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H. R. 3433

[Report No. 112-]

To amend title 31, United States Code, to provide transparency and require certain standards in the award of Federal grants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2011

Mr. LANKFORD (for himself, Mr. ISSA, Mr. KELLY, Mr. MEEHAN, and Mr. PIERLUISI) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

DECEMBER --, 2011

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend title 31, United States Code, to provide transparency and require certain standards in the award of Federal grants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Grant Reform and
5 New Transparency Act of 2011” or the “GRANT Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Grants transparency requirements.

Sec. 4. Report requirements relating to grants.

Sec. 5. Plan for improving the single audit process.

8 **SEC. 3. GRANTS TRANSPARENCY REQUIREMENTS.**

9 (a) GRANTS TRANSPARENCY REQUIREMENTS.—

10 (1) IN GENERAL.—Subtitle V of title 31,
11 United States Code, is amended by inserting after
12 chapter 73 the following new chapter:

13 **“CHAPTER 74—GRANTS TRANSPARENCY**
14 **REQUIREMENTS**

“Sec.

“7401. Definitions.

~~“7402. Competition requirements in awarding grants.~~

~~“7402. Merit-based selection procedure requirements in awarding grants.~~

“7403. Pre-award evaluation requirements.

“7404. Website relating to Federal grants.

“7405. Debriefing.

15 **“§ 7401. Definitions**

16 “In this chapter:

17 “(1) GRANT.—The term ‘grant’ means an
18 award of Federal financial assistance through a
19 grant agreement or cooperative agreement making

1 payment in cash or in kind to a recipient to carry
2 out a public purpose authorized by law.

3 “(2) COMPETITIVE GRANT.—The term ‘com-
4 petitive grant’ means a grant entered into through
5 the use of merit-based selection procedures for the
6 purpose of allocating funds authorized under a grant
7 program of an Executive agency.

8 “(3) EXECUTIVE AGENCY.—The term ‘Execu-
9 tive agency’ has the meaning provided by section
10 105 of title 5, except the term does not include the
11 Government Accountability Office.

12 “(4) BOARD.—The term ‘Board’ means the Re-
13 covery Accountability and Transparency Board or
14 any successor entity.

15 “(5) PROPOSAL ABSTRACT.—The term ‘pro-
16 posal abstract’, with respect to a grant proposal,
17 means a summary containing key elements of the
18 grant proposal.

19 “(6) GRANT REVIEWER.—The term ‘grant re-
20 viewer’, with respect to a grant—

21 “(A) means any individual who reviews,
22 evaluates, or participates in the decision to se-
23 lect a grant applicant for award of the grant;
24 and

25 “(B) includes—

- 1 “(i) a peer reviewer;
2 “(ii) a merit reviewer; and
3 “(iii) a member of a technical evalua-
4 tion panel or board or a special emphasis
5 panel.

6 **“§ 7402. Merit-based selection procedure require-**
7 **ments in awarding grants**

8 “(a) MERIT-BASED SELECTION PROCEDURES RE-
9 QUIRED.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), an Executive agency shall use merit-based
12 selection procedures in awarding grants.

13 “(2) EXCEPTION FOR CERTAIN GRANTS.—An
14 Executive agency is not required to use merit-based
15 selection procedures in awarding a grant if the grant
16 is a block grant or formula grant for which Federal
17 funds are required to be allocated in accordance with
18 a distribution formula prescribed by law or regula-
19 tion, or any other grant in which the allocation
20 methodology for the grant funds is mandated by law.

21 “(b) REQUIREMENT FOR SPECIFIC MERIT-BASED
22 SELECTION PROCEDURES.—Each Executive agency shall
23 establish and make publicly available specific merit-based
24 selection procedures for each grant program of the agency
25 required under subsection (a) to use such procedures.

1 “(c) MERIT-BASED SELECTION PROCEDURES DE-
2 SCRIBED.—

3 “(1) IN GENERAL.—The merit-based selection
4 procedures required under subsection (a) shall pro-
5 mote the use of competition, and may be tailored to
6 the particular requirements, objectives, and authori-
7 ties of the agency. The procedures may address mat-
8 ters such as consideration of unsolicited proposals,
9 standards for obtaining a competitive pool of appli-
10 cants, and exceptions for safety, security, or other
11 circumstances.

12 “(2) SPECIFIC MATTERS INCLUDED.—The
13 merit-based selection procedures required under sub-
14 section (a) shall include, with respect to a grant, the
15 following:

16 “(A) Advance notification of the grant op-
17 portunity.

