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[Views on Senate Bills 45 and 807]

STATEMENT OF

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BEFORE THE

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ON

SENATE BILL 45

FEDERAL ASSISTANCE REFORM ACT OF 1981

AND

SENATE BILL 807

FEDERAL ASSISTANCE IMPROVEMENT ACT OF 1981

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Mr. Chairman, we are pleased to be here this morning to present our views on Senate bill 45, the "Federal Assistance Reform Act of 1981" and Senate bill 807, the "Federal Assistance Improvement Act of 1981." Both bills would achieve significant and much-needed reform in our intergovernmental system.

Both bills include innovative approaches to managing Federal assistance that offer much promise for resolving pressing intergovernmental problems. The management problems plaguing our assistance system have been extensively documented by innumerable studies by GAO, ACIR, and others.

Collectively, the narrow boundaries of Federal categorical programs and the estimated 1,200 plus mandates accompanying them have placed major strains on the accountability and administrative capacities of all three levels of government. Today, practically every major State and local service is affected by the Federal fiscal and regulatory presence. This increasing interdependence of all three levels of government in the delivery of public services means that the Federal level cannot afford to ignore the impact of Federal policies on the ability of State and local governments to effectively manage Federal and non-Federal resources alike.

As fiscal austerity has become the watchword at all three levels of government, the structure of Federal assistance and its impacts on State and local finances, management, and, ultimately on program performance and priorities have become more intensely scrutinized. As reductions in Federal grants match the concurrent

tax and spending cuts from own source revenues faced by State and local governments in recent years, it becomes more imperative that State and local officials be given flexibility to allocate and manage these diminishing resources. Thus, I believe that Congressional passage of a grant reform bill is urgently needed. Grant consolidation, auditing simplifications, standardization of crosscutting requirements, joint funding, and integrated assistance will all enable public sector officials to target and manage resources more effectively.

Title I - Grant Consolidation

Title I of both bills would establish a process to encourage the development and passage of grant consolidation proposals.

It has been our long-standing position at GAO that the consolidation of fragmented and restrictive categorical grants into broader-purpose programs is fundamental to improving the administration of Federal assistance as well as enhancing the process of government itself.

In our 1975 report, "Fundamental Changes Are Needed In Federal Assistance To State And Local Governments," we concluded that the categorical grant system fosters an unwieldy and fragmented system for delivering public services. Further, categorical grants are often too restrictive to meet actual service needs at the State and local level and the burden of mounting a coordinated effort to deliver federally assisted services falls on the grantee. This causes management problems at the State and local level as grantees attempt to reconcile grant programs with separate and, at times, conflicting

standards and requirements. Over the years, GAO has issued a number of reports which have recommended consolidation initiatives in specific program areas.

We believe that Title I of each bill provides an effective and practical long-term means for progress on the consolidation front. Although the Administration's block grant proposals could achieve far-reaching legislative consolidation in a number of areas, the process contemplated in Title I would provide a more long-term institutionalized process to encourage consolidation proposals.

We believe that Title I of S.807 would make improvements over its predecessor, S.878, by providing more flexibility to the President to define the scope and conditions of grant consolidation proposals. Undue constraints could limit the usefulness and relevance of the consolidation process as a mechanism to resolve significant problems in assistance management.

S.807 would not limit the terms and conditions of consolidation plans to those currently operative in one or more of the assistance programs included. Consolidated programs may call for different kinds of Federal controls and non-Federal discretion than may be appropriate for a categorical grant. For example, while matching requirements might be appropriate for categorical programs intended to stimulate new State and local effort in specific programs, they may not be appropriate for broader purpose grants that may be oriented towards supporting State and local priorities.

S.807 also would require that the purposes and goals of the programs being consolidated be included in the consolidation plan.

This provision would seem to provide sufficient flexibility to design consolidated programs to better target scarce resources to more limited populations or areas. S.45, on the other hand, would require consolidated grants to maintain the eligibility of groups or individuals eligible under the programs being consolidated. This provision could potentially establish the principle, possibly enforceable through the courts, that those who were once eligible are forever eligible.

