Targeting Federally-Funded Niche Markets When Overall Budgets Are Tight

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

Prepared by:
Education TURNKEY Systems, Inc.
256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310 / (703) 536-3225 FAX

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For almost four decades, Education TURNKEY Systems has monitored policies and other Federal guidance for such niche markets as Title I and IDEA special education, identifying opportunities for several hundred firms through its Technology Monitoring Information Service, special reports, and consulting service. Over that time, Federal funding for these two programs has increased annually with the exception of a rescission in the mid-1990s when Republicans gained leadership in Congress and most recently in FY 2006 where the same two large programs received small budget cuts for the 2006-07 school year. In FY 2007, Title I received a small increase to $12.8 billion, while IDEA special education received a smaller increase to $10.8 billion. Although many instructional software and supplemental materials publishers experienced flat or even declining sales during the last year in these two niche markets, a small but significant percent did show moderate to significant growth. Key to their success was targeting specific states and, more importantly, "types" of districts which were "similarly-situated" at the appropriate time. Below, we suggest how companies can develop or adjust their sales and marketing strategies to sell effectively into these niches, even when overall budgets are tight or experiencing only moderate <u>overall</u> growth.

Two common mistakes made by firms when they are developing strategies to penetrate these two niches are:

- looking at overall Federal education budgets for the coming school year or even funding levels for overall Title I and IDEA special education;
- reviewing and analyzing only the Law and regulations, while disregarding Federal non-regulatory guidance (NRG) which does not have the effect of law, but reflects the priorities the current Administration has placed on Federal monitoring and enforcement.

In 2006-07 and, to a lesser extent, in 2007-08, more than 8,000 of the 12,000 districts receiving Title I and IDEA funding experienced cuts. There were, however, 250-350 districts which received moderate or significant increases (up to 100 percent) due to several reasons, including increases in the number of children from low-income families being reported, an important factor in determining district funding levels. For example, we identified more than 300 districts that received increases of $200,000 or more for the 2007-08 school year, before "state adjustments" (discussed below). We also identified more than 150 districts that received increases of 20 percent to over 100 percent before state adjustments. Within these districts were those which were "similarly situated" in that they had to set aside a portion of their funds for specific purposes:

- Districts which are "identified as a whole" for improvement for the first time have to set aside ten percent of their allocation for professional development; and, even though this requirement was not specified in the Law, USED developed non-regulatory guidance for this set-aside that stated that any unused portion of the ten percent set-aside for one year must be carried over and added to an additional ten percent the following year for professional development.
- Districts which have one or more schools identified for improvement for two or more years have to set aside 20 percent for supplemental educational services (SES) and/or parent choice transfer option.
- If a school in a district is identified for improvement for the first time, ten percent of that school's Title I allocation has to be used for professional development, although, as USED non-regulatory guidance clarified three years after NCLB was passed, such staff development activities do not have to occur in that particular school, but could be reallocated or centrally administered to serve the "greatest staff development need."
- If a school continued to be in "improvement" for four or more years, it entered into "corrective action" or "restructuring" status which, under Federal policy (and to greater extent state policy in at least three states), required it to undertake new initiatives to change its governance structure (takeover by the state or district central offer), provide extensive professional development for existing or new teachers, or replace the entire school's curriculum. The latter approach, according to recent studies by the Center on Education Policy and Government Accountability Office (GAO), occurred in about 40-50 percent of the approximately 4,500 schools which were in corrective action/restructuring in 2006-07.

Clearly, in "similarly-situated" districts (e.g., the district and/or schools were in "improvement," "restructuring"), which received moderate to large Title I increases, most of the increases were used to provide services such as staff development, to purchase appropriate supplemental instructional materials and related interventions, or even to adopt entire new curricula, purchased with Title I funds and/or the state four percent set-asides; School Improvement Grants totaling $185 million were actually funded for the first time in 2007-08 school year. Successful firms targeted these similarly-situated districts and schools within districts with specific products and services that could be purchased with set-aside funds.

