

Here is another point showing the two governments for two distinct bodies politic: Part 51 = the democracy & Part 52 = the republic. Hope this is helpful.

**Title 31 code of federal regulations**  
31 CFR Ch.1 ( 7-1-92 Edition )  
Monetary Offices, Treasury

This is the secret "fictional State" imposed by the "Buck Act" for purposes of imposing the "Public Salary Tax Act of 1939 upon the unsuspecting private sector workers.

Part 51--Financial Assistance to local governments

Subpart A -- General Information

§ 51.2 Definitions

- (c) "Department means the Department of the Treasury
- (i) "Governor" means the Governor of any of the 50 State governments or the Mayor of the District of Columbia.
- (o) "Secretary" means the Secretary of the Treasury.
- (q) "State government" means the government of any of 50 State governments or the District of Columbia.

This is the common-law states of the union of several states, the Federal government has no jurisdiction in this area. NOTICE THE DIFFERENCE IN THE USE OF THE TERMS!!!!!!!

Part 52--Antirecession, Fiscal Assistance to State, Territorial And Local Governments.

Subpart A-General Information

§ 52.2 Definitions

- (c) "Department" means the Department of the Treasury.
- (f) "Governor means the Governor of any of the 50 states and the chief executive officer of the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, and the Virgin Islands of the United States.
- (n) "Secretary" means the Secretary of the U.S. Department of the Treasury.
- (o) "State government" means the government of any of the 50 states.
- (q) "Territory" means the government of the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands of the United States.

Texas v. White

## PART 51—FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS

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### APPENDIX A—AGE DISTINCTION AND EXPLANATORY MATERIAL

AUTHORITY: Sec. 14001, Consolidated Omnibus Reconciliation Act of 1985 (Pub. L. 99-272); Treasury Department Order 224, dated January 26, 1973, as amended, and Treasury Department Order 101-17, dated March 24, 1987.

SOURCE: 50 FR 3455, Jan. 24, 1985, unless otherwise noted.

### Subpart A—General Information

- 51.0 Scope and application of regulations.

The rules and regulations in this subpart are prescribed for carrying into effect the termination of the Revenue Sharing Program as required by Title XIV of Pub. L. 99-272. The provisions of this part are intended to be implemented by the Assistant Secretary of the Treasury (Management) in a manner that most efficiently resolves any remaining issues pertaining to the Revenue Sharing Program. Any obligations under this part of the Department of the Treasury shall be operative after September 30, 1987 only to the extent that the Assistant Secretary deems necessary to carry out the requirements of Title XIV of Pub. L. 99-272.

[52 FR 36925, Oct. 2, 1987]

### § 51.1 Wind-down authority for revenue sharing.

The Assistant Secretary of the Treasury (Management) shall perform the functions, exercise the powers and carry out the duties vested in the Secretary of the Treasury by Title XIV of Pub. L. 99-272 with regard to the activities necessary for the termination of the Revenue Sharing Program. The authority and duties under this part of the Director of the Office of Revenue Sharing shall cease at the discretion of the Assistant Secretary pursuant to the authority provided by the Secretary of the Treasury for that purpose.

[52 FR 36925, Oct. 2, 1987]

### § 51.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the term is otherwise defined elsewhere in this part) the following definitions shall apply:

(a) *Act* means the Revenue Sharing Act (31 U.S.C. 6701-6724) as amended by the Local Government Fiscal Assistance Amendments of 1983 (Pub. L. 98-185 enacted November 30, 1983).

(b) *Allocation* means the amount determined by formula to be a State area or recipient government's portion of the Revenue Sharing appropriation for an entitlement period.

(c) *Department* means the Department of the Treasury.

(d) *Director* means the Director of the Office of Revenue Sharing.

(e) *Entitlement* means the amount a recipient government is scheduled to receive during the entitlement period, determined from adjustments made to the allocation for under or overpayments in prior periods.

