

112TH CONGRESS
1ST SESSION

H. R. 3433

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

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.

1 **SEC. 3. GRANTS TRANSPARENCY REQUIREMENTS.**

2 (a) GRANTS TRANSPARENCY REQUIREMENTS.—

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

6 **“CHAPTER 74—GRANTS TRANSPARENCY**
7 **REQUIREMENTS**

“Sec.

“7401. Definitions.

“7402. Competition requirements in awarding grants.

“7403. Pre-award evaluation requirements.

“7404. Website relating to Federal grants.

“7405. Debriefing.

8 **“§ 7401. Definitions**

9 “In this chapter:

10 “(1) GRANT.—The term ‘grant’ means an
11 award of Federal financial assistance through a
12 grant agreement or cooperative agreement making
13 payment in cash or in kind to a recipient to carry
14 out a public purpose authorized by law.

15 “(2) COMPETITIVE GRANT.—The term ‘com-
16 petitive grant’ means a grant entered into through
17 the use of merit-based selection procedures for the
18 purpose of allocating funds authorized under a grant
19 program of an Executive agency.

20 “(3) EXECUTIVE AGENCY.—The term ‘Execu-
21 tive agency’ has the meaning provided by section

1 105 of title 5, except the term does not include the
2 Government Accountability Office.

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

6 “(5) PROPOSAL ABSTRACT.—The term ‘pro-
7 posal abstract’, with respect to a grant proposal,
8 means a summary containing key elements of the
9 grant proposal.

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

12 “(A) means any individual who reviews,
13 evaluates, or participates in the decision to se-
14 lect a grant applicant for award of the grant;
15 and

16 “(B) includes—

17 “(i) a peer reviewer;

18 “(ii) a merit reviewer; and

19 “(iii) a member of a technical evalua-
20 tion panel or board or a special emphasis
21 panel.

22 **“§ 7402. Merit-based selection procedure require-**
23 **ments in awarding grants**

24 “(a) MERIT-BASED SELECTION PROCEDURES RE-
25 QUIRED.—

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

4 “(2) EXCEPTION FOR CERTAIN GRANTS.—An
5 Executive agency is not required to use merit-based
6 selection procedures in awarding a grant if the grant
7 is a block grant or formula grant for which Federal
8 funds are required to be allocated in accordance with
9 a distribution formula prescribed by law or regula-
10 tion, or any other grant in which the allocation
11 methodology for the grant funds is mandated by law.

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

17 “(c) MERIT-BASED SELECTION PROCEDURES DE-
18 SCRIBED.—

19 “(1) IN GENERAL.—The merit-based selection
20 procedures required under subsection (a) shall pro-
21 mote the use of competition, and may be tailored to
22 the particular requirements, objectives, and authori-
23 ties of the agency. The procedures may address mat-
24 ters such as consideration of unsolicited proposals,
25 standards for obtaining a competitive pool of appli-

1 cants, and exceptions for safety, security, or other
2 circumstances.

3 “(2) SPECIFIC MATTERS INCLUDED.—The
4 merit-based selection procedures required under sub-
5 section (a) shall include, with respect to a grant, the
6 following:

7 “(A) Advance notification of the grant op-
8 portunity.

9 “(B) A clear statement of the purpose, du-
10 ration (including anticipated grant continu-
11 ations), and eligibility requirements of the
12 grant.

13 “(C) A description of the manner in which
14 applications or proposals for the grant will be
15 evaluated, ranked, and selected for award, in-
16 cluding the weighting of any evaluation factors
17 or criteria that will be considered.

18 **“§ 7403. Pre-award evaluation requirements**

19 “(a) EVALUATION REQUIRED.—Before awarding a
20 competitive grant, an Executive agency shall conduct an
21 evaluation of the ability of the prospective grantee to suc-
22 cessfully carry out the grant.

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

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

4 “(2) INTERNAL CONTROLS.—The internal fi-
5 nancial and administrative control systems of the
6 applicant.

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

10 “(4) PAST PERFORMANCE AND INTEGRITY.—
11 The past performance and record of integrity of the
12 applicant.

