

114TH CONGRESS
2D SESSION

S. 2972

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 SENATE OF THE UNITED STATES

MAY 23, 2016

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 (a) SHORT TITLE.—This Act may be cited as the
5 “Grant Reform and New Transparency Act of 2016” or
6 the “GRANT Act”.

7 **SEC. 2. GRANTS TRANSPARENCY REQUIREMENTS.**

8 (a) IN GENERAL.—Subtitle V of title 31, United
9 States Code, is amended by inserting after chapter 73 the
10 following:

★(Star Print)

1 **“CHAPTER 74—GRANTS TRANSPARENCY**
 2 **REQUIREMENTS**

“Sec.

“7401. Definitions.

“7402. Advance notification of grant opportunity.

“7403. Pre-award evaluation requirements.

“7404. Website relating to Federal grants.

“7405. Debriefing.

“7406. Inspector General review of peer review process.

3 **“§ 7401. Definitions**

4 “In this chapter:

5 “(1) **APPLICANT.**—The term ‘applicant’ means
 6 an entity that submits a proposal or application for
 7 a grant.

8 “(2) **COMPETITIVE GRANT.**—The term ‘com-
 9 petitive grant’ means a discretionary grant entered
 10 into through the use of merit-based selection proce-
 11 dures for the purpose of allocating funds authorized
 12 under a grant program of an Executive agency.

13 “(3) **EXECUTIVE AGENCY.**—The term ‘Execu-
 14 tive agency’ has the meaning given the term in sec-
 15 tion 105 of title 5, except the term does not include
 16 the Government Accountability Office.

17 “(4) **GRANT.**—The term ‘grant’ means an
 18 award of Federal financial assistance through a
 19 grant agreement or cooperative agreement making
 20 payment in cash or in kind to a recipient to carry
 21 out a public purpose authorized by law.

1 “(5) GRANT REVIEWER.—The term ‘grant re-
2 viewer’, with respect to a grant—

3 “(A) means any individual who reviews,
4 evaluates, or participates in the decision to se-
5 lect a grant applicant for award of the grant;
6 and

7 “(B) includes—

8 “(i) a peer reviewer;

9 “(ii) a merit reviewer; and

10 “(iii) a member of a technical evalua-
11 tion panel or board or a special emphasis
12 panel.

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

17 **“§ 7402. Advance notification of grant opportunity**

18 “Not later than 30 days before the date on which
19 an Executive agency plans to award a grant opportunity,
20 the Executive agency shall post on the grants website
21 maintained under section 7404—

22 “(1) a clear statement of the purpose, duration
23 (including anticipated grant continuations), and eli-
24 gibility requirements of the grant; and

1 “(2) for merit-based grants, a description of the
2 manner in which applications or proposals for the
3 grant will be evaluated, ranked, and selected for
4 award, including the weighting of any evaluation fac-
5 tors or criteria that shall be considered.

6 **“§ 7403. Pre-award evaluation requirements**

7 “(a) EVALUATION REQUIRED.—Before awarding a
8 competitive grant, an Executive agency shall conduct an
9 evaluation of the ability of the applicant to successfully
10 carry out the grant.

11 “(b) MATTERS COVERED.—The evaluation required
12 under subsection (a) shall include a review of—

13 “(1) the ability of the applicant to successfully
14 carry out the purposes of the grant, as provided in
15 section 200.302 of title 2, Code of Federal Regula-
16 tions (or any successor thereto);

17 “(2) the capability of the financial management
18 system of the applicant to appropriately manage and
19 account for funds according to accepted cost ac-
20 counting principles determined by the Office of Man-
21 agement and Budget, as provided in section 200.302
22 of title 2, Code of Federal Regulations (or any suc-
23 cessor thereto);

24 “(3) the internal financial and administrative
25 control systems of the applicant, as provided in sec-

1 tion 200.303 of title 2, Code of Federal Regulations
2 (or any successor thereto);

3 “(4) the capability of the applicant to comply
4 with Federal reporting requirements for recipients of
5 Federal funds, as provided in section 200.302 of
6 title 2, Code of Federal Regulations (or any suc-
7 cessor thereto);

8 “(5) the past performance and record of integ-
9 rity of the applicant, as provided in section 200.205
10 of title 2, Code of Federal Regulations (or any suc-
11 cessor thereto);

12 “(6) whether the applicant has received other
13 Federal funds through a contract or other type of
14 assistance through a search of the Federal Assist-
15 ance Award Data System, as provided in section
16 200.302 of title 2, Code of Federal Regulations (or
17 any successor thereto); and

18 “(7) any interagency duplication of efforts for
19 research grants, which may be completed through a
20 text-similarity detection process.

21 **“§ 7404. Website relating to Federal grants**

22 “(a) REQUIREMENT.—The Director of the Office of
23 Management and Budget shall upgrade any existing or
24 proposed public website for finding Federal grant opportu-
25 nities and applying for such grants so that the website—

1 “(1) may serve as a central point of informa-
2 tion and provide full access for applicants for com-
3 petitive grants; and

4 “(2) shall capture in 1 site, or provide elec-
5 tronic links to, other relevant databases.