(f) *Entitlement funds* means the amount of Revenue Sharing payments to which a unit of local government is entitled as determined by the Director pursuant to the allocation formula contained in the Act and as established by regulations under this part, including the interest earned on entitlement funds deposited in financial institutions prior to their use, obligation or appropriation.



(g) *Entitlement period* means one of the following periods of time:

- (1) Entitlement Period One is the 6-month period beginning January 1, 1972, and ending June 30, 1972.
- (2) Entitlement Period Two is the 6-month period beginning July 1, 1972, and ending December 31, 1972.
- (3) Entitlement Period Three is the 6-month period beginning January 1, 1973, and ending June 30, 1973.
- (4) Entitlement Period Four is the Federal fiscal year beginning July 1, 1973, and ending June 30, 1974.
- (5) Entitlement Period Five is the Federal fiscal year beginning July 1, 1974, and ending June 30, 1975.
- (6) Entitlement Period Six is the Federal fiscal year beginning July 1, 1975, and ending June 30, 1976.
- (7) Entitlement Period Seven is the 6-month period beginning July 1, 1976, and ending December 31, 1976.
- (8) Entitlement Period Eight is the 9-month period beginning January 1, 1977, and ending September 30, 1977.
- (9) Entitlement Period Nine is the Federal fiscal year beginning October 1, 1977, and ending September 30, 1978.
- (10) Entitlement Period Ten is the Federal fiscal year beginning October 1, 1978, and ending September 30, 1979.
- (11) Entitlement Period Eleven is the Federal fiscal year beginning October 1, 1979, and ending September 30, 1980.
- (12) Entitlement Period Twelve is the Federal fiscal year beginning October 1, 1980, and ending September 30, 1981.
- (13) Entitlement Period Thirteen is the Federal fiscal year beginning October 1, 1981, and ending September 30, 1982.
- (14) Entitlement Period Fourteen is the Federal fiscal year beginning October 1, 1982, and ending September 30, 1983.
- (15) Entitlement Period Fifteen is the Federal fiscal year beginning October 1, 1983, and ending September 30, 1984.
- (16) Entitlement Period Sixteen is the Federal fiscal year beginning October 1, 1984, and ending September 30, 1985.

(17) Entitlement Period Seventeen is the Federal fiscal year beginning October 1, 1985, and ending September 30, 1986.

(h) *Funded* means entitlement funds that have been or are being made available for expenditure in or substantial support of a program or activity of a recipient government or a secondary recipient.

(i) *Governor* means the Governor of any of the 50 State governments, the Mayor of the District of Columbia,

(j) *Indian tribes or Alaskan native villages* means an Indian tribe or Alaskan native village which has a recognized governing body and which performs substantial governmental functions. Certification to the Director by the Secretary of the Interior (or by the Governor of a State in the case of a State affiliated tribe) that an Indian tribe or an Alaskan native village has a recognized governing body and performs substantial governmental functions, shall constitute *prima facie* evidence of that fact.

(k) *Lobbying* means the personal solicitation of members of a legislative body by representatives of the recipient government or their agents for the purpose of influencing pending or proposed legislation regarding the provisions of the Act.

(l) *Program or activity* means the operations of the agency or organizational unit of a recipient government or the operations or organizational unit of a secondary recipient funded with entitlement funds (examples include, but are not limited to a police department, department of corrections, health department, or a division of a public or private corporation).

(m) *Recipient government* means a State government or unit of local government, the District of Columbia, Indian tribe, Alaskan native village, as defined in this section, or the office of the separate law enforcement officer for any parish in the State of Louisiana, other than the Parish of Orleans, which directly receives entitlement funds, except as otherwise provided.

(n) *Secondary recipient* means:

- (1) Any State government, unit of local government, any political subdivision of any State or local government, any public or private agency, in-

stitution, organization or other entity which receives entitlement funds, in whole or in part, from a recipient government either:

(1) By a contract or other arrangement pursuant to which such other entity shall conduct, deliver or otherwise participate or assist in the conduct or delivery of a program or activity of the recipient government;

(ii) By a grant or other arrangement with the recipient government intended to provide financial assistance to such other entity under a program or activity.