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

16 “(c) SIMPLIFIED EVALUATION PROCEDURE FOR
17 CERTAIN APPLICANTS.—In conducting the evaluation re-
18 quired under subsection (a) with respect to an applicant,
19 an Executive agency shall minimize the burden on any ap-
20 plicant that has previously received a significant volume
21 of Federal grants, and shall consider any existing findings
22 with respect to that applicant under the single audit proc-
23 ess under chapter 75 of title 31 related to the matters
24 in subsection (b).

1 **“§ 7404. Website relating to Federal grants**

2 “(a) REQUIREMENT.—The Director of the Office of
3 Management and Budget shall upgrade any existing or
4 proposed public website for finding Federal grant opportu-
5 nities and applying for such grants so that such website
6 may serve as a central point of information and provide
7 full access for applicants for competitive grants. The
8 website shall capture in one site, or provide electronic links
9 to, other relevant databases.

10 “(b) NOTICE OF COMPETITIVE GRANT FUNDS
11 AVAILABILITY.—At the time an Executive agency issues
12 a solicitation or otherwise announces the availability of
13 funds for a competitive grant, the agency shall post on
14 the grants website maintained under this section relevant
15 information about the grant opportunity, including the fol-
16 lowing:

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

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

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

24 “(4) ELIGIBILITY.—A statement of eligibility
25 requirements of the grant.

1 “(5) AGENCY POINT OF CONTACT.—Contact in-
2 formation for the Executive agency, including the
3 name, telephone number, and electronic mail address
4 of a specific person or persons responsible for an-
5 swering questions about the grant and the applica-
6 tion process for the grant.

7 “(6) EVALUATION FACTORS OR CRITERIA.—A
8 clear statement of the evaluation factors or criteria
9 that the agency intends to use to evaluate and rank
10 grant applications or proposals submitted, including
11 the weight to be applied to each factor or criterion.

12 “(7) DISCLOSURE OF THE PROCESS AND
13 STANDARDS FOR SAFEGUARDING AGAINST CON-
14 FLICTS.—A description of the process and standards
15 to be used by the agency to determine that each
16 grant reviewer does not have a prohibited conflict of
17 interest, as defined by applicable statute or regula-
18 tion, with respect to the evaluation or review of a
19 grant application or proposal, or the decision to
20 award a grant.

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

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

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

3 “(2) search the website for all competitive
4 grants by purpose, funding agency, program source,
5 and other relevant criteria;

6 “(3) apply for a competitive grant using the
7 website;

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

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

12 “(d) GRANT AWARD INFORMATION.—

13 “(1) IN GENERAL.—For each competitive grant
14 awarded by an Executive agency, the agency shall
15 post on the grants website maintained under this
16 section the information described in paragraph (2).
17 Except as provided in paragraphs (2)(B) and (3),
18 the information shall be posted within 15 days after
19 an Executive agency notifies an applicant that the
20 applicant has been selected to receive a grant award
21 and shall be updated as necessary while the grant to
22 the recipient is being performed.

23 “(2) INFORMATION POSTED.—For purposes of
24 paragraph (1), the information described in this sec-

1 tion with respect to each grant awarded by an Exec-
2 utive agency is the following:

3 “(A) EXECUTED GRANT AGREEMENT.—A
4 copy of the final grant agreement, including the
5 terms and conditions and the time period for
6 performance of the grant.

7 “(B) COPY OF PROPOSAL, APPLICATION,
8 OR PLAN.—Subject to paragraph (3), a copy of
9 any proposal, application, or plan submitted for
10 the awarded grant, including any amendment to
11 the proposal, application, or plan (whether
12 made before or after the award of the grant).

13 “(C) AWARD DECISION DOCUMENTATION
14 AND RANKINGS.—Documentation explaining the
15 basis for the selection decision for the grant,
16 the number of proposals received for the grant,
17 and, with respect to the proposal that resulted
18 in the grant award, the numerical ranking of
19 the proposal by grant reviewers, if numerical
20 rankings were assigned.

21 “(D) JUSTIFICATION FOR DEVIATING
22 FROM RANKINGS.—In any case in which the
23 award of the grant is not consistent with the
24 numerical rankings or any other recommenda-
25 tions made by grant reviewers, a written jus-

1 tification explaining the rationale for the deci-
2 sion not to follow the rankings or recommenda-
3 tions.

