



MAKING CIVIL RIGHTS SENSE OUT OF REVENUE SHARING DOLLARS



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U.S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- . Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- . Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- . Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- . Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- . Submit reports, findings, and recommendations to the President and Congress.

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PREFACE

The primary goal of revenue sharing is to restore strength and vigor to State and local government. Federal financial resources are provided so that State and local officials can exercise greater leadership in solving their own problems. Revenue sharing will not accomplish its goal, however, as long as the people are not involved in deciding how these funds will be spent.

The purpose of this publication is to stimulate public interest and participation in revenue sharing programs, particularly among those concerned with the rights of minorities and women. In this report, the U.S. Commission on Civil Rights describes how revenue sharing works, examines its civil rights implications, and suggests ways in which local citizens can monitor or influence the use of revenue sharing funds.

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INTRODUCTION

Revenue sharing comes in different forms. General revenue sharing, signed into law October 20, 1972,¹ is intended to be new Federal funding that may be spent for almost any type of service or project. Special revenue sharing is viewed as a substitute for or consolidation of existing Federal grants in a particular program area. On December 28, 1973, manpower revenue sharing became the first of these to be enacted by Congress. More recently, grants for community development and some education programs were also consolidated.

Both general and special revenue sharing are part of an effort to reform the Federal grant system and move responsibility for major domestic decisionmaking activities from Washington, D.C., to the States and local governments.² Traditionally, most Federal aid to States and localities has been in the form of categorical grants, which are designed to meet some need that affects the entire Nation. Federal aid for the education of disadvantaged children (Title I of

1. 31 U.S.C. §1221 et seq.

2. The Office of Revenue Sharing (ORS), the arm of the Department of the Treasury responsible for administering the general revenue sharing program, maintains that "general revenue sharing was enacted as a form of aid to the hard-pressed units of State and local government." ORS comments on this publication in draft, forwarded with letter from John K. Parker, Deputy Director, Office of Revenue Sharing, to John A. Buggs, Staff Director, U.S. Commission on Civil Rights (USCCR), on August 15, 1974 (hereafter referred to as ORS Comments). USCCR recognizes that this is consistent with the legislative history, which states that Congress intended general revenue sharing to ease the financial problems of State and local governments and to give them greater flexibility in the use of these funds. U.S. Code Cong. & Ad. News 3882-3884 (1972). ORS also maintains that the term "'special revenue sharing' has become obsolete and is no longer being used." ORS Comments. Admittedly, much of what is called special revenue sharing possesses few of the features originally attributed to this type of aid. USCCR notes, however, that the term is still used in reference to efforts at grant consolidation and simplification. See p. 70 for further discussion of this point.

the Elementary and Secondary Education Act)³ is one example. It reflects the Federal Government's interest in enhancing the Nation's productivity by assisting States and localities to provide a good education to all citizens.

In recent years, the number of categorical grants has increased tremendously as Congress has perceived more areas of concern. There are now over 500 of these grant programs.⁴ Each imposes substantial Federal controls to assure that State and local recipients undertake projects to meet the national purposes for which it was designed. Each requires a prospective recipient to submit a separate application, and each has its own rules and regulations governing program administration. Many have a matching fund requirement compelling State and local governments to match Federal aid dollars at a given ratio.

Several criticisms have been lodged against categorical grants. The profusion of grants has often resulted in uncoordinated programs at the local level. Frequently, governments with the most expertise in grant application procedures have been the most successful in obtaining Federal aid, regardless of their relative needs. Matching fund requirements have tied up State and local revenues that might otherwise have been used in worthwhile programs that are of strictly local concern.

Revenue sharing is one approach to remedying some of the shortcomings of the Federal grant system. Only minimal administrative provisions are imposed, and States and localities are given considerable latitude in making spending decisions.

In the eyes of those concerned with the rights of women and of racial and ethnic minorities, however, the solutions presented by revenue sharing also complicate the task of combating discrimination and its effects. Many Federal categorical aid programs provide

3. 20 U.S.C. §241(a)-241(m).

