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HUMAN RESOURCES  
DIVISION

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The Honorable Ted Weiss  
Chairman, Subcommittee on Intergovernmental  
Relations and Human Resources  
Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

Subject: Status of Office of Revenue Sharing's  
Implementation of Recommendations Related  
to Nondiscrimination Issues Contained in a  
1980 GAO Report (GAO/HRD-85-45)

Pursuant to your June 29, 1984, request, this is our report on actions taken by the Department of the Treasury's Office of Revenue Sharing (ORS) on recommendations in our December 10, 1980, report The Revenue Sharing Act's 1976 Amendments: Little Effect on Improving Administration and Enforcement of Nondiscrimination Provisions (GGD-81-9).

To follow up on the status of recommendations in our 1980 report, we interviewed ORS headquarters personnel and examined pertinent documents concerning ORS' actions taken in response to the report's recommendations. We also made a test to determine the accuracy and reliability of data in the ORS automated data system, which is designed primarily to provide management with information on the nature and status of discrimination complaints accepted for investigation by ORS. This test was based on a random sample of 22 data elements for 52 of the universe of 558 cases in the ORS system. (The system and test results are discussed on pp. 4 to 6.) Our follow-up work, performed at ORS headquarters in Washington, D.C., between September 1984 and January 1985, was done in accordance with generally accepted government auditing standards. As requested by your office, however, we did not obtain agency comments on this report.

As discussed with your office, we will meet with Subcommittee staff to reach agreement on the specific data to be developed regarding other matters included in your request.

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BACKGROUND

The State and Local Fiscal Assistance Act of 1972, commonly referred to as the Revenue Sharing Act, established the general revenue sharing program to provide fiscal assistance to state and local governments. The Department of the Treasury is responsible for administering the act. The act's civil rights provision stated, in part, that:

"No person in the United States shall, on the grounds, of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with [revenue sharing funds]."

This provision was amended in 1976 to also prohibit discrimination based on age, handicap, and religion. In addition, the 1976 amendments gave the Secretary of the Treasury responsibility for timely resolution of discrimination complaints, required a specific timetable for the cutoff of funds to governments that violate the law's nondiscrimination provisions, and required the Secretary to endeavor to enter into agreements with state and other federal agencies to investigate noncompliance with the act.

The Department of the Treasury's ORS is responsible for the day-to-day administration of the revenue sharing program. For fiscal year 1985, ORS has a budget of about \$8 million and a staff of approximately 140. ORS is responsible for distributing revenue sharing funds based on specific formulas to local governments. In addition to other administrative duties, ORS is responsible for ensuring compliance with the act's nondiscrimination requirements. ORS' Civil Rights Division (CRD) includes three investigative branches, which are responsible for monitoring compliance with the act's nondiscrimination provisions.

In fiscal years 1982 and 1983, ORS distributed about \$4.6 billion annually to about 40,000 local governments; the estimated annual distribution was about the same for fiscal years 1984 and 1985.

PRIOR GAO REPORT

In 1980, we reported<sup>1</sup> on problems that we and others had identified in ORS' administration of the Revenue Sharing Act's nondiscrimination provisions. Our report noted that:

- ORS' compliance tracking system (an automated data system intended to provide management information on the nature and status of complaints) had been of limited use to supervisors because the system was not geared to meet their needs.
- ORS' processing time for discrimination complaint cases was long. ORS was taking an average of about 10.5 months to process a case from when the complaint was received until a finding was made.
- ORS' case backlog was increasing. There was a backlog of about 1,000 cases as of June 1980, and we estimated that it was increasing by about 100 cases a year.
- ORS' monitoring of compliance agreements was inadequate. Terms of agreements were not contained in a single document, and onsite monitoring visits were infrequently made.
- ORS did not generally make self-initiated reviews to help monitor compliance with nondiscrimination requirements.
- ORS had not successfully developed and implemented cooperative agreements with state and federal agencies. Such agreements could serve to expedite complaint processing, avoid duplication of effort, and afford additional support to ORS' civil rights activities.