(2) *Secondary recipient* shall not include a construction contractor or any other private or governmental entity from which a recipient government only acquires real or personal property (e.g. supplies, equipment and materials) by such means as purchasing, renting, leasing, or bartering. Secondary recipient also shall not include persons who are the ultimate beneficiaries of a recipient government's programs or activities.

(o) *Secretary* means the Secretary of the Treasury.

(p) *Specific economic dislocation* means economic distress in the area of a local government which causes the closing of places of employment, declines in assessed values or receipt of taxes from real property, declines in sales, income, or other tax collections of that local government. The decrease in tax collections must also reduce the allocation of that unit of local government by an amount equal to or greater than 20 percent of its allocation for the preceding entitlement period in order to justify the economic dislocation benefit for the local government.

(q) *State government* means the government of any of the 50 State governments or the District of Columbia.

(r) *Unit of local government* means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes. The term "unit of local government" shall also include the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. The District of Co-

lumbia, in addition to being treated as the sole unit of local government within its geographic area is considered a State.

§ 51.3 Procedures for effecting compliance for violations of provisions other than subpart E.

(a) *Investigations.* (1) The Director shall establish procedures to reasonably assure that an investigation of a complaint, relating to possible violation of the provisions of this part (other than subpart E) is completed and a decision is made as to whether the recipient government is in non-compliance with the Act. The procedures shall provide for the investigation and decision to be made within 180 days of receipt of the complaint.

(2) The scope of the investigation is not necessarily limited to the complaint, but may include any matters covered under the Act either discovered during the investigation or reasonably flowing from the complaint.

(b) *Compliance review or audit.* The Director may periodically conduct audits or reviews of compliance with the provisions of this part (other than subpart E) based upon receipt of audit reports or other information, which shall be completed within one year after initiation.

(c) *Notice of Noncompliance.* After the completion of an investigation, compliance review or audit, the Director shall decide whether the recipient government has complied with the provisions of the Act. If the decision is that the recipient government has substantially failed to comply with the Act, the Director shall provide the appropriate notice(s) of noncompliance which inform the recipient government of the corrective action necessary to achieve compliance and take appropriate steps to secure compliance.

(d) *Opportunity for hearing.* Whenever a recipient government fails to enter into a compliance agreement after receipt of appropriate notice(s) of noncompliance, the Director shall initiate an administrative hearing and, if appropriate, issue a determination of noncompliance pursuant to the provisions of subpart G of this part. If a



after initial screening by the Federal agency. The NPRM also proposed that participation in mediation be mandatory for both complainant and recipient and that administration of the mediation process be centralized in one government agency, the Federal Mediation and Conciliation Service (FMCS). These provisions of the NPRM have been kept in the final regulations.

While most commenters supported the proposed use of mediation, some commenters questioned the appropriateness of requiring mediation as the first step in resolving an age discrimination complaint. They argued that mediation promotes inappropriate bargaining over civil rights, that mediation may jeopardize the rights of complainants, that not every complaint is suitable for mediation, that mediation introduces a new and different step in the complaint resolution process which will be unnecessarily confusing to complainants and recipients.

HEW continues to believe that the mediation process is an important innovation in resolution of age discrimination complaints. Mediation is an effort to provide faster and more creative resolution of complaints through informal methods of dispute resolution. Attempts to reach a mediated settlement of the complaint must be completed in the first sixty (60) days after the complaint is received. While mediation does represent a new step in the complaint resolution process, the experience in resolving complaints under other civil rights statutes has been that the 60 days set aside for mediation will not significantly delay the enforcement process.

