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Federal Grants to State and Local Governments: A Brief History

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Ben Canada
Analyst in American National Government
Government and Finance Division

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Summary

The historical origins of the federal grants-in-aid system predate the Constitution. In fact, the federal government was making grants of land as early as 1785. There was, however, little development in the system until the 20th century. Certain conditions existed during the late 18th and 19th centuries that limited federal aid to states and localities. During the pre-Civil War era, proponents of states' rights and minimalist national government prevailed. The post-Civil War era was one of corporate dominance and weak government. Despite these conditions, the federal government did provide aid to states and localities to address natural disasters, civil disturbances, westward expansion, and the need for internal improvements.

The grants-in-aid system assumed its current form when President Franklin D. Roosevelt initiated his New Deal programs. Since Roosevelt, the grants-in-aid system has expanded, especially in the number and dollar amount of categorical grant programs. The Nixon administration initiated changes in the system, signing block grants into law, as well as establishing general revenue sharing, a program which distributed funds to state and local governments with no programmatic strings. The Reagan Administration also pursued substantial change, consolidating dozens of categorical grants into broader block grants and slowing the growth of the grants-in-aid system. Since the Reagan initiatives, there have been few significant changes in the grants-in-aid system. This report will be updated as circumstances warrant.

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Early Beginnings and Slow Development

The origins of the grants-in-aid system predate the Constitution. Early grants came in the form of land, as well as funds. The Land Ordinance of 1785, for instance, required every new township incorporated from federal lands to reserve one lot for public schools.¹ The need to help victims of civil disturbance and disasters prompted the federal government to provide assistance to communities. Following the Whiskey Rebellion in late 1794, the federal government compensated individuals who could prove they suffered losses.² When the town of Alexandria, Virginia, burned in 1827, Congress quickly appropriated \$20,000 in assistance.³

In 1790, the federal government set a precedent for federal aid by assuming state Revolutionary War debts. Treasury Secretary Alexander Hamilton proposed the idea, suggesting that it would focus more attention on the national government and establish a sound credit rating for the purposes of future government borrowing. The “anti-federalists,” mostly from southern states, hotly contested the idea, arguing that it made the new federal government too centralized, superceded states’ rights, and rewarded speculators.⁴ Ultimately, the national government assumed the debt, but only after placating the southern states by, among other things, locating the capital city along the Potomac River in the South.⁵

While there were occasional uses of federal grants in the nation’s early years, the grants-in-aid system developed very little during the antebellum period. Most efforts to allocate federal funds to state and local governments for internal improvements were either defeated in Congress or vetoed by the President. An exception was the

¹ *Journals of the Continental Congress*, 2nd Continental Congress, p. 378. [http://lcweb2.loc.gov/ammem/amlaw/lwjc.html, visited Sept. 18, 2000.]

² *The Annals of Congress*, 3rd Congress, 2nd Session, pp. 1000-2. [http://lcweb2.loc.gov/ammem/amlaw/lwac.html, visited Sept. 18, 2000.]

³ 6 Stat. 356 (1827), Act for The Relief of Indigent Sufferers by The Fire at Alexandria.

⁴ Many state debt instruments had been purchased at steep discounts by speculators. Hamilton’s bill assumed the instruments at full value.

⁵ Votes on the issue of the permanent seat of government are found in *The Annals of Congress*, First Congress, Second Session, pp. 1039-40, 1735-38. Votes on the issue of assumption of debts are found at First Congress, Second Session, pp. 1054-55, 1753. [http://lcweb2.loc.gov/ammem/amlaw/lwac.html, visited Sept. 18, 2000.]

National, or Cumberland Road, surveyed and constructed at federal and later, state expense from Cumberland, MD to Vandalia, IL between 1811 and 1850. During this period, states provided virtually all government services, such as education, construction of roads and bridges, and labor regulations. States also had a strong role in policy areas currently viewed as national concerns, such as banks, currency, and business regulation. The national government, conversely, performed few functions. This was largely due to support for states' rights and a strict constructionist approach toward the Constitution—the belief that the national government should only conduct activities expressly granted to it in the Constitution. An example of this philosophy is President Franklin Pierce's veto of an 1854 act, sponsored by reformer Dorothea Dix, to allocate funds to states to help the indigent insane. Pierce contended that if

Congress is to make provision for [paupers], the fountains of charity will be dried up at home, and the several States, instead of bestowing their own means on the social wants of their people ... [will] become humble suppliants for the bounty of the Federal Government, reversing their true relation to this Union.⁶