4. Executive Office of the President, Office of Management and Budget, Budget of the United States Government, Special Analyses, Fiscal Year 1973 (Washington, D.C.: Government Printing Office, 1972), p. 241. ORS asserts, without giving a source reference, that "percent tabulations suggest a figure of over 1,000 [categorical grant programs]." ORS Comments.

assistance to a specific target population. Even though they may not specifically be singled out as sole beneficiaries, a large number of minorities and women are often reached. Federal financial support for on-the-job training of disadvantaged youth, Head Start classes, and Medicaid services for the needy are but a few examples of such programs.

In contrast, the purpose of revenue sharing is to strengthen States and localities, governments that, even more than the Federal Government, have denied minorities and women equal employment opportunities, passed discriminatory laws, and otherwise acted less than forcefully in upholding the civil rights of women and minorities. At the same time, since few restrictions are placed on the expenditure of revenue sharing funds, civil rights advocates fear the Federal Government will pursue its enforcement of nondiscrimination laws less vigorously to avoid impinging upon the freedom otherwise intended to be given to recipient governments.

Civil rights leaders also associate revenue sharing with what they perceive as a declining commitment to public participation in federally-funded programs. Several categorical grants-in-aid contain citizen participation requirements that have enabled minorities and the poor to affect policy and program delivery of needed services.⁵ In many communities, this has opened up a significant avenue of self-determination for the politically powerless. Poverty programs previously administered by the Office of Economic Opportunity (OEO) and Model Cities community development projects have been particularly noted for their tough guidelines on local participation.

5. For a discussion on citizen participation in Federal aid programs, see Citizen Participation: A Review and Commentary on Federal Policies and Practices and Citizen Participation: The Local Perspective, both by Melvin B. Mogulof, published by the Urban Institute, Washington, D.C., in January 1970 and March 1970, respectively.

In recent years, however, successive steps have been taken first to dilute citizen participation requirements⁶ and then to reduce funding or phase out these programs altogether.⁷ Revenue sharing, as an alternative, provides few mechanisms for holding public officials accountable. Thus, to many minorities and women, revenue sharing accomplishes its purpose to strengthen State and local governments - but at the expense of their involvement in that process.

6. For example, in May 1969 the Department of Housing and Urban Development (HUD) issued a memorandum banning situations in which only a local citizens' group could initiate consideration of Model Cities projects. In addition, mayors were asked to submit assurances to HUD that city planning responsibilities were not impeded in circumstances (1) where the Model Cities director reported to a citizen policy group rather than to city government, and (2) where the citizen participation structure had what amounted to a program veto. Mogulof, Citizen Participation: Federal Policies and Practices, p. 71. The role of minorities and the poor in planning and administration of OEO programs has also been weakened as responsibility for ongoing projects has been turned over to other agencies. As a case in point, in early 1973 the Department of Labor (DOL) began to transfer planning and operating authority for former OEO manpower programs from community action agencies to State and local governments. At least one-third of the board members of community action agencies must be representatives of the poor living in the areas served. These agencies must also involve the poor in the conduct and evaluation of programs. Similarly stringent citizen participation requirements have not been imposed on State and local officials. See memorandum used to support plaintiffs' motion for a preliminary injunction in the case of Youngstown Area Community Action Council v. Arnett, C. A. No. 73-1908 (D. D. C., Nov. 13, 1973).

7. For a detailed account of funding cutbacks and program terminations proposed by the administration, see the Budget of the United States Government for fiscal years 1974 and 1975. ORS points out that unlike OEO and Model Cities programs, "major program decisions /are made/ at the Washington level /under many Federal categorical grants and/...the funds effectively /bypass/ the normal State and local budget process." ORS Comments. USCCR recognizes that some Federal programs provide little opportunity for local community involvement. The concern of many civil rights leaders, however, is that the programs with strong citizen participation requirements are being cut back.

