmeriCorps cost sharing requirement. Of course, the activities for which those funds are used must be allowable under the applicable Federal education program statute and regulations. We take no position on whether using Federal education funds to meet the AmeriCorps cost sharing requirement would be considered permissible by the Corporation for National and Community Service or whether the specific activities undertaken by an AmeriCorps grantee are allowable under the listed programs.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Carmel Martin". The signature is written in black ink and is positioned below the word "Sincerely,".

Carmel Martin
Assistant Secretary for Planning, Evaluation and Policy
Development