Early forms of grants-in-aid can be seen in the American migration westward during the 19th century. The movement west greatly depended on aid from federal troops who provided protection from American Indians and constructed a network of over 70 wilderness forts. The forts also provided medical services, blacksmith shops for repairing wagons, and fostered (sometimes created) local economies through supply purchases. Federal assistance also came through its exploration, survey, and road-building efforts. The government also financed postal service, providing communication links to the East.⁷

The Civil War and The Post-War Era

The outcome of the Civil War had a significant impact on the future of the grants-in-aid system. The war effectively resolved the long dispute between states' rights advocates, who advocated decentralization, and their opponents, who wanted to make their vision of a unified American nationality a reality. After the War, states' rights advocates lost considerable ground to the view of the Constitution and federal law as supreme law over the states, which set the stage for the development of the grants-in-aid system many years later.⁸

During and immediately following the war, an activist Congress passed several acts that expanded federal involvement in the states. Congress supported westward expansion with the Pacific Railroad Act of 1862, which enabled the government to

⁶ David B. Walker, *The Rebirth of Federalism: Slouching Toward Washington* (Chatham, NJ: Chatham House Publishers Inc., 1995), pp. 70,71.

⁷ John D. Unruh, *The Plains Across: The Overland Emigrants and the Trans-Mississippi West, 1840-60* (Urbana, IL: Univ. of Illinois Press, 1979), pp. 201-243.

⁸ Alfred H. Kelly, Winfred A. Harbison, and Herman Belz. *The American Constitution: Its Origin and Development*. 6th ed. (New York: W.W. Norton, 1983), pp. 326-7.

charter railroad corporations that constructed a transcontinental railroad.⁹ The Morrill Act of 1862, considered by some observers of federalism as the prototype for future grants-in-aid, provided for the establishment of land-grant universities focusing on agriculture, mechanics, and military science.¹⁰

Governmental activity at both the state and national level decreased during the years following the Civil War. The 14th Amendment was adopted in 1868 for the purpose of protecting the rights of freed slaves, but the courts interpreted its “due process” clause to be a barrier against state action in social and economic problems. This reduced the states’ abilities to respond to new and burgeoning problems generated by the rapid industrialization of the late 19th century. Government inactivity of this period led to the development of philosophies of government intervention and preemption that would later be applied beginning in the 20th century.¹¹

President Theodore Roosevelt (1901-1909) used the powers of the Presidency to a greater extent than any of his immediate predecessors. President Roosevelt believed that a strong executive branch was necessary to overcome the “overdivision of governmental powers” and address state and local concerns. President Woodrow Wilson (1913-1921) also opposed governmental inactivity by advocating cooperation among federal, state, and local governments. Federal inactivity, however, remained at a relatively low ebb until the 1930s.¹²

The New Deal

President Franklin D. Roosevelt’s Administration, prompted by the desperate conditions of the Great Depression, accelerated the development of the grants-in-aid system as part of his New Deal program of financial reform, social relief, and economic recovery. It expanded federal involvement in areas where it previously had taken little action, including public housing, health services, and employment security. Soon after taking office, Roosevelt proposed measures that were dependent on a broad constructionist interpretation of the Constitution that would give him flexibility in designing economic recovery programs.¹³ Examples of New Deal programs still in existence are the Tennessee Valley Authority, which provides electric power and formerly administered infrastructure projects; and Social Security, which provides income security to American workers.¹⁴ The New Deal also extended the use of categorical grant programs, which are currently the most common form of grant. The

⁹ Ibid., p. 319.

¹⁰ Ibid., p. 375.

¹¹ U.S. Advisory Commission on Intergovernmental Relations. *The Condition of Contemporary Federalism: Conflicting Theories and Collapsing Constraints*. (A-78) (Washington: GPO, 1981), p. 60.

¹² Daniel J. Elazar, “The Evolving Federal System,” in *The Power to Govern: Assessing Reform in the United States*, Richard Pious ed., *Proceedings of the Academy of Political Science*, vol. 34, 1981. p. 5.

¹³ Kelly, *The American Constitution*, p. 482.