Both bills limit the consolidation process to those programs which are functionally related. While this is a reasonable and necessary condition, restricting the definition of functional area to the categories defined in the Budget, as proposed by S.807, could unnecessarily limit the range and scope of consolidation proposals. For example, consolidation of programs for maternal and child health could be limited because the Department of Health and Human Services Maternal and Child Health Services programs fall in a different budget functional category than the closely related Special Supplemental Food Program for Women, Infants, and Children administered by the Agriculture Department. For this reason, the the definition of functionally related programs proposed in S.45 appears preferable.

Whenever significant change is made to a large system, issues surrounding the transition from the old to the new inevitably arise. We feel that additional clarification may be needed to help guide the transition. For example, would ongoing grants awarded under the categorical programs continue to operate according to the old terms and conditions through the remainder of the grant performance period or would they be controlled immediately by the revised

requirements of the consolidated grant? The expiration provisions of both bills also need the Subcommittee's attention. For example, if the consolidated program expires before the expiration dates in the authorizing legislation of the categorical programs, would the categorical programs automatically revert back to their previous status or would Congressional action reauthorizing the programs be required? Guidance on these types of questions would be desirable.

Title II -- Financial Management and Audit

GAO has testified and reported several times on the problems associated with grant auditing. Our report titled "Grant Auditing: A Maze Of Inconsistency, Gaps, and Duplication That Needs Overhauling," pointed out the need for a single audit of grant recipients on a government-wide basis.

In the past, a Federal agency usually concerned itself with its own grants, although these grants may have made up only a small part of a grant recipient's operations. When the Federal agency performed or hired another auditor to perform an audit, usually only one grant out of a number that the recipient might have was audited, even though the recipient's other grants may have been much larger. When the auditors found practices that badly affected the grant they were auditing, they did not ordinarily determine how these practices may have affected the other grants of the recipient. The other grants may not have been audited. Further, the audit would usually include some tests of the grantee's procedures for handling all of its cash receipts and disbursements, such as computing and

allocating payroll costs. If another Federal auditor visited the same grantee, he would probably perform some of these same procedures over again.

This approach to grant auditing costs time and money. Unnecessary costs result from duplication of effort and from performing audits too often of grants too small to warrant more than an occasional audit. In addition, the audit focus is often too narrow to be effective in preventing unauthorized expenditures and the loss of public funds. In our report, we noted that the Government can lose millions of dollars through gaps in audit coverage.

The basic recommendation has been the need for a single audit of all grants that an entity has. Such an audit, among other things, would test the grantee's system for complying with Federal restrictions on the use of the funds and related matters, but a detailed audit of each grant would not be made. Any Federal auditor could review such an audit and rely on it if the single audit had been properly performed.

Progress has been made in solving this problem. OMB issued on October 22, 1979, a revision to Circular A-102 (attachment P) which requires the single audit and the use of a single audit guide. GAO, in cooperation with the Intergovernmental Audit Forum and various Federal agencies, took the lead in developing an audit guide--"Guidelines for Financial and Compliance Audits of Federally Assisted Programs"--for comprehensive financial and compliance audits of multifunded grant recipients. State and local auditors as well as Federal auditors participated in the development of

this guide. Use of the guide, which was issued jointly by OMB and GAO in February 1980, is now required by Circular A-102.

Another significant effort is the work of a special single audit steering committee. The committee was organized in the latter part of 1980. The purposes of the committee are to look into implementing problems of the single audit approach, to make recommendations to resolve them and to provide general assistance in the implementation of the single audit approach. The committee is under the sponsorship of the Joint Financial Management Improvement Program and includes representatives from Federal, State, and local audit organizations. Specifically, the committee includes three inspectors general, two State auditors, two local auditors, and one JFMIP representative.

The committee's current efforts deal with the following problems or issues:

--Inconsistencies in the principal documents affecting the single audit performance.

--Reimbursement policies and practices under single audits.

--Compatible Federal, State, and local government single audit criteria and approach.

--Minority and small CPA firm participation in single audits.

--Implementation of the cognizance responsibilities under OMB Circular A-102, attachment P.