4 “(E) DISCLOSURE OF PEER REVIEWERS.—
5 The name, title, and employer of each indi-
6 vidual who served as a peer reviewer for the
7 grant program concerned, during the six-month
8 period preceding the award of the grant.

9 “(F) DISCLOSURE OF OTHER GRANT RE-
10 VIEWERS.—The name, title, and employer of
11 each individual who served as a reviewer (other
12 than a peer reviewer) of proposals or applica-
13 tions for the grant, regardless of whether the
14 individual is employed by the Federal govern-
15 ment or not.

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

23 “(A) may post a proposal abstract or execu-
24 tive summary; and

1 “(B) shall post the complete proposal, ap-
2 plication, or plan by a date to be determined by
3 the head of the agency, in consultation with the
4 applicant, but not later than three years after
5 the date of the grant award.

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

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

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

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

19 “(1) REQUIREMENT.—Not later than November
20 30 of each year, the head of each Executive agency
21 shall post a forecast, in accordance with paragraph
22 (2), of all grant solicitations that the agency expects
23 to issue for the following calendar year. The forecast
24 shall be based on the best information available and
25 shall not be binding on the agency.

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

4 “(A) SUBJECT AND PURPOSE.—A brief de-
5 scription of the subject and purpose of the
6 grant, organized by the organizational unit of
7 the agency.

8 “(B) POINT OF CONTACT.—Contact infor-
9 mation for the organizational unit or individual
10 responsible for the grant, if known, including
11 name, telephone number, and electronic mail
12 address.

13 “(C) NOTICE PUBLICATION DATE.—The
14 expected or actual dates for the issuance of the
15 grant solicitation and application and the grant
16 application submission deadline.

17 “(D) AWARD AMOUNT.—The estimated
18 amount of the average grant award, the esti-
19 mated maximum and minimum amounts of the
20 grant award, if applicable, and the estimated
21 total number of grant awards to be made.

22 “(g) PUBLICATION OF INFORMATION.—Nothing in
23 this section shall be construed as requiring the publication
24 of information otherwise exempt under section 552 of title

1 5, United States Code (popularly referred to as the ‘Free-
2 dom of Information Act’).

3 “(h) TRANSPARENCY OF INFORMATION.—To the ex-
4 tent practicable, the grants website maintained under this
5 section shall—

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

8 “(2) make the information described in this sec-
9 tion available without charge, license, or registration
10 requirement;

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

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

15 “(5) permit the information described in this
16 section to be disseminated via automatic electronic
17 means;

18 “(6) permit the information described in this
19 section to be freely shared by the public, such as by
20 social media;

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

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

1 **“§ 7405. Debriefing**

2 “If requested by an applicant for a competitive grant,
3 for each grant award made in an amount in excess of
4 \$100,000 pursuant to a merit-based selection procedure,
5 an Executive agency shall provide the applicant with a
6 timely debriefing explaining the basis for the agency’s
7 award decision, including, if applicable, the decision not
8 to award a grant to the applicant.”.

9 (2) CLERICAL AMENDMENT.—The table of
10 chapters at the beginning of subtitle V of title 31,
11 United States Code, is amended by inserting after
12 the item relating to chapter 73 the following new
13 item:

“74. Grant Transparency Requirements 7401”.

14 (b) GUIDANCE FOR MERIT-BASED SELECTION PRO-
15 CEDURES FOR GRANT PROGRAMS.—Not later than 60
16 days after the date of the enactment of this Act, the Direc-
17 tor of the Office of Management and Budget shall issue
18 and disseminate guidance to aid Executive agencies in es-
19 tablishing merit-based selection procedures for agency
20 grant programs, as required by section 7402(c) of title 31,
21 United States Code, as added by subsection (a).