18 “(B) A clear statement of the purpose, du-
19 ration (including anticipated grant continu-
20 ations), and eligibility requirements of the
21 grant.

22 “(C) A description of the manner in which
23 applications or proposals for the grant will be
24 evaluated, ranked, and selected for award, in-

1 cluding the weighting of any evaluation factors
2 or criteria that will be considered.

3 **“§ 7403. Pre-award evaluation requirements**

4 “(a) EVALUATION REQUIRED.—Before awarding a
5 competitive grant, an Executive agency shall conduct an
6 evaluation of the ability of the prospective grantee to suc-
7 cessfully carry out the grant.

8 “(b) MATTERS COVERED.—The evaluation required
9 by subsection (a) shall include a review of the following:

10 “(1) FINANCIAL MANAGEMENT SYSTEM.—The
11 capability of the financial management system of the
12 applicant to account for funds.

13 “(2) INTERNAL CONTROLS.—The internal fi-
14 nancial and administrative control systems of the
15 applicant.

16 “(3) COMPLIANCE WITH REPORTING.—The ca-
17 pability of the applicant to comply with Federal re-
18 porting requirements for recipients of Federal funds.

19 “(4) PAST PERFORMANCE AND INTEGRITY.—
20 The past performance and record of integrity of the
21 applicant.

22 “(5) OTHER QUALIFICATIONS AND COM-
23 PETENCE.—The ability of the applicant to success-
24 fully carry out the purposes of the grant.

1 “(c) SIMPLIFIED EVALUATION PROCEDURE FOR
2 CERTAIN APPLICANTS.—In conducting the evaluation re-
3 quired under subsection (a) with respect to an applicant,
4 an Executive agency shall minimize the burden on any ap-
5 plicant that has previously received a significant volume
6 of Federal grants, and shall consider any existing findings
7 with respect to that applicant under the single audit proc-
8 ess under chapter 75 of title 31 related to the matters
9 in subsection (b).

10 **“§ 7404. Website relating to Federal grants**

11 “(a) REQUIREMENT.—The Director of the Office of
12 Management and Budget shall upgrade any existing or
13 proposed public website for finding Federal grant opportu-
14 nities and applying for such grants so that such website
15 may serve as a central point of information and provide
16 full access for applicants for competitive grants. The
17 website shall capture in one site, or provide electronic links
18 to, other relevant databases.

19 “(b) NOTICE OF COMPETITIVE GRANT FUNDS
20 AVAILABILITY.—At the time an Executive agency issues
21 a solicitation or otherwise announces the availability of
22 funds for a competitive grant, the agency shall post on
23 the grants website maintained under this section relevant
24 information about the grant opportunity, including the fol-
25 lowing:

1 “(1) ANNOUNCEMENT AND PURPOSE.—The
2 grant announcement and purpose of the grant.

3 “(2) GRANT PERIOD.—The time period for per-
4 formance of the grant and whether the agency an-
5 ticipates that the grant will be continued.

6 “(3) AMOUNT OF AVAILABLE FUNDS.—The
7 amount of funds available for the grant.

8 “(4) ELIGIBILITY.—A statement of eligibility
9 requirements of the grant.

10 “(5) AGENCY POINT OF CONTACT.—Contact in-
11 formation for the Executive agency, including the
12 name, telephone number, and electronic mail address
13 of a specific person or persons responsible for an-
14 swering questions about the grant and the applica-
15 tion process for the grant.

16 “(6) EVALUATION FACTORS OR CRITERIA.—A
17 clear statement of the evaluation factors or criteria
18 that the agency intends to use to evaluate and rank
19 grant applications or proposals submitted, including
20 the weight to be applied to each factor or criterion.

21 “(7) DISCLOSURE OF THE PROCESS AND
22 STANDARDS FOR SAFEGUARDING AGAINST CON-
23 FLICTS.—A description of the process and standards
24 to be used by the agency to determine that each
25 grant reviewer does not have a prohibited conflict of

1 interest, as defined by applicable statute or regula-
2 tion, with respect to the evaluation or review of a
3 grant application or proposal, or the decision to
4 award a grant.

5 “(8) DEADLINE.—The deadline for submission
6 of grant applications or proposals.

7 “(c) USE BY APPLICANTS.—The grants website
8 maintained under this section shall, to the greatest extent
9 practicable, allow grant applicants to—

10 “(1) use the website with any computer plat-
11 form;

12 “(2) search the website for all competitive
13 grants by purpose, funding agency, program source,
14 and other relevant criteria;

15 “(3) apply for a competitive grant using the
16 website;

17 “(4) manage, track, and report on the use of
18 competitive grants using the website; and

19 “(5) provide all required certifications and as-
20 surances for a competitive grant using the website.