Other progress has also been made in improving audits of Federal grants. For example, the Intergovernmental Audit Forums have projects underway to improve such areas as audit planning and

coordination. Also, the American Institute of Certified Public Accountants has established a committee to identify substandard audit work with regard to Federal grants.

Although progress has been made, much remains to be done before the single audit can be fully implemented. We therefore fully support legislation to help implement the single audit concept. I might add that we are pleased to see the requirement in the proposed bills that the audits be made in accordance with the audit standards issued by the Comptroller General of the United States which in part require audits be made by independent and qualified public accountants and government auditors. The highest type of skills are needed to audit and render opinions on Government financial statements.

Title III - S.807 and Title IV - S.45; Generally Applicable Federal Assistance Requirements

In recent years, an increasing number of general Federal policy and administrative requirements have been attached to Federal assistance programs. These requirements--covering such areas as equal employment opportunity, citizen participation, and equal delivery of program benefits--are commonly referred to as crosscutting requirements. Applicability of the requirements varies widely both in scope and coverage. There are also substantive differences in the requirements, and variations in the methods used to implement them. There is a wide consensus that the differing requirements and practices result in confusion, duplication of effort, and added administrative costs.

To address these problems, both bills instruct the President to designate a single Federal agency to establish crosscutting standards applicable to Federal assistance programs. While the bills would require each agency administering a Federal assistance program to secure compliance with the standards, they would also empower the administering Federal agency to accept a certification by any affected State or local government that its performance is in compliance with State or local laws, regulations, directives, and standards that are at least equivalent to those required by the standard regulations. The bills recognize that in some instances designated agencies may not be able to develop standard rules because of conflicting or inconsistent provisions of law, and make provision for introduction of legislation removing such impediments in appropriate circumstances.

The concept of standardization, along with the designation of a lead Federal agency to implement policy or administrative objectives, is very much in keeping with past and current reform efforts of both the executive and legislative branches. We in GAO have been generally supportive of such efforts and believe that these titles are a step in the right direction.

With a broad reform such as is contemplated by these titles, it is impossible to forecast with any degree of precision the manner in which the reform will be implemented. Whether standardization will produce simplification is a complex question. If the standard regulations were generally more stringent than many of the existing requirements, standardization could lead to complications or additional work for the grantee.

Standardization also may not always be appropriate or possible. For example, the process of developing citizen participation requirements for programs as diverse as the general revenue sharing program and programs such as those for alcohol treatment and community health centers will be a formidable undertaking. It may be that in the limited context of a particular regulation, standardization may not be desirable or legal, a point recognized by numerous sections of the legislation. It will be the responsibility of the grantor agency, the agency designated to issue crosscutting regulations, and OMB to ensure optimum coordination in these and other situations.

Once national policy assistance standards are issued, there will almost certainly be substantive compliance disagreements between grantees, the grantor agency, the designated agency, and whatever agency, presumably OMB, that is responsible for coordinating overall implementation. Under section 705 of both bills, for example, the grantor agency is authorized to certify State and local compliance. It is very important that grantees not be placed in the position of being advised that they are in compliance, only to be informed later that the certification has been withdrawn because the designated agency disagrees with the grantor agency. Close coordination among the agencies in the manner apparently envisioned by the bills could help prevent these situations from occurring.

Effective coordination among the agencies will also be essential to eliminate the possibility of a compliance certification

being issued by one grantor agency while other grantor agencies are questioning the grantee's compliance with the same standards. Considering problems such as these, section 707 of S.807 directs the President to provide for the establishment of dispute solving procedures.

As is the case with most reform measures, the success of these titles will depend, in large measure, on the manner in which the executive branch implements the broad authorization and directives contained in the legislation. We might point out that in November 1980 OMB issued for comment a proposed circular designating agencies with responsibility for providing "guidance" on Government-wide policies and administrative requirements. Considering the obvious management challenges posed by this OMB initiative, legislative support for this process would be very desirable.

Title III - S.45 and Title IV - S.807; Joint Funding

Titles III and IV of both bills amend the Joint Funding Simplification Act of 1974 which was recently extended for another 5-year period. We support joint funding as a viable process for simplifying and improving the Federal assistance system.