22 (c) DEADLINE FOR MERIT-BASED SELECTION PRO-
23 CEDURES FOR GRANT PROGRAMS.—Not later than 180
24 days after the date of the enactment of this Act, each Ex-

1 Executive agency shall carry out the requirement of section
2 7402(c) of such title, as so added.

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

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

15 (a) UNDISBURSED GRANT FUNDING REPORT.—

16 (1) GUIDANCE.—Not later than 90 days after
17 the date of the enactment of this Act, the Director
18 of the Office of Management and Budget shall issue
19 guidance to Executive agencies instructing each
20 agency to identify amounts of undisbursed grant
21 funding remaining in grant accounts for which the
22 period of availability to the grantee has expired and
23 report to the Office of Management and Budget on
24 the status and resolution of such funding.

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

12 (b) GRANTS WORKFORCE REPORT.—

13 (1) REPORT REQUIREMENT.—Not later than
14 180 days after the date of the enactment of this Act,
15 the Comptroller General of the United States shall
16 submit to the Committee on Oversight and Govern-
17 ment Reform of the House of Representatives and
18 the Committee on Homeland Security and Govern-
19 mental Affairs of the Senate a report on the Federal
20 grants workforce.

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

23 (A) the size of the Federal grants work-
24 force and expected trends in Federal employ-
25 ment;

1 (B) adequacy of training opportunities for
2 the Federal grants workforce;

3 (C) whether the Federal Acquisition Insti-
4 tute or any other existing entity engaged in ac-
5 quisition workforce training should be made
6 available for grant training;

7 (D) whether a warrant system similar to
8 that used in the Federal acquisition system
9 should be established for Federal officials au-
10 thorized to award grants;

11 (E) the use by executive agencies of sus-
12 pension and debarment actions taken against
13 grantees during the three-year period preceding
14 the date of submission of the report, and the
15 level of agency resources assigned to the sus-
16 pension and debarment functions; and

17 (F) any recommendations for improving
18 the Federal grants workforce.

19 (c) DEFINITIONS.—In this section:

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

24 (2) FEDERAL GRANTS WORKFORCE DEFINED.—
25 The term “Federal grants workforce”, with respect

1 to an Executive agency, means all employees of the
2 agency who spend some or all of their time engaged
3 in—

4 (A) grant planning;

5 (B) preparing grant solicitations, Notices
6 of Funding Availability, or other requests for
7 grant proposals;

8 (C) evaluating or reviewing grant applica-
9 tions, including serving on a peer review board;
10 or

11 (D) monitoring or administering grant per-
12 formance by grantees.

13 **SEC. 5. PLAN FOR IMPROVING THE SINGLE AUDIT PROC-**
14 **ESS.**

15 (a) PLAN FOR IMPROVING THE SINGLE AUDIT PROC-
16 ESS.—Not later than 180 days after the date of the enact-
17 ment of this Act, the Director of the Office of Manage-
18 ment and Budget shall submit to the Committee on Over-
19 sight and Government Reform of the House of Represent-
20 atives and the Committee on Homeland Security and Gov-
21 ernmental Affairs of the Senate a plan on improving the
22 single audit process required under chapter 75 of title 31,
23 United States Code, that includes each of the following
24 elements:

1 (1) A centralized Federal Government oversight
2 structure for the single audit process to monitor
3 Federal agency implementation of single audit re-
4 quirements under chapter 75 of title 31, United
5 States Code.

6 (2) Simplified alternative single audit require-
7 ments for non-Federal entities with expenditures for
8 smaller Federal awards.

9 (3) A proposal to shorten the single audit cycle,
10 including the time periods for completing the audit
11 and for Executive agency resolution of the audit.

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

14 (5) A description of key milestones for imple-
15 mentation and necessary steps to complete imple-
16 mentation.

17 (b) REPORT.—Not later than 180 days after the plan
18 is submitted under subsection (a), the Director of the Of-
19 fice of Management and Budget shall submit to the Com-
20 mittee on Oversight and Government Reform of the House
21 of Representatives and the Committee on Homeland Secu-
22 rity and Governmental Affairs of the Senate a report on
23 the implementation of each element of the plan.

24 (c) DEFINITIONS.—In this section:

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

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

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

11 (4) SMALLER FEDERAL AWARD.—The term
12 “smaller Federal award” means a Federal award of
13 less than \$1,000,000 or such other amount specified
14 by the Director of the Office of Management and
15 Budget.

○