We made several recommendations to help expedite complaint processing, reduce the complaint case backlog, and strengthen compliance monitoring. The recommendations were directed toward ORS improving its compliance tracking system, preparing single-document compliance agreements, enhancing its cooperative efforts with other government civil rights agencies, implementing its plan to establish two-person monitoring teams, conducting self-initiated compliance reviews, and, if necessary, increasing its investigative staff.

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<sup>1</sup>The Revenue Sharing Act's 1976 Amendments: Little Effect on Improving Administration and Enforcement of Nondiscrimination Provisions (GGD-81-9, Dec. 10, 1980).

Our recent follow-up on these recommendations showed that ORS has taken steps to improve its compliance tracking system, but the system remains of limited use to ORS management. Also, ORS now uses single-document compliance agreements and is working to establish state cooperative agreements.

ORS has not fully implemented our recommendation to establish federal cooperative agreements, does not use two-person monitoring teams or conduct self-initiated compliance reviews, and has not increased the staff.

Our prior findings and recommendations and the status of ORS' actions on the recommendations are discussed in more detail below.

#### CIVIL RIGHTS COMPLIANCE TRACKING SYSTEM

The Civil Rights Compliance Tracking System is an automated data system designed primarily to provide management information on the nature and status of complaints accepted by ORS (i.e., date received, investigator assigned, completion time frame, etc.). This system is essentially a tool for the ORS division manager and supervisors to use to track the progress of cases and identify problem areas or cases that may be falling behind schedule.

Our 1980 report stated, however, that the system had been of limited use to help supervisors fulfill their managerial responsibilities because it was not geared to meet their needs. That is, most of the summary data were presented for the entire division; the data were not categorized into a format that would be informative and useful to the supervisors. For example, the compliance tracking system showed for the entire division how many cases had reached a certain step in the complaint process; comparable data were not shown for cases assigned to each supervisor.

#### Prior recommendation

In our 1980 report, we recommended that the Secretary of the Treasury require ORS to modify the compliance tracking system to enable supervisors to use the system to manage case workload and to improve monitoring of cases after agreements have been reached. In commenting on a draft of the report, ORS said that additions to the compliance tracking system designed to facilitate case monitoring were planned.

Agency actions on recommendation

Since our 1980 report, ORS has taken several steps to improve its tracking system.

- In March 1983, ORS added more data elements to give supervisors more case detail. The computer reports were revised to indicate additional data, such as alleged and actual discrimination issues (i.e., hiring or promotion discrimination based on sex or race), and type of case resolution (e.g., findings of discrimination, nondiscrimination, or administrative closure).
- In May 1983, ORS updated some of the old cases with new data elements added in March 1983.
- In September 1983, ORS modified the tracking system to give supervisors additional reports, such as a distribution of civil rights complaint cases by age.
- In November 1984, ORS modified the tracking system to identify (1) cases with compliance agreements and (2) dates when monitoring reports were due and received. In November 1984, ORS also modified the tracking system to identify cases referred to the Equal Employment Opportunity Commission (EEOC) and those returned from EEOC for resolution and closing.

Notwithstanding these improvements, ORS believes the compliance tracking system is of limited use to management. In November 5 and November 23, 1984, letters to the Chairman of the Subcommittee on Intergovernmental Relations and Human Resources, House Committee on Government Operations, the ORS director said there were inaccuracies in the compliance tracking system data base and that the system was of limited value as a management tool.

Because of the alleged inaccuracies in the compliance tracking system, we made a test to determine the accuracy and reliability of data in the system. A random sample of 52 complaints was selected from the 558 complaints that were received or closed between May 25, 1983, and December 7, 1984. We compared the system's reported data for 22 selected data elements with supporting documentation in CRD files. For example, a comparison was made of the dates that complaints were received as reported by the tracking system with receipt dates in CRD's case files. The 22 selected data elements included 11 data elements selected by the CRD manager as being important for

management purposes. The other 11 represented data elements that we believed were significant in assessing the system's reliability for determining the length of time taken to complete various processing steps.

Not all of the 22 data elements were applicable to each of the 52 cases. For example, one of the data elements tested was the date that ORS issued a finding, and not all of the 52 cases had reached that point in complaint processing.