Both bills would help strengthen joint funding by mandating that Federal grantor agencies more seriously consider the joint funding process. S.45 would also provide a stronger role for OMB, including

--training of Federal agency personnel,

--developing criteria to guide Federal agencies in identifying programs suitable for integrated grant administration,

--resolving conflicts between agencies in developing uniform provisions, and

--resolving conflicts between agencies and recipients in developing and administering integrated grant programs.

We believe these features are desirable and necessary. As pointed out in our 1979 report, 1/ the implementation of the Joint Funding Simplification Act had been a disappointment and OMB needed to assume a strong and positive leadership role in the joint funding program.

Neither bill, however, would address the problem we noted in another report regarding section 8(e) of the Joint Funding Simplification Act which deals with the establishment of a single non-Federal matching share. As discussed in our 1976 report to the Congress 2/, the integrity of individual programs and appropriations can be affected when a grantee is allowed to provide and account for non-Federal matching funds on an aggregate rather than on an individual program basis. Section 5 of the act limits the

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1/"A Study of the Joint Funding Simplification Act," GGD-79-87, July 26, 1979.

2/"The Integrated Grant Administration Program--An Experiment In Joint Funding," GGD-75-90, Jan. 19, 1976.

authorities described in section 8(e) by requiring that all statutory program requirements, in this case specific matching shares, be met. Therefore, in view of the limitation contained in section 5, it is our opinion that non-Federal matching shares must be established and accounted for on an individual rather than an aggregate basis.

Our report contains language that the Subcommittee may wish to use in amending section 8(e) to correct this situation. Suggested language is provided for insuring that specific amounts according to individual programs and appropriations will be provided by grantees or, alternatively, permitting the establishment of, and accounting for, a single non-Federal share notwithstanding the provisions of section 5.

Title V - S.807; Integrated Assistance

The integrated assistance approach proposed in S.807 represents a promising and innovative way to give grantees more flexibility and discretion in allocating Federal assistance to more effectively respond to local problems and priorities. In one sense, integrated assistance could be viewed as a fallback or partial solution to the rigidities imposed by categorical grants for those areas where full consolidation has either failed or been deemed inappropriate. It would also help grantees adjust to budget cuts by enabling them to reprogram some Federal dollars away from lower priority programs to augment reduced Federal programs in higher priority areas.

In this regard, we would suggest that the range of covered programs which could be included in an integrated program plan be

broadened. Restricting the range of potential grantee reallocations to programs within a budget functional category could constrain grantees from realizing the full discretion and coordinative benefits that this title offers. The definitional boundaries of Federal budget functional categories may not necessarily coincide with the actual ways that programs are combined at the State and local level to deliver services. The title already contains safeguards against abuses of the reprogramming authority, in that the assistance agency is empowered to approve or disapprove reprogramming proposals.

Due to the innovative nature of this approach, we also believe some clarification is needed to guide Federal agency implementation. First, the applicability of this approach to assistance programs with different distribution schemes is unclear. While the approach appears to be workable for programs where funds are allocated to States based on a formula, we would anticipate considerable difficulty applying the integrated funding concept to programs where funds are awarded on a discretionary, competitive basis. For example, it would not be likely that a grantee's application for discretionary assistance would survive a competitive review if the grantee intended to allocate 20 percent of the awarded funds away from the program.

A second issue concerns the applicability of eligibility requirements and mandates to reprogrammed funds. Once reprogrammed, we assume that funds lose the conditions of the old program and gain the conditions of the program to which they are transferred. Following this same logic, it would seem that the State or local matching share would have to be increased if reprogrammed

Federal dollars are added by the grantee to a Federal program that requires a larger non-Federal match. We think it would be helpful if these issues were clarified.

Title V - S.45 and Title VI - S.807; Miscellaneous

We support the overall objectives of the provisions in each of these titles. They would go a long way in implementing recommendations we have made in recent years to address problems plaguing our Federal assistance system. With certain modifications, we recommend that the Subcommittee favorably consider the provisions in each title in reporting out a bill.

