



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-148044

DEC 10 1973

The Honorable Larry Winn, Jr.
House of Representatives

Dear Mr. Winn:

This is in response to your letter of August 22, 1973, requesting our opinion concerning the applicability of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, approved January 2, 1971, Pub. L. 91-646, 84 Stat. 1894 (hereinafter referred to as the Relocation Assistance Act), to a State's portion of Federal revenue sharing funds. Upon consideration of the statutory provisions in question, their legislative histories, and the views of the Secretary of the Treasury, it is our conclusion that, where no Federal funds other than those received through revenue sharing are used to finance a State construction project which entails some dislocation of persons or businesses, the State is not required to comply with the provisions of the Relocation Assistance Act.

The purpose of the Relocation Assistance Act is "to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs * * *," Section 201. To implement this policy with respect to State projects which are undertaken with Federal assistance, the act provides that:

"Notwithstanding any other law, the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of this title, unless he receives satisfactory assurances from such State agency that * * * "

relocation assistance, analogous to that required by the act to be provided in the case of a Federal project, will be provided by the State to displaced persons. Section 210. The term "Federal financial assistance" is defined to mean "a grant, loan, or contribution provided by the United States except any Federal guarantee or insurance * * * " with exceptions not here applicable. Section 101(4).

Under the State and Local Fiscal Assistance Act of 1972, approved October 20, 1972, Pub. L. 92-512, 86 Stat. 919, 31 U.S.C. 1221 et seq., (hereinafter referred to as the Revenue Sharing Act), the Secretary of the Treasury is to pay at periodic intervals to the States and to units of local government amounts, determined according to a formula set forth in the act, for their use subject to various limitations in the act. The question here presented is thus whether revenue sharing funds received by a State and employed to assist in a construction project which will dislocate some persons are to be considered as within the meaning of the Relocation Assistance Act, and therefore may not be distributed to the respective States unless the Secretary of the Treasury first receives assurances from the recipients that relocation assistance will be provided to persons dislocated by projects financed with the revenue sharing funds.

The Revenue Sharing Act provides that the Secretary of the Treasury shall pay their entitlements under the act to each State "except as otherwise provided in this title." Section 102. Thus, eligibility to receive revenue sharing funds is, as the General Counsel of the Treasury pointed out in his response of October 4, 1973, to our request for that Department's views on this question, specifically conditioned only upon criteria set forth in the Revenue Sharing Act itself. But, as the General Counsel further pointed out, if the Relocation Act were applicable to financial assistance through revenue sharing, the Secretary could not pay their entitlements to the States until receiving from the States the assurances concerning dislocated persons required by section 210 of the Relocation Assistance Act, a result inconsistent with section 102 of the Revenue Sharing Act.

Not only would this result be inconsistent with the language of the Revenue Sharing Act, but it would also be inconsistent with the basic purpose of the act. Thus, the Senate Finance Committee, in its report on H.R. 14370, 92d Congress, the derivative source of the Revenue Sharing Act, contrasted revenue sharing with the system of categorical grants:

" * * * the present aid programs generally are of the categorical type and often do not provide for the most pressing purposes. Instead they provide aid for specific and frequently relatively narrowly defined purposes. Moreover, they often require local matching funds which in many instances, imposes a financial strain on the local governments and causes a shift of local funds to areas of lesser priority to the local governments. * * * The broad purpose of the committee bill is to provide additional help for the States and localities in a form which will give them greater flexibility in the use of the funds than does the present categorical aid system." S. Rept. No. 92-1050, 92d Cong., 2d sess. 11.

Similarly, the Committee said that the act allows the States receiving funds thereunder to use these funds "in accordance with local needs and priorities and without the attachment of strings by the Federal government" (Id. 1), and in debate on the House floor concerning the conference report on H.R. 14370, Congressman Mills, one of the conference managers, said that under the bill, there are "no strings" on the one-third of revenue sharing allocations which is reserved to the State governments for their use. Cong. Rec., October 12, 1972, p. H9744. In view of the clear Congressional intent that expenditure of revenue sharing funds by the recipients thereof not be subject to Federal direction or approval (except to the extent provided in the Revenue Sharing Act), we believe that it would be inconsistent with the Revenue Sharing Act to hold that States using revenue sharing funds for capital projects must comply with the provisions of the Relocation Assistance Act.

This conclusion is, we believe, fully consistent with the Relocation Assistance Act. That act was intended to recognize that "the Federal government has a primary responsibility to provide uniform treatment for those forced to relocate by Federal and federally aided public improvement programs * * *." H. Rept. No. 91-1656, 91st Cong., 2d sess. 3. But, as the foregoing discussion of the Revenue Sharing Act makes clear, the "no strings" revenue sharing funds allotted to the States are not associated with any particular project or purpose but rather may be used by the States for whatever purposes they see fit. We believe that in establishing the requirement for relocation assistance for federally aided State projects, the Congress did not intend that the requirement extend to Federal revenue sharing payments which may be expended by the recipient without Federal direction or approval (except as provided by the Revenue Sharing Act), as distinguished from Federal payments made to carry out specific programs or projects. Note for example that "Federal financial assistance" as defined in section 101(4) of the Relocation Assistance Act excludes any annual payment or capital loan to the District of Columbia as well as any Federal guarantees or insurance.

We conclude therefore that a State's revenue sharing payment does not constitute a "grant, loan, or contribution provided by the United States" as those terms are used in section 101(4) of the Relocation Assistance Act; that such payments are therefore not "Federal financial assistance" within the meaning of that act; and consequently that the requirements of section 210 of that act do not apply to State projects financed with revenue sharing funds if no other Federal funds are involved in the project.

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We hope the foregoing will be useful to you.

Sincerely yours,

(SIGNED) ELMER B. STAATS

Comptroller General
of the United States

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Digest

Since funds allocated to State under revenue sharing program are not "Federal financial assistance" within meaning of Uniform Relocation Assistance Act (Pub. L. 91-646), State is not required by latter act to provide relocation assistance to persons or businesses displaced by construction project financed using revenue sharing funds, assuming no other Federal financial assistance is involved.