For the 52 cases, we compared a total of 700 data elements in the tracking system to comparable data in CRD files. Of these, 673 data elements were correct in that information in the computer system agreed with CRD files, and 27 data elements did not agree--an error rate of 4 percent. Our sampling techniques were based on a confidence level of 95 percent and a sampling error of + 13 percent. The computer system was the only readily available source of data showing the timeliness of ORS complaint processing and the size of the complaint backlog.

#### TIMELINESS OF COMPLAINT PROCESSING AND CASE BACKLOG

The 1976 amendments to the Revenue Sharing Act and implementing regulations require ORS to investigate and issue a finding within 90 days after receiving a discrimination complaint. Our 1980 report showed that this complaint processing standard was not usually met and the backlog of uninvestigated complaints was steadily increasing.

In the 1980 report, we pointed out that our review of a limited number of cases showed that it took ORS about 10.5 months (about 315 days) to issue findings on those cases, exceeding the 90-day requirement by about 7.5 months (about 225 days).

Current data in ORS' tracking system show that, for the most part, the 90-day standard is still not being met and the backlog continues to be high. As of December 7, 1984, ORS' tracking system showed that findings had been issued for 164 of the 558 complaints received or closed from May 25, 1983, through December 7, 1984. Only two of these findings were issued within 90 days of the date the complaint was received. For two other cases for which findings were issued, the tracking system lacked sufficient information to determine elapsed time. The other 160 cases took from 119 to 1,969 days for ORS to issue findings. The median time was 914 days--about 10 times as long as the statutory requirement.

For the 394 cases for which ORS' tracking system showed that findings had not been issued, 27 had been on file with ORS less than 90 days, and 86 were administratively closed, i.e., they were resolved and closed before the case had reached the point of ORS' issuing a finding. The other 281 cases had been on file with ORS from 93 to 3,959 days. The median elapsed time for cases on file with ORS in excess of 90 days since receipt of the 281 complaints was 315 days.

Our 1980 report noted that ORS' case backlog was 1,010 cases as of June 16, 1980, and we estimated the backlog would increase by about 100 cases a year. Information we subsequently obtained showed that the case backlog had increased to 1,280 cases as of October 1, 1980. As of October 1, 1984, the backlog was 849.

In our 1980 report, we made several recommendations, which are discussed in other sections of this report, to expedite complaint processing and reduce the complaint backlog.

#### MONITORING OF COMPLIANCE AGREEMENTS

Once a complaint is investigated and findings of discrimination made, ORS requires the local government, against whom discrimination allegations were made, to implement certain specified actions before the government can be considered to be in compliance with civil rights requirements. Follow-up on the progress of the government's efforts is necessary to determine whether compliance is achieved, and it represents an integral aspect of civil rights enforcement. Our 1980 report noted that although ORS efforts in this area were improving, greater resources needed to be devoted to this responsibility.

According to the 1980 report, ORS primarily relied upon desk reviews of correspondence and reports to assess jurisdictional compliance with corrective action requirements. Each ORS branch had one investigator assigned on a 6-month rotational basis to monitor cases. Onsite monitoring reviews, essential in evaluating the extent of progress made, were infrequently made.

The report also noted that the monitoring system's effectiveness was further limited by the lack of a single-document compliance agreement which would ease monitoring of jurisdictional progress in resolving civil rights violations. Unless a compliance agreement had been prepared by the Office of the Chief Counsel, generally in response to a holding issued by a federal court, a state court, or a federal administrative law

judge, the compliance agreement consisted of a series of correspondence between ORS and the respondent jurisdiction regarding the discrimination noted and the remedies proposed. The lack of a single-document compliance agreement made assessment of a jurisdiction's progress time consuming because the monitor had to read through a series of letters to ascertain the corrective actions required.

Our report said that ORS was reorganizing its monitoring system because of the importance of monitoring and the problems it has had in effectively monitoring cases. ORS had plans to use two-person teams, including a senior civil rights investigator, in each investigative branch to carry out monitoring functions. The CRD manager anticipated that a number of onsite reviews would be undertaken in response to problems noted in particular cases when the monitoring teams became operational as envisioned. Additions to the compliance tracking system designed to facilitate case monitoring were also planned.

Prior recommendations

In our 1980 report, we recommended that the Secretary of the Treasury require ORS to:

- Prepare single-document compliance agreements, to be signed by ORS and the jurisdiction, specifying the corrective actions agreed upon.
- Fully implement its plan to use two-person teams for each branch to monitor jurisdictions' compliance agreements.