Experience with mediation in other areas indicates that even the most intransigent parties can arrive at a mutually satisfactory resolution of their dispute. Consequently, HEW believes it is desirable to require that mediation be attempted in all complaints. Mediation does not necessarily mean that the two parties to the dispute must meet face to face; each may meet separately with the mediator. Since the mediated settlement must be satisfactory to both parties neither the complainant nor the recipient is compelled to settle the complaint. Since the cost of the mediator will be paid by the Federal Government, the financial burden on complainants and recipients will be minimal. HEW believes that the ADA offers a unique opportunity to try this innovative approach to the resolution of disputes.

These regulations require that the management of the mediation process be centralized in one agency, designated by the Secretary of HEW. The FMCS will be that agency. Commenters critical of this decision questioned the wisdom of introducing a new agency into the civil rights enforcement process. Some suggested that each agency should manage its own mediation process, to permit the use of staff who would be more

familiar with the program and problems of the Federal agency receiving the complaint.

HEW believes that the benefits to be realized by centralizing the management of the mediation process are substantial and that the FMCS is the appropriate agency for the job. The use of a single agency to manage the mediation process assures that uniform standards will be used in the recruitment and training of mediators, that the training will be centralized, that consistent procedures will be followed in the mediation, and that there can be a comprehensive and coherent evaluation of the process as part of the 30 month review of the effectiveness of these regulations. While the use of the FMCS does introduce a new agency into civil rights enforcement, one of the key elements in mediation is that both sides have confidence that the mediator is an independent third party. HEW believes that mediation of age discrimination complaints has a better chance to succeed if the mediator is not part of the staff of a Federal agency responsible for enforcing the Age Discrimination Act. The FMCS, which has an established reputation for mediating disputes will draw on some of its experienced staff and will recruit and train a cadre of community based mediators who will work on age discrimination complaints.

[50 FR 3455, Jan. 24, 1985; 50 FR 8611, Mar. 4, 1985; 50 FR 26987, July 1, 1985]

## PART 52—ANTIRECESSION FISCAL ASSISTANCE TO STATE, TERRITORIAL AND LOCAL GOVERNMENTS

### Subpart A—General Information

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- 52.0 Scope and application of regulations.
  - 52.1 Delegation of authority.
  - 52.2 Definitions.
  - 52.3 Procedure for effecting compliance.
  - 52.4 Extension of time.
  - 52.5 Transfer of payments to secondary recipients.

### Subpart B—Reports and Written Communications

- 52.10 Assurances; Reports to the Director.
- 52.11 Publication and publicity of reports; public inspection.
- 52.12 Special reports.

### Subpart C—Adjustments and Data Factors

- 52.20 Adjustment reserve fund.
- 52.21 Adjustments to future payments.
- 52.22 Unemployment rate data.
- 52.23 Revenue sharing amount.
- 52.24 Territorial population.
- 52.25 Finalizing data; verification of data.

## Monetary Offices, Treasury

- Sec.
- 52.26 New units of local government.
  - 52.27 National termination of payments; termination of eligibility.
  - 52.28 Minimum payment.
  - 52.29 Waiver of payments; nondelivery.
  - 52.30 Dissolution of units of local government.

### Subpart D—Expenditure Prohibitions and Restrictions

- 52.40 Definitions.
- 52.41 Permissible expenditures.
- 52.42 Wage rates and labor standards.
- 52.43 Applicability of State, territorial and local law.
- 52.44 Expenditure time limitation.
- 52.45 Applicability of other Federal laws.
- 52.46 Interest bearing accounts.

### Subpart E—Nondiscrimination by Recipient Governments

- 52.60 Purpose.
- 52.61 Incorporation of general revenue sharing nondiscrimination regulations.

### Subpart F—Fiscal Procedures and Auditing

- 52.80 Procedures applicable to the use of payments.
- 52.81 Auditing and evaluation.
- 52.82 Scope of audits.
- 52.83 Retention of audit workpapers.
- 52.84 Requirement to submit audit reports.

### Subpart G—Proceedings for Reduction in Payments, Withholding, or Repayment

- 52.100 Incorporation of hearing procedures.