21 “(d) GRANT AWARD INFORMATION.—

22 “(1) IN GENERAL.—For each competitive grant
23 awarded by an Executive agency, the agency shall
24 post on the grants website maintained under this
25 section the information described in paragraph (2).

1 Except as provided in paragraphs (2)(B) and (3),
2 the information shall be posted within 15 days after
3 an Executive agency notifies an applicant that the
4 applicant has been selected to receive a grant award
5 and shall be updated as necessary while the grant to
6 the recipient is being performed.

7 “(2) INFORMATION POSTED.—For purposes of
8 paragraph (1), the information described in this sec-
9 tion with respect to each grant awarded by an Exec-
10 utive agency is the following:

11 “(A) EXECUTED GRANT AGREEMENT.—A
12 copy of the final grant agreement, including the
13 terms and conditions and the time period for
14 performance of the grant.

15 “(B) COPY OF PROPOSAL, APPLICATION,
16 OR PLAN.—Subject to paragraph (3), a copy of
17 any proposal, application, or plan submitted for
18 the awarded grant, including any amendment to
19 the proposal, application, or plan (whether
20 made before or after the award of the grant).

21 “(C) AWARD DECISION DOCUMENTATION
22 AND RANKINGS.—Documentation explaining the
23 basis for the selection decision for the grant,
24 the number of proposals received for the grant,
25 and, with respect to the proposal that resulted

1 in the grant award, the numerical ranking of
2 the proposal by grant reviewers, if numerical
3 rankings were assigned.

4 “(D) JUSTIFICATION FOR DEVIATING
5 FROM RANKINGS.—In any case in which the
6 award of the grant is not consistent with the
7 numerical rankings or any other recommenda-
8 tions made by grant reviewers, a written jus-
9 tification explaining the rationale for the deci-
10 sion not to follow the rankings or recommenda-
11 tions.

12 “(E) DISCLOSURE OF PEER REVIEWERS.—
13 The ~~name, title, and employer~~ *employer, and ei-*
14 *ther the name and title or a unique identifier*, of
15 each individual who served as a peer reviewer
16 for the grant program concerned, during the
17 six-month period preceding the award of the
18 grant.

19 “(F) DISCLOSURE OF OTHER GRANT RE-
20 VIEWERS.—The name, title, and employer of
21 each individual who served as a reviewer (other
22 than a peer reviewer) of proposals or applica-
23 tions for the grant, regardless of whether the
24 individual is employed by the Federal govern-
25 ment or not.

1 “(3) EXCEPTION TO POSTING REQUIREMENT.—
2 Notwithstanding paragraphs (1) and (2)(B), if the
3 head of the agency determines, with respect to a
4 particular grant award, that posting the proposal,
5 application, or plan at the time described in para-
6 graph (1) would adversely affect an applicant, the
7 agency—

8 “(A) may post a proposal abstract or execu-
9 utive summary; and

10 “(B) shall post the complete proposal, ap-
11 plication, or plan by a date to be determined by
12 the head of the agency, in consultation with the
13 applicant, but not later than three years after
14 the date of the grant award.

15 “(e) GRANT PERFORMANCE INFORMATION.—Unless
16 otherwise prohibited by law, with respect to each grant
17 awarded by an Executive agency, within 60 days after the
18 end of the period for completion of the grant, the agency
19 shall post on the grants website maintained under this sec-
20 tion the following information:

21 “(1) The final report or other final written
22 product required under the terms of the grant.

23 “(2) Other related data or results of the grant
24 that the agency considers to be of value to future re-
25 searchers or in the public interest.

1 “(f) SUBMISSION AND PUBLICATION OF GRANT SO-
2 LICITATION FORECAST ON THE GRANTS WEBSITE.—

3 “(1) REQUIREMENT.—Not later than November
4 30 of each year, the head of each Executive agency
5 shall post a forecast, in accordance with paragraph
6 (2), of all grant solicitations that the agency expects
7 to issue for the following calendar year. The forecast
8 shall be based on the best information available and
9 shall not be binding on the agency.

10 “(2) MATTERS INCLUDED.—The forecast shall
11 include, to the extent practicable, the following for
12 each expected grant solicitation:

13 “(A) SUBJECT AND PURPOSE.—A brief de-
14 scription of the subject and purpose of the
15 grant, organized by the organizational unit of
16 the agency.

17 “(B) POINT OF CONTACT.—Contact infor-
18 mation for the organizational unit or individual
19 responsible for the grant, if known, including
20 name, telephone number, and electronic mail
21 address.