Agency actions on recommendations

The 1980 report noted that, in commenting on single-document agreements, the Department of the Treasury acknowledged the advantages of such agreements. According to our recent follow-up work, ORS is now using a single-document compliance agreement.

According to the CRD manager, ORS implemented its plan to use two-person teams for monitoring activities for a short period. However, due to shortages of investigative staff, ORS decreased the number of monitors to one per branch. As of October 31, 1984, ORS had three monitors, one per branch, to monitor about 300 cases. According to ORS officials, monitors still perform few onsite reviews.

ORS is currently reorganizing CRD. The assistant to the ORS director said the monitoring function will be centralized in one branch, which will facilitate making more onsite reviews.

#### SELF-INITIATED COMPLIANCE REVIEWS

Our 1980 report noted that ORS did not generally make self-initiated compliance reviews authorized by its regulations, but relied instead upon complaints to determine discriminatory practices.

ORS regulations in effect during the time period covered by the 1980 report stated that the ORS director should monitor and determine compliance of recipient governments with Revenue Sharing Act requirements by undertaking compliance reviews from time to time, as appropriate and feasible. The regulations defined a compliance review as a review of a recipient's selected employment practices, facilities, or delivery of services for compliance with the regulations' nondiscrimination provisions.

In April 1980 testimony before the House Subcommittee on Intergovernmental Relations and Human Resources, officials from the Center for National Policy Review stated that an effective enforcement program requires a mix of periodic, self-generated reviews along with the more frequent complaint investigations. These officials said such periodic reviews would allow an agency to target some of its resources toward problem areas and locations where more specific violations might be expected to exist.

The CRD manager and branch supervisors had cited insufficient resources and the backlog of complaints as reasons why self-initiated reviews had not been made. They stated, however, that many complaints resulted in broad compliance reviews.

Department of the Treasury officials said although they believed that compliance reviews may be a good idea, diverting resources from complaint investigations would add to the steadily increasing backlog. They explained that an investigation against a jurisdiction as a result of a complaint would have essentially the same effect on the jurisdiction as an ORS-initiated compliance review.

We stated that self-initiated compliance reviews along with complaint investigations could provide for a much more effective and comprehensive ORS compliance effort and could serve to better detect civil rights violations.

Prior recommendation

In our 1980 report, we recommended that the Secretary of the Treasury require ORS to direct its two-person monitoring teams to make a stipulated number of self-initiated compliance reviews.

Agency actions on recommendation

In its October 1980 comments on a draft of our report, the Department of the Treasury stated that ORS had explored a number of improvements, including self-initiated reviews. However, in its February 13, 1981, response to our final report issued in December 1980, the Department stated that allocating its limited resources to self-initiated compliance reviews could not be justified at that time.

Our follow-up on this recommendation showed that ORS still does not perform self-initiated compliance reviews. According to the ORS director, compliance reviews are a good idea, but ORS is not making these reviews because of the backlog of about 800 open complaint cases. The director stated he will not consider making self-initiated compliance reviews until the backlog is reduced to around 200 cases.

USE OF STATE AND FEDERAL AGREEMENTS  
TO ACHIEVE CIVIL RIGHTS COMPLIANCE

The State and Local Fiscal Assistance Amendments of 1976 require the Secretary of the Treasury to endeavor to enter into agreements with state and federal agencies to secure compliance with the act's civil rights provisions.

In our 1980 report, we stated that effective cooperative agreements could expedite complaint processing, avoid duplication of effort, and afford additional support to ORS' civil rights activities. However, ORS had not successfully developed and implemented such agreements at the time our report was issued. The report said ORS had not made effective use of the agreements negotiated or actively sought to establish new agreements with such agencies. ORS had negotiated agreements with 14 state agencies, but considered these agreements defunct.

According to our report, ORS had entered into cooperative agreements with five federal agencies, but these agreements were not being effectively implemented. ORS had signed cooperative agreements with the Office of Personnel Management (OPM) and the

Law Enforcement Assistance Administration (LEAA)<sup>2</sup> during 1979, but ORS had not used the agreement with OPM and effective routine coordination with LEAA had not occurred. ORS had been negotiating a revision to its cooperative agreement with the Department of Justice and considered its cooperative agreements with EEOC and the Department of Health, Education, and Welfare to be inactive.