**AUTHORITY:** These interim regulations are issued under the authority of sec. 214 of the Public Works Employment Act of 1976, Title II, Pub. L. 94-369, as amended by the Intergovernmental Antirecession Assistance Act of 1977, Title VI, Pub. L. 95-30 (42 U.S.C. 6721 *et seq.*) and Treasury Department Order No. 224, dated November 15, 1976 (38 FR 3342), as amended by the Treasury Department Order No. 242 (Revised), dated May 17, 1977.

**SOURCE:** 42 FR 48546, Sept. 23, 1977, unless otherwise noted.

### Subpart A—General Information

- § 52.0 Scope and application of regulations.

The rules and regulations of this part are prescribed for carrying into effect Title II of the Public Works Employment Act of 1976 (Pub. L. 94-369) as amended by the Intergovern-

mental Antirecession Assistance Act of 1977 (Title VI, Pub. L. 95-30), and are applicable as of September 23, 1977.

### § 52.1 Delegation of authority.

By delegation order of the Secretary of the Treasury, the Director shall perform the functions, exercise the powers and carry out the duties vested in the Secretary by the Public Works Employment Act of 1976, Title II, Pub. L. 94-369, as amended. A reference to the Director in the masculine gender shall not be construed to exclude the feminine gender.

### § 52.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the terms are defined elsewhere in this part) the following definitions shall apply:

(a) *Act* means Title II of the Public Works Employment Act of 1976, Pub. L. 94-369, as amended by the Intergovernmental Antirecession Assistance Act of 1977, Title VI, Pub. L. 95-30, 42 U.S.C. 6721, *et seq.*

(b) *Chief executive officer* of a unit of local government means the elected official, or the legally designated official who has the primary responsibility for the conduct of that unit's governmental affairs, and is the chief executive officer for purposes of the Revenue Sharing Act and 31 CFR 51.2(b). Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality, the elected county executive of a county, the chairman of a county commission or board in a county that has no elected county executive, the township supervisor, trustee, first selectman, chairman, city manager, county manager, or such other official as may be designated pursuant to law by the duly elected governing body of the unit of local government; or the chairman, governor, chief or president (as the case may be) of an Indian tribe or Alaskan native village.

(c) *Department* means the Department of the Treasury.

(d) *Director* means the Director of the Office of Revenue Sharing.



(e) *Effective date of the Act* means July 1, 1977.

(f) *Governor* means the Governor of any of the 50 states and the chief executive officer of the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, and the Virgin Islands of the United States.

(g) *Independent public accountant* means independent certified public accountant or independent public accountant licensed on or before December 31, 1970, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(h) *Indian tribe and Alaskan native village* means the recognized governing body of an Indian tribe or Alaskan native village which perform substantial governmental functions. Certification to the Director by the Secretary of the Interior (or Governor of a State in the case of State affiliated tribes) of the recognized governing body of an Indian tribe or an Alaskan native village performing substantial governmental functions for purposes of the Revenue Sharing Act shall constitute prima facie evidence of compliance with such criteria.

(i) *Local government* means the government of a county, municipality, township or other unit of government within the State which:

(1) Is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes and reported to the Secretary), and

(2) Performs substantial governmental functions. The term local government includes the District of Columbia and the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

(j) *Payment* means funds paid to a State, territory or local government pursuant to the Act.

(k) *Quarterly allocation* means the amount of funds allocated to a State, territory or local government as determined by the Director pursuant to the Act.

(l) *Recipient government* means a State, territory or local government

which receives payments under Act.

(m) *Revenue Sharing Act* means State and Local Fiscal Assistance Act of 1972 (Title I, Pub. L. 92-512) amended by the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488).

(n) *Secretary* means the Secretary of the U.S. Department of the Treasury.

(o) *State government* means the government of any of the 50 states.