22 “(C) NOTICE PUBLICATION DATE.—The
23 expected or actual dates for the issuance of the
24 grant solicitation and application and the grant
25 application submission deadline.

1 “(D) AWARD AMOUNT.—The estimated
2 amount of the average grant award, the esti-
3 mated maximum and minimum amounts of the
4 grant award, if applicable, and the estimated
5 total number of grant awards to be made.

6 “(g) PUBLICATION OF INFORMATION.—Nothing in
7 this section shall be construed as requiring the publication
8 of information otherwise exempt under section 552 of title
9 5, United States Code (popularly referred to as the ‘Free-
10 dom of Information Act’).

11 “(h) TRANSPARENCY OF INFORMATION.—To the ex-
12 tent practicable, the grants website maintained under this
13 section shall—

14 “(1) make the information described in this sec-
15 tion available in its original format;

16 “(2) make the information described in this sec-
17 tion available without charge, license, or registration
18 requirement;

19 “(3) permit the information described in this
20 section to be searched and aggregated;

21 “(4) permit the information described in this
22 section to be downloaded in bulk;

23 “(5) permit the information described in this
24 section to be disseminated via automatic electronic
25 means;

1 “(6) permit the information described in this
2 section to be freely shared by the public, such as by
3 social media;

4 “(7) use permanent uniform resource locators
5 for the information described in this section; and

6 “(8) provide an opportunity for the public to
7 provide input about the usefulness of the site and
8 recommendations for improvements.

9 **“§ 7405. Debriefing**

10 “If requested by an applicant for a competitive grant,
11 for each grant award made in an amount in excess of
12 \$100,000 pursuant to a merit-based selection procedure,
13 an Executive agency shall provide the applicant with a
14 timely debriefing explaining the basis for the agency’s
15 award decision, including, if applicable, the decision not
16 to award a grant to the applicant.”.

17 (2) CLERICAL AMENDMENT.—The table of
18 chapters at the beginning of subtitle V of title 31,
19 United States Code, is amended by inserting after
20 the item relating to chapter 73 the following new
21 item:

“74. Grant Transparency Requirements 7401”.

22 (b) GUIDANCE FOR MERIT-BASED SELECTION PRO-
23 CEDURES FOR GRANT PROGRAMS.—Not later than 60
24 days after the date of the enactment of this Act, the Direc-
25 tor of the Office of Management and Budget shall issue

1 and disseminate guidance to aid Executive agencies in es-
2 tablishing merit-based selection procedures for agency
3 grant programs, as required by section 7402(c) of title 31,
4 United States Code, as added by subsection (a).

5 (c) DEADLINE FOR MERIT-BASED SELECTION PRO-
6 CEDURES FOR GRANT PROGRAMS.—Not later than 180
7 days after the date of the enactment of this Act, each Ex-
8 ecutive agency shall carry out the requirement of section
9 7402(c) of such title, as so added.

10 (d) REPORT ON MERIT-BASED SELECTION PROCE-
11 DURES FOR GRANT PROGRAMS.—Not later than one year
12 after the date of the enactment of this Act, the Comp-
13 troller General of the United States shall submit to the
14 Committee on Oversight and Government Reform of the
15 House of Representatives and the Committee on Home-
16 land Security and Governmental Affairs of the Senate a
17 report on the guidance issued by the Director of the Office
18 of Management and Budget under subsection (b) and the
19 actions taken by Executive agencies to establish merit-
20 based selection procedures under subsection (c).

21 **SEC. 4. REPORT REQUIREMENTS RELATING TO GRANTS.**

22 (a) UNDISBURSED GRANT FUNDING REPORT.—

23 (1) GUIDANCE.—Not later than 90 days after
24 the date of the enactment of this Act, the Director
25 of the Office of Management and Budget shall issue

1 guidance to Executive agencies instructing each
2 agency to identify amounts of undisbursed grant
3 funding remaining in grant accounts for which the
4 period of availability to the grantee has expired and
5 report to the Office of Management and Budget on
6 the status and resolution of such funding.

7 (2) REPORT REQUIREMENT.—Not later than
8 180 days after the date of the enactment of this Act,
9 the Director shall submit to the Committee on Over-
10 sight and Government Reform of the House of Rep-
11 resentatives and the Committee on Homeland Secu-
12 rity and Governmental Affairs of the Senate a report
13 summarizing the information reported by Executive
14 agencies under subsection (a) and describing the ac-
15 tions the Director or Executive agencies plan to take
16 with respect to the undisbursed grant funding iden-
17 tified in the information so reported.