Our report concluded that coordination (1) with state agencies knowledgeable about civil rights efforts in their various jurisdictions could be useful to ORS and (2) with other federal agencies whose civil rights mandates parallel those of ORS could help achieve a more comprehensive, concerted federal approach to civil rights enforcement. In this connection, Executive Order 12250, issued on November 2, 1980, delegated responsibility to the Department of Justice for ensuring that ORS and other federal departments and agencies coordinate with each other and effectively use cooperative agreements with other federal enforcement departments and agencies and with state and local governments.

Prior recommendations

We recommended that the Secretary of the Treasury require ORS to:

- Actively seek to establish more cooperative agreements with state civil rights agencies, focusing on practical areas of cooperation, such as information exchange, state assistance in monitoring compliance agreements, and mutual support for each other's compliance efforts.
- Finalize the revised agreement with the Department of Justice and establish cooperative agreements with other federal agencies whose civil rights mandates overlap with ORS'.
- Implement the cooperative agreement with OPM and make greater use of the agreement with LEAA.

Our report said that improving current internal operating procedures and extending cooperative efforts with other government civil rights agencies should expedite complaint processing and reduce the current complaint backlog. However, if these

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<sup>2</sup>LEAA was abolished on April 15, 1982.

problems persisted after implementation of these recommendations, we recommended that the Secretary seek to increase ORS' investigative staff.

Agency actions on recommendations

During our follow-up on these recommendations, the ORS director and the CRD manager said none of the 14 state agreements referred to in our 1980 report are in effect. According to the director, ORS is conducting a pilot project, known as the State Investigative Referral Project (SIRP), to determine whether referring complaints to the states for investigation will enable ORS to obtain, at a lower cost, investigations of quality at least equal to that achieved by ORS.

Between August 13, 1984, and January 7, 1985, five states--Ohio, Florida, Pennsylvania, Wisconsin, and Indiana--signed contracts to participate in SIRP, and a contract had been mailed to Connecticut for signature. Under these contracts, the state agencies are to investigate 47 complaints and compile results according to standards and procedures prescribed by ORS. State agencies are to file a report with ORS on each completed investigation, including an analysis of the information developed and recommendation on the disposition of the complaint. ORS is to reimburse the states a total of \$52,800 for investigating and reporting on the 47 cases.

The state agencies were selected by ORS for participation in SIRP based on the following criteria:

- State agencies must have been certified as eligible to receive funds from EEOC and the Department of Housing and Urban Development for investigating federal civil rights complaints.
- State agencies must have concomitant jurisdiction over the types of claims being considered.
- Priority was given to states with a large number of uninvestigated complaints filed with ORS.
- Consideration was given to the informal views of representatives of civil rights organizations concerning the quality of work of the state agencies.

The contracts called for the states to submit investigative reports on the 47 cases to ORS at various times between November 13, 1984, and April 7, 1985. As of January 18, 1985, ORS

had received 2 state investigative reports; 23 reports were past due. The assistant to the ORS director said ORS plans to prepare a report on SIRP by March 1, 1985.

Regarding cooperative agreements among federal agencies, the ORS director and CRD manager told us that none of the five federal agreements cited in our 1980 report are still in effect, and no agreements with other federal agencies have been signed. However, a joint Department of Justice-EEOC Management Directive requires that, effective March 28, 1983, all individual complaints of employment discrimination filed against recipients of federal financial assistance or revenue sharing funds be referred to EEOC for investigation. Pursuant to this directive, ORS had referred 45 complaints to EEOC as of February 26, 1985.

Regarding staffing levels, from January 1978 through December 1979, ORS employed an average of 28 investigators. As of December 31, 1984, ORS had 19 investigators and was actively recruiting to fill 3 additional investigator positions. According to the ORS director, ORS had requested authority from the Department of the Treasury to hire five additional people in fiscal year 1984 for its investigative staff. The director said the request was not approved because the Department believed that five more people would not make enough of an impact on the case backlog to justify allocating resources to that area.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,



Richard L. Fogel  
Director