¹⁴ Walker, *The Rebirth of Federalism*, pp. 94-95.

income tax, authorized by the 16th Amendment in 1913, helped make this expansion of programs possible by providing a continuing and substantial source of income for the federal government.¹⁵ The Supreme Court decisions that upheld New Deal programs also influenced the future of grants by permanently expanding the influence of the federal government into policy areas that had previously been within the states' domain or were not addressed by government at any level.¹⁶

Gradual Expansion of the Grant System

The grants-in-aid system expanded gradually during the two decades following the Roosevelt Administration. During the administration of President Harry Truman (1945-1953), the federal government adopted grant programs in several areas, including agricultural research, health initiatives, and urban improvements.¹⁷ In 1949, the Hoover Commission¹⁸ made the first recommendation for block grants, stating that “a system of grants be established based upon broad categories—such as highways, education, public assistance, and public health—as contrasted with the present system of extensive fragmentation.” Despite this recommendation, Congress did not create a block grant until 1966—the Partnership for Public Health. The number of grant programs further expanded during the administration of President Dwight Eisenhower (1953-1961).¹⁹ By the time Eisenhower left office, total grant outlays had nearly tripled, from \$2.4 billion to \$6.8 billion. The interstate highway system is one of the programs begun under this administration.²⁰

Use of the grants mechanism vastly increased during the administration of President Lyndon Johnson (1963-1969). Relying implicitly on the Fourteenth Amendment and the commerce clause in the Constitution, Congress and the President enacted legislation that established new approaches to achieving national goals. Johnson's “Great Society” programs extended federal involvement in state and local government, as these sub-national governments began implementing federal programs. These programs focused on urban and metropolitan areas, as well as the needs of minority and disadvantaged populations. More grant programs were enacted during Johnson's five years than in all preceding years in U.S. history. All of the new programs were categorical grants, with the exception of two block grants in the fields

¹⁵ Ibid., p. 33.

¹⁶ Ibid., pp. 94-95.

¹⁷ Ibid., p. 103.

¹⁸ One of two presidentially-appointed study commissions chaired by former President Herbert Hoover. The commissions proposed executive branch procedural and administrative reforms.

¹⁹ Carl W. Stenberg and David B. Walker. Advisory Commission on Intergovernmental Relations. *The Block Grant: Lessons from Two Early Experiments*. Publius v. 7, Spring 1977. p. 31.

²⁰ David B. Walker, *The Rebirth of Federalism*, p. 103.

of health and law enforcement.²¹ Total grant outlays nearly doubled between 1964 and 1968, from \$10.1 billion to \$18.6 billion.²²

Changes in the System: Nixon and Reagan

The expansion of grants-in-aid under Johnson led to a call for reform under President Richard Nixon (1969-1974). Nixon characterized the system as a “terrible tangle” of categorical grants plagued by overlapping programs, inefficiency, excessive administrative requirements, and imposition of federal priorities on state and local governments.²³ His primary goals were to improve program efficiency, decentralize decision-making to states and localities, and restrain program growth.

Nixon advocated the use of general revenue sharing and special revenue sharing to achieve these goals.²⁴ General revenue sharing sent funds to states and local governments with virtually no programmatic requirements. The goal of general revenue sharing was to combine the advantages of national revenue collection with the advantages of local discretion over spending.²⁵ Representative Melvin Laird (R-WI), was a pioneer in the field, introduced a revenue sharing bill as early as 1958. Walter Heller, Chairman of the Council of Economic Advisers in the Kennedy and Johnson administrations, proposed general revenue sharing in 1960 as a potential use of federal surpluses, but his plan received little attention until the Nixon Administration.²⁶ The program distributed funds to states from 1972-81 and to local governments from 1972-86, but was not re-authorized in 1986 as part of efforts to control mounting deficits.²⁷ Nixon also proposed special revenue sharing, which merged the funding of functionally related categorical programs into large allocations distributed to states. He intended to give the states broad discretion in addressing the functional area.²⁸ Special revenue sharing functioned similarly to block grants, but required no application and had fewer programmatic strings. Congress, however, favored block grants over special revenue sharing and modified most of Nixon’s

²¹ Ibid., pp. 132-133.

²² Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism, 1985-1986* (Washington: GPO, 1986), p. 19.

²³ William Lilley III, Timothy B. Clark, and John K. Iglehart. *New Federalism Report/Nixon attack on grant programs aims to simplify structure, give greater local control*. National Journal. vol. 5, Jan. 20, 1973. p. 76.

²⁴ Timothy Conlan, *From New Federalism to Devolution: Twenty-five Years of Intergovernmental Reform* (Washington: Brookings Institution Press, 1998), p. 19-21.

²⁵ Ibid., p. 65.

²⁶ Michael Reagan, *The New Federalism* (New York: Oxford Univ. Press, 1972), pp. 89-90.

²⁷ Advisory Commission on Intergovernmental Relations, *Characteristics of Federal Grant-in-aid Programs* (Washington: GPO, 1994), p. iii.