Regarding the provisions relating to State oversight, we believe the language in S. 807 is consistent with the recommendation in our report to the Congress titled "Federal Assistance System Should Be Changed To Permit Greater Involvement By State Legislatures." In that report, we found that grant provisions delegating responsibilities to the State executive branch had been interpreted in some cases by Federal and State officials as proscribing a role for State legislatures in overseeing Federal programs. We feel that the language in S. 807 would clearly express Congressional intent that Federal grant programs should remain neutral with regard to internal State separation of powers distinctions.

The standard maintenance of effort requirement proposed in S.807 would basically address the problems identified in our recent report 1/ concerning out-of-date base years for determining the

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1/"Proposed Changes In Federal Matching And Maintenance Of Effort Requirements For State And Local Governments," GGD-81-7, Dec. 23, 1980.

effort to be maintained by grantees and the lack of waiver authority to address fiscal hardship situations. However, in view of the important Federal interest served by maintenance of effort requirements, we feel that their across-the-board repeal (mandated in Section 205) may be inappropriate. While we agree that existing maintenance of effort provisions need to be re-examined, we feel that a more selective and deliberate approach would be preferable. Although maintenance of effort requirements should be standardized whenever they are used, the basic decision to include them might best be considered in the context of each program. For example, if the purpose of the program is to provide assistance for specific activities that supplement existing spending, then a maintenance of effort requirement may be an essential feature. However, if programs are oriented toward subsidizing existing State and local services, a maintenance of effort provision may not be appropriate.

While believing that maintenance of effort provisions should be retained, we feel that the intergovernmental perspective needs to be more fully reflected in the development of individual maintenance of effort requirements to promote greater sensitivity to the aggregate or cumulative burden that these provisions may impose on State and local governments. Therefore, in our report, we suggested that proposed legislation including maintenance of effort requirements be referred to a single point in each House, such as the Governmental Affairs Committee, for review and comment.

We agree with the standard criteria proposed in the bill for establishing the maintenance of effort requirement. To ease the

impact of reduced Federal grant outlays, we would suggest that the criteria be expanded to permit grantee reductions in their own spending proportionate to reductions in Federal grant awards.

I would like to emphasize our support for the pilot study on administrative costs required by S.45. In a 1978 report, we recommended that OMB lead a Government-wide effort to accumulate, analyze, and disseminate data on administrative costs involved with Federal assistance programs. 1/ As the Federal Government moves to block grants, a central system assessing comparative administrative costs among Federal programs is even more essential to permit an evaluation of their administrative efficiency and effectiveness.

Finally in addition to these provisions with which we agree, we also feel that a pilot program to encourage the use of productivity incentives in Federal assistance could be an integral step in promoting better use of dwindling Federal resources. In a 1978 report, 2/ we noted that Federal assistance programs may discourage grantee productivity improvements. Cost reductions achieved by grantees with Federal funds typically revert back to the Federal Government. Grantees that increase their costs, on the other hand, are rewarded by many Federal formulas which allocate funds based,

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1/"The Federal Government Should But Doesn't Know The Costs Of Administering Its Assistance Programs," GGD-77-87, Feb. 14, 1978.

2/"State And Local Government Productivity Improvement: What Is The Federal Role?," GGD-78-104, Dec. 6, 1978.

in part, on grantee spending. A few Federal programs recognize and reward grantees for improved productivity by either providing for increased Federal funding shares or including comparative performance as a factor in allocation formulas. A pilot program guided by OMB could help promote more widespread use of incentives by working with agencies to develop productivity measures of grantee performance and testing various program funding schemes to incorporate these measures. In this way, we believe that the considerable expertise and management talents of State and local governments could become more fully engaged in our effort to promote greater efficiency and reduce waste in Federal programs.

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Mr. Chairman, I believe that both bills being considered here would fundamentally improve our Federal assistance system and serve to strengthen our system of federalism. We are anxious to continue to work with the Subcommittee to provide whatever assistance we can on this important legislative initiative. In addition to the suggestions included in my statement, we have some technical comments and several suggested refinements on other provisions of the bills that we would be glad to share with the Subcommittee staff.

I would be happy to respond to any questions you might have.