(p) *Substantial governmental function* means, with respect to township governments, that such governments have expended revenues within the last two fiscal years (current and preceding fiscal years) and have present authority to expend revenues within two or more of the following governmental expenditure categories: Education, Highways, Public Welfare, Health and Hospitals, Police and Corrections, Fire Protection, Sewerage and Sanitation, Natural Resources, Housing and Urban Renewal, Transportation, Libraries, Financial Administration, General Administration, General Public Buildings, Parks, Recreation and Utilities.

(q) *Territory* means the government of the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands of the United States.

#### § 52.3 Procedure for effecting compliance

(a) *In general.* Whenever the Director receives an administrative complaint, audit report, or other information alleging violation of any provision of this part, the time limits applicable to the conduct of an investigation and compliance review shall be those set forth in 31 CFR part 51, subpart 51.10, which are incorporated by reference into this part wherever applicable.

(b) *Determination of noncompliance.* If the Director determines that a recipient government has failed to comply substantially with any provision of this part, other than subpart 51.10, and after giving reasonable notice and opportunity for a hearing to the Governor of the State or territory or chief executive officer of the local government pursuant to subpart G of this part, the Director shall notify the recipient government that if it fails

#### Subpart B—Reports and Written Communications

##### § 52.10 Assurances; Reports to the Director.

(a) *Requisite assurances for receipt of payments.* A State, territorial or local government will receive payments only upon the filing of a statement of assurances by the chief executive officer with the Director. The statement of assurances provides that a recipient government will comply with certain specific requirements of the Act and this part with respect to the use of payments. In addition, township governments must assure the Director that they perform substantial governmental functions, as defined in § 52.2(p) of this part.

(b) *Waiver for failure to submit a statement of assurances.* In accordance with Administrative Rulings No. 76-4 (41 FR 52828) and No. 77-1 (42 FR 13892), otherwise eligible State and local governments which did not file a statement of assurances with the Director on or before June 1, 1977, have waived payments for the calendar quarters beginning July and October, 1976, and January and April, 1977. Payments for the calendar quarters beginning after June 30, 1977 will be deemed to be waived unless a properly executed statement of assurances has been received by the Director for not more than 60 days after the beginning of such calendar quarter.

(c) *New statement of assurances.* A statement of assurances may be required to be filed with the Director for each Federal fiscal year on a date to be determined by the Director. Nothing in this section shall preclude the Director from requiring recipient governments to submit additional assurances as are appropriate to enforce compliance with the Act and the provisions of this part.

(d) *Economization assurance.* The governor or chief executive officer of a recipient government shall provide an assurance on the statement of assurances form required in paragraph (a) of this section, that reasonable efforts have been made to achieve substantial economies in its operations and that payments are necessary to maintain

take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld until such time as the Director is satisfied that appropriate corrective action has been taken and there is no longer any failure to comply. Until he is so satisfied, the Director shall make no further payments to such recipient government.

(c) *Determination to delay payment.* Whenever the Director determines that a recipient government has failed to comply with the assurance or reporting requirements of subpart B of this part, he may delay payments to such recipient. A determination to delay a payment shall not be subject to the procedure set forth in paragraph (b) of this section and shall be in effect for such time as is necessary to achieve compliance.

##### § 52.4 Extension of time.

When, by subpart B, C, or D of this part, a recipient government is required to perform an act within a specified time, the Director may grant a request for an extension of time if in his judgment it is necessary, appropriate and in accordance with the Act. Requests for extensions of time shall be in writing and shall set forth the facts and circumstances supporting the need for more time and the amount of additional time requested.

##### § 52.5 Transfer of payments to secondary recipients.

Those prohibitions and restrictions set forth in subparts D, E, and F of this part which are applicable to a recipient government's payments continue to be applicable to such funds if they are transferred to another governmental unit or a private organization. A violation of any provision of such subparts by a secondary recipient shall constitute a violation by the recipient government and the applicable penalty for failure to comply shall be imposed on the recipient government.