²⁸ Reagan, *The New Federalism*, p. 60.

special revenue sharing proposals to block grant programs. One such Nixon proposal was adopted as the Community Development Block Grant program (CDBG).²⁹

Although Nixon intended to devolve a greater degree of decision-making to states and localities, the changes that occurred during his administration ultimately expanded federal intervention into state and local governments. The new block grants and revenue sharing gave the federal government more influence over state and local policy-making because the federal government placed conditions on the use of funds. Funds could be reduced or withheld if the recipient government failed to meet these conditions. Since block grants and general revenue sharing brought federal aid into many communities for the first time, “New Federalism” enabled the federal government to have more influence over American society than ever before.³⁰

The administration of President Ronald Reagan (1981-1989) also pushed for grant reform. Reagan’s efforts differed from those of Nixon in that Reagan not only wanted to decentralize grant administration to state and local governments, but also reduce funding and alter priorities in the grants-in-aid system. Reagan wanted to reduce federal government regulatory power that had developed through expansion of the grant system. He supported the block grant as a means of both disengaging the national government from policy areas he viewed as state and local concerns and of reducing spending.³¹ Reagan was initially successful in his efforts. The Omnibus Budget Reconciliation Act (OBRA) of 1981 consolidated 77 categorical programs into nine block grants. OBRA reduced total grant outlays to state and local governments by \$6 billion below the previous fiscal year. Most of the budget cuts came in the areas of education, job training, and welfare. There was, however, little change after the first two years of his administration. The growth rate of the grants-in-aid system slowed during the Reagan years, but did not halt.³²

Recent Developments

The Supreme Court upheld the practice of conditioning grants in its 1987 ruling on *South Dakota v. Dole*. South Dakota challenged the ability of the federal government to withhold federal highway funds from states with drinking ages below 21 years of age. The court ruled that Congress could use its spending power to encourage uniformity in the states’ drinking ages. Further, it ruled that “Congress may attach conditions on the receipt of federal funds. However, exercise of the power is subject to certain restrictions, including that it must be in pursuit of ‘the general welfare.’”³³

²⁹ *Congressional Record*, vol. 119. 93rd Congress, 1st Session. p. 39377-81.

³⁰ Conlan, *From New Federalism to Devolution*, 85-87.

³¹ *Ibid.*, pp. 142-144.

³² *Ibid.*, p. 114.

³³ U.S. Supreme Court. *South Dakota v. Dole*, 483 U.S. 203 (1987).
[<http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=483&invol=203>, Visited Aug. 14, 2000.]

Not all Supreme Court decisions have upheld federal grant practices. In fact, during the 1990s, many court rulings have limited federal power over the states. An example is the 1995 ruling in *United States v. Lopez*. Here, the court ruled unconstitutional the Gun-Free School Zones Act, which made it a federal offense to possess a firearm within 1000 feet of a school. The court deemed the Act exceeded Congress' commerce clause authority, since possession of a gun in a school zone is not an activity that substantially affects interstate commerce.³⁴

The grants-in-aid system has seen little change under the Bush and Clinton administrations. President George Bush attempted to consolidate several categorical programs into larger, lower-funded block programs; but Congress failed to act on his proposals.³⁵ President Bill Clinton's National Performance Review (NPR) focused on improving governmental management and performance. The NPR implied greater state and local flexibility over grant programs, but with the understanding that the federal government would closely monitor the performance of the programs. Some observers have rated the NPR as having a minor impact on the grants-in-aid system.³⁶

The 104th Congress (1995-97) proposed many reforms that would have consolidated categorical programs into block grant programs, but most of these reforms were never passed. Seventy-three small grant programs were eliminated, but these comprised only \$2.3 billion in funding cuts. Arguably among the most significant reform passed by the 104th Congress was the conversion of the open-ended entitlement grant, Aid to Families with Dependent Children (AFDC), to a capped block grant called Temporary Assistance to Needy Families (TANF). While the accomplishments of TANF continue to be debated, the program represents the most recent major reform of the grants-in-aid system.³⁷

While there have been few major reform attempts since the early 1980s, future Congresses and Presidents may modify the grants-in-aid system to respond to the ever-changing needs of society generally, and state and local governments in particular.

³⁴ U. S. Supreme Court, *United States v. Lopez*, No. 93-1260.

³⁵ Walker, *The Rebirth of Federalism*. pp. 162-165.

³⁶ Conlan, *From New Federalism to Devolution*. pp. 221-224.

³⁷ *Ibid.*, pp. 243-251.