PART I

GENERAL REVENUE SHARING

On October 20, 1972, a unique form of Federal aid was established when President Nixon signed the State and Local Fiscal Assistance Act.⁸ This act authorizes the payment of \$30.2 billion in relatively unrestricted general revenue sharing funds to about 39,000 State and local governments during a 5-year period ending in 1976. Comprising about 12 percent of all Federal aid to State and local jurisdictions, general revenue sharing is the largest Federal domestic aid program in the United States. The program is administered by the Office of Revenue Sharing, an arm of the Department of the Treasury.

8. 31 U.S.C. § 1221 et seq. This act is hereafter referred to as the Revenue Sharing Act.

Chapter 1

The Allocation Formula

The Revenue Sharing Act names States, cities, counties, townships, Indian tribes, and Alaskan native villages as those units of government eligible to receive revenue sharing money. Periodically, the Office of Revenue Sharing (ORS) sends these governments revenue sharing checks, the amount of which is determined by the total funds authorized for disbursement during that payment period, the allocation formula, and the data used in computing the formula.

The Revenue Sharing Act provides that \$30.2 billion will be paid out to States and localities between January 1972 and December 1976. This sum is divided among seven entitlement periods in such a way that eligible governments receive increasing amounts as the cost of goods and services rises. The duration of each entitlement period and the amounts authorized for distribution are:

<u>Entitlement Period</u>	<u>Dates</u>	<u>Amount (in millions)</u>
1	Jan.-June 1972	\$2,650
2	July-Dec. 1972	2,650
3	Jan.-June 1973	2,987.5
4	July 1973-June 1974	6,050
5	July 1974-June 1975	6,200
6	July 1975-June 1976	6,350
7	July-Dec. 1976	3,325

ORS disburses these funds to State and local governments in quarterly installments.

Several steps are followed to determine the allocation of revenue sharing money among States and to units of government within each State. Funds available for disbursement in any one quarter are divided among States according to whichever of two formulas yields each the most money. The use of two formulas is the result of a compromise between the House of Representatives and the Senate. The

original Senate version has three factors: population, tax effort,⁹ and per capita income. These three factors, plus urban population¹⁰ and State income tax¹¹ receipts, constitute the second formula, which is the original House version. Since each State is entitled to the greater of two amounts, the total is more than the actual amount available for disbursement. Each State's share is, therefore, scaled down proportionately.¹²

Of the total funds going to each State, the State government is apportioned one-third.¹³ The remaining two-thirds are distributed to various units of local government. First, the money is divided among

9. Tax effort is the percentage of personal income paid in State and local taxes. For purposes of apportioning money among the States, all taxes collected by all jurisdictions within the State, including the State government, are counted.

10. "Urbanized population means the population of any area consisting of a central city or cities of 50,000 or more inhabitants (and of the surrounding closely settled territory for such city or cities) which is treated as an urbanized area by the Bureau of the Census for general statistical purposes." 31 U.S.C. § 1228(a)(2).

11. For the purpose of computing a State's entitlement, the State income tax amount must fall between 1 and 6 percent of Federal income tax liabilities.

12. For calendar year 1972, each share was reduced by 8.4 percent. Because of the scaling down process, most States receive something between the amounts they would have been entitled to had either the three-factor or five-factor formula been adopted. However, 11 States actually receive less than they would have under either formula (Colorado, Florida, Indiana, Minnesota, Missouri, Nevada, Pennsylvania, Rhode Island, Texas, Virginia, and Wisconsin). Joint Committee on Internal Revenue Taxation, General Explanation of the State and Local Fiscal Assistance Act and the Federal-State Tax Collection Act of 1972 (Washington, D.C.: Government Printing Office, 1973), pp. 10 and 26.

13. If a State does not maintain its level of aid to local government, its revenue sharing allocation is reduced by the amount of the decrease in intergovernmental aid.