18 (b) GRANTS WORKFORCE REPORT.—

19 (1) REPORT REQUIREMENT.—Not later than
20 180 days after the date of the enactment of this Act,
21 the Comptroller General of the United States shall
22 submit to the Committee on Oversight and Govern-
23 ment Reform of the House of Representatives and
24 the Committee on Homeland Security and Govern-

1 mental Affairs of the Senate a report on the Federal
2 grants workforce.

3 (2) CONTENTS OF REPORT.—The report re-
4 quired under subsection (a) shall address—

5 (A) the size of the Federal grants work-
6 force and expected trends in Federal employ-
7 ment;

8 (B) adequacy of training opportunities for
9 the Federal grants workforce;

10 (C) whether the Federal Acquisition Insti-
11 tute or any other existing entity engaged in ac-
12 quisition workforce training should be made
13 available for grant training;

14 (D) whether a warrant system similar to
15 that used in the Federal acquisition system
16 should be established for Federal officials au-
17 thorized to award grants;

18 (E) the use by executive agencies of sus-
19 pension and debarment actions taken against
20 grantees during the three-year period preceding
21 the date of submission of the report, and the
22 level of agency resources assigned to the sus-
23 pension and debarment functions; and

24 (F) any recommendations for improving
25 the Federal grants workforce.

1 (c) DEFINITIONS.—In this section:

2 (1) EXECUTIVE AGENCY.—The term “Executive
3 agency” has the meaning provided by section 105 of
4 title 5, United States Code, except the term does not
5 include the Government Accountability Office.

6 (2) FEDERAL GRANTS WORKFORCE DEFINED.—
7 The term “Federal grants workforce”, with respect
8 to an Executive agency, means all employees of the
9 agency who spend some or all of their time engaged
10 in—

11 (A) grant planning;

12 (B) preparing grant solicitations, Notices
13 of Funding Availability, or other requests for
14 grant proposals;

15 (C) evaluating or reviewing grant applica-
16 tions, including serving on a peer review board;
17 or

18 (D) monitoring or administering grant per-
19 formance by grantees.

20 **SEC. 5. PLAN FOR IMPROVING THE SINGLE AUDIT PROC-**
21 **ESS.**

22 (a) PLAN FOR IMPROVING THE SINGLE AUDIT PROC-
23 ESS.—Not later than 180 days after the date of the enact-
24 ment of this Act, the Director of the Office of Manage-
25 ment and Budget shall submit to the Committee on Over-

1 sight and Government Reform of the House of Represent-
2 atives and the Committee on Homeland Security and Gov-
3 ernmental Affairs of the Senate a plan on improving the
4 single audit process required under chapter 75 of title 31,
5 United States Code, that includes each of the following
6 elements:

7 (1) A centralized Federal Government oversight
8 structure for the single audit process to monitor
9 Federal agency implementation of single audit re-
10 quirements under chapter 75 of title 31, United
11 States Code.

12 (2) Simplified alternative single audit require-
13 ments for non-Federal entities with expenditures for
14 smaller Federal awards.

15 (3) A proposal to shorten the single audit cycle,
16 including the time periods for completing the audit
17 and for Executive agency resolution of the audit.

18 (4) An identification of any necessary legislative
19 changes to implement any proposal under the plan.

20 (5) A description of key milestones for imple-
21 mentation and necessary steps to complete imple-
22 mentation.

23 (b) REPORT.—Not later than 180 days after the plan
24 is submitted under subsection (a), the Director of the Of-
25 fice of Management and Budget shall submit to the Com-

1 mittee on Oversight and Government Reform of the House
2 of Representatives and the Committee on Homeland Secu-
3 rity and Governmental Affairs of the Senate a report on
4 the implementation of each element of the plan.

5 (c) DEFINITIONS.—In this section:

6 (1) EXECUTIVE AGENCY.—The term “Executive
7 agency” has the meaning provided by section 105 of
8 title 5, United States Code, except the term does not
9 include the Government Accountability Office.

10 (2) NON-FEDERAL ENTITY.—The term “non-
11 Federal entity” has the meaning given that term
12 under section 7501 of title 31, United States Code.

13 (3) SINGLE AUDIT.—The term “single audit”
14 has the meaning provided by section 7501(a)(18) of
15 title 31, United States Code.

16 (4) SMALLER FEDERAL AWARD.—The term
17 “smaller Federal award” means a Federal award of
18 less than \$1,000,000 or such other amount specified
19 by the Director of the Office of Management and
20 Budget.