

## LEPC Says Legislature's Budget Cut Could Violate Federal Rules and Revive Past "High Risk" Concerns

LEPC Director Moleto Smith Jr. says removal of its "other services and charges" line item and shift to federal funds is prohibited supplanting under DOJ rules, risking compliance and leaving \$83K in rent and janitorial bills unpaid.

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The Law Enforcement Planning Commission director Moleto Smith Jr. By. V.I. LEGISLATURE.

The Law Enforcement Planning Commission has accused the Legislature of potentially placing it in hot water with the federal government after its "other services and charges" category was "deleted" from the FY2025 budget, and an attempt to replace it with federal funds was made.

LEPC director Moleto Smith Jr. launched a no-holds-barred broadside when he appeared before the Committee on Budget, Appropriations, and Finance on Wednesday. He testified that the Legislature's "expressed legislative intent of those costs being assumed exclusively by federal grant funds administered by LEPC" constitutes supplanting. Mr. Smith explained that supplanting is the "shift of state or local funded costs to federal funds based on receiving or expecting to receive federal funds."

The "other services and charges" category covers LEPC's rent, utilities, telephones, and janitorial services. While the U.S. Department of Justice allows LEPC to use federal funds to cover rent and utilities, Mr. Smith says they must be "reasonable and necessary to a grant award." Such costs, he said, "must supplement and not supplant local or state funds." He informed lawmakers that their decision, which constitutes supplanting, is "strictly prohibited."

His assertion, described by Senator Novelle Francis as "vehement," is supported by the U.S. Department of Justice's chief financial officer, said Mr. Smith. LEPC has reportedly taken the matter "up the chain to the US DOJ." Senator Francis has requested that he submit documentation and the DOJ's response.

In 2012, the LEPC received a "high risk" designation from the US DOJ due to "irregularities involving the oversight and use of federal grant funds." The commission was forced to reimburse "almost \$1 million of unallowable costs that were paid by federal grant funds." That designation has since been removed and LEPC has now grown extremely cautious.

While there are instances where federal funds could be expended in that manner, Mr. Smith shared that the burden of proof is on the LEPC. They are required to "provide and maintain clear documentation" to prove that there was a suitable reason. However in this case, "no justifiable documentation exists other than the Senate's intent to remove all other costs outside of payroll from LEPC," Mr. Smith said. The organization has therefore been "unable to pay costs associated with rent, utilities, janitorial services, and telephones."

The US DOJ, said Mr. Smith, has offered the LEPC three options: "reappropriating of the funds," requesting legal advice, or attempting to appeal to the federal government. The third path, Mr. Smith noted, is "highly unlikely under this climate, particularly given the most recent presidential Trump executive order that is restricting of administrative cost for facilities and other types of operations."

Replacing the funds seems to be the easiest option. Mr. Smith says that the "need to resolve this matter" has been brought to the attention of the Office of Management and Budget. OMB is reportedly "working diligently to address it as a priority." Now, Smith is requesting that the Legislature "restore" LEPC's other services and charges category in the FY2026 budget.

LEPC's recommended budget is \$734,766, which covers salaries and fringe benefits for nine positions to the tune of \$731,053.03. The remaining \$3,712.97 "partially covers costs associated with telephone" but does not address rent and janitorial costs. Now, LEPC is asking for another \$107,190 to replace its other services and charges category.

Lawmakers, having listened to Mr. Smith's impassioned testimony, did not seem overly keen to fund his request. Instead, Senators Novelle Francis and Carla Joseph asked about indirect costs, typically used for services like rent. Mr. Smith explained, on more than one occasion, that LEPC's grants do not attract any indirect costs. He also clarified to Sen. Francis that "we've never utilized grant funds to pay for utilities" nor rent.

Still, Sen. Joseph encouraged LEPC to “develop that cost allocation plan because the Legislature and our general fund doesn't have sufficient funding to cover some of these costs.” Mr. Smith maintained, once more, that “our grants do not require a cost allocation plan because we do not receive indirect costs.”

Senator Marise James, meanwhile, was interested in a definition of “supplement.” Her question followed Mr. Smith’s note that federal funds can be used to supplement, not supplant. “The entire line items were deleted from the budget, and therefore we can't apply that because it's not supplementing,” he said. Nonetheless, Ms. James encouraged LEPC to “find out how much of federal funds can supplement local funds so that we don't use all local funds.”

He told Senator Kurt Violet that approximately \$80,000 is owed in rental costs, with another \$3,000 in outstanding janitorial service costs. “The landlord has been working with us with the understanding that OMB will be submitting an adjustment request for this money,” Mr. Smith stated.