When Congress reauthorized the IDEA special education law in 2004, it included a requirement that any district which has an overrepresentation of minorities in special education programs (i.e., disproportionality) had to set aside 15 percent of its IDEA funds for "early intervening services" (EIS), which included so-called "response-to-intervention" (RTI) approaches. These services were to be provided to at-risk students to remediate math or reading problems so they would not have to be placed in special education programs. In fact, early drafts of the IDEA reauthorization were very specific in stating that a student could not be placed in special education until the student had received instruction which used core and supplemental materials that included all of the "essential elements" required for programs purchased under the Reading First program. However, because of the mismanagement of Reading First reported by USED's Office of Inspector General about the same time final IDEA regulations were published, USED guidance provided much greater flexibility to districts in selecting the types of instructional, behavioral, and professional development interventions for which such set-aside funds could be used. In 2007-08, the total amount of funds that should be set aside for EIS could be as high as $1.5 billion. Hence, while IDEA funds increased only about two percent overall, the amount of money reallocated for EIS will likely triple from approximately $500 million in 2006-07. Most of these funds have been reallocated to the district central office and then assigned to the Title I program to provide early intervening services to Title I and other students to remove reading and related problems so they do not eventually have to be placed into much more costly special education programs. Some firms have successfully repositioned interventions that they have sold to districts which provide their own supplemental educational services (SES) as interventions appropriate for use under EIS, thus providing districts the opportunity to purchase such interventions from either Title I or reallocated IDEA funds. Moreover, even though the IDEA legislation is not prescriptive, the USED policy announced over a year ago (and confirmed at the first National Summit on Response to Intervention in December 2007) encouraged districts to reallocate the 15 percent to Title I schoolwide programs. In schoolwide programs, USED policy has been not to enforce "supplement not supplant" provisions as rigorously as in Title I Targeted Assistance Schools, which serve only Title I eligible students.

The key to successful marketing/sales to the Title I and, to a lesser extent, to the IDEA niche markets is targeting districts which receive moderate to significant percentage increases in Title I funding (after state education agency adjustments are made) and which have to set aside funds for purposes such as district-operated supplemental educational services, professional development and/or curriculum replacement. To identify districts receiving actual increases, one must go beyond official USED allocations usually made in the summer before school starts; rather, one has to take into account a number of factors, including:

- the number of districts in a state receiving budget cuts of ten percent or more, which means funds will be reallocated from districts receiving increases to ensure that districts receiving cuts receive at least 90 percent of what they received last year;
- the amount, if any, the SEA will withhold from the districts receiving increases for school improvement grants (i.e. the 4% state set-aside) which, in turn, could be reallocated to some of the districts;
- other adjustments such as the number of Title I eligible students enrolled in charter schools or the amount of funds set aside or reallocated to intermediate education units.

The next step is to match the firm's intervention products or "family of interventions" or professional development services to the districts with schools that are "similarly-situated." The product positioning messages may vary depending on who or what district office is to be approached. For example, if the primary responsibility for implementing EIS is the Title I office, the message would be somewhat different than that for the district special education office (which in many cases will have a shared responsibility with Title I). If the special education and Title I offices are both under an assistant superintendent for Federal programs, then the approach will be more straightforward because internal turf feuds are likely to be minimal.

As one approaches district offices with an intervention-type product or service, one should not assume that office will be aware of "new flexibilities" reflected in USED non-regulatory guidance or policy letters from the Secretary to Chief State School Officers. For example, if a firm has an intervention that can be used in a district-operated SES program (rather than an outside third-party SES provider), but the district has been told by the state that it cannot be approved to operate its own program because the district as a whole has been "identified," then the district office may not be aware of the fact that district-operated after-school programs funded under the 21st Century Community Learning Centers (if approved as an SES provider) could provide such SES services. In its 2006 policy letter, the Secretary ruled that such an after-school program operated by the district which has been "identified" is a "separate and distinct" entity because of its separate funding from 21st CCLC and could operate an SES program if approved by the state. Another option to be considered in such a district is that if some of the 20 percent earmark is unspent before the end of the fiscal year, such funds could (in most states) be reprogrammed and used for outright purchases of the intervention product or services. Indeed, some firms have targeted specific districts with the sole intent of having unspent SES earmarks used to purchase their products before June 30th, which is the "use it or lose it" deadline in 45 states.

For FY 2008, many of the above considerations hold, even though overall Title I funding will increase by over $1 billion. While more districts will actually receive some funding increases, the big winners will be large, mostly urban, districts and some suburban districts with pockets of poverty, because, of the four components of the Title I formula, the "targeted" and "incentive" components will receive <u>all</u> of the increase. In addition, the 4,500 schools in corrective action and restructuring will likely increase to 6,000-7,000 in 2008 and will benefit from the $375 million increase in School Improvement Grants which will be reallocated by SEAs to districts with such schools. The SIGs will increase opportunities for professional development and new curricula, purchases, including many of the intervention-type products and services which can be used in SES programs or EIS. As more schools are identified for improvement, the amount of Title I funding reallocated for SES, professional development and other set-asides will continue to increase.