6 “(b) NOTICE OF COMPETITIVE GRANT FUNDS
7 AVAILABILITY.—At the time an Executive agency issues
8 a solicitation or otherwise announces the availability of
9 funds for a competitive grant, the Executive agency shall
10 post on the grants website maintained under this section,
11 in a searchable electronic format, relevant information
12 about the grant opportunity, including—

13 “(1) the grant announcement and purpose of
14 the grant;

15 “(2) the anticipated period of performance for
16 new awards and whether the Executive agency an-
17 ticipates that the grant will be continued;

18 “(3) the estimated amount of funds available
19 for the grant;

20 “(4) a statement of eligibility requirements of
21 the grant;

22 “(5) contact information for the Executive
23 agency, including the name, telephone number, and
24 electronic mail address of a specific person or per-

1 sons responsible for answering questions about the
2 grant and the application process for the grant;

3 “(6) a clear statement of the evaluation factors
4 or criteria that the Executive agency intends to use
5 to evaluate and rank grant applications or proposals
6 submitted, including the weight to be applied to each
7 factor or criterion;

8 “(7) a description of the process and standards
9 to be used by the Executive agency to determine
10 that each grant reviewer does not have a prohibited
11 conflict of interest, as defined by applicable statute
12 or regulation, with respect to the evaluation or re-
13 view of a grant application or proposal, or the deci-
14 sion to award a grant; and

15 “(8) the anticipated deadline for submission of
16 grant applications or proposals.

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

20 “(1) use the website with any widely used com-
21 puter platform;

22 “(2) search the website for all competitive
23 grants by purpose, funding agency, program source,
24 and other relevant criteria;

1 “(3) apply for a competitive grant using the
2 website; and

3 “(4) manage, track, and report on the use of
4 competitive grants using the website.

5 “(d) GRANT AWARD INFORMATION.—

6 “(1) IN GENERAL.—For each competitive grant
7 awarded by an Executive agency, the Executive
8 agency shall—

9 “(A) except as provided in paragraphs
10 (2)(A), (2)(B), and (3), post on the grants
11 website maintained under this section—

12 “(i) the information described in para-
13 graph (2)(A) not later than 14 days after
14 the date on which the grant agreement is
15 finalized; and

16 “(ii) the information described in sub-
17 paragraphs (B) and (C) of paragraph (2)
18 not later than 30 days after the date on
19 which the Executive agency notifies an ap-
20 plicant that the applicant has been selected
21 to receive a grant award; and

22 “(B) update the information under sub-
23 paragraph (A) as necessary during performance
24 of the grant.

1 “(2) INFORMATION POSTED.—For purposes of
2 paragraph (1), the information described in this
3 paragraph with respect to each grant awarded by an
4 Executive agency is—

5 “(A) subject to paragraph (3)—

6 “(i) a copy of the final grant agree-
7 ment, including the terms and conditions
8 and the time period for performance of the
9 grant; and

10 “(ii) a copy of the proposal, applica-
11 tion, or plan that resulted in the grant
12 award, including any substantive amend-
13 ment to the proposal, application, or plan
14 (whether made before or after the award of
15 the grant);

16 “(B) documentation explaining the basis
17 for the selection decision for the grant, the
18 number of proposals received for the grant,
19 and, with respect to the proposal that resulted
20 in the grant award, whether the grant was
21 awarded consistent with a numerical ranking or
22 other recommendations by grant reviewers; and

23 “(C) in any case in which the award of the
24 grant is not consistent with the numerical
25 rankings or any other recommendations made

1 by grant reviewers, a written justification ex-
2 plaining the rationale for the decision not to fol-
3 low the rankings or recommendations.

4 “(3) EXCEPTIONS TO POSTING REQUIRE-
5 MENT.—

6 “(A) IN GENERAL.—Notwithstanding
7 paragraphs (1), (2)(A), and (2)(B), an Execu-
8 tive agency may post a proposal abstract or ex-
9 ecutive summary if the head of the Executive
10 agency determines, with respect to a particular
11 grant award, that the proposal, application, or
12 plan contains matters that are—

13 “(i) specifically authorized under cri-
14 teria established by an Executive order to
15 be kept secret in the interest of national
16 defense or foreign policy and are in fact
17 properly classified pursuant to such Execu-
18 tive order;

19 “(ii) trade secrets or commercial or fi-
20 nancial information obtained from a person
21 and privileged or confidential; or

22 “(iii) personnel files, medical files,
23 and any similar files the disclosure of
24 which would constitute a clearly unwar-
25 ranted invasion of personal privacy.

1 “(B) RESEARCH AND DEVELOPMENT
2 GRANTS.—

3 “(i) DEFINITION.—In this subpara-
4 graph, the term ‘research and development
5 grant’ means a grant to conduct research
6 and development activities.

7 “(ii) EXCEPTION.—Notwithstanding
8 paragraphs (1) and (2)(A), an Executive
9 agency shall, with respect to a research
10 and development grant, post on the grants
11 website maintained under this section—

12 “(I) a proposal abstract or execu-
13 tive summary at the time described in
14 paragraph (1)(A)(i); and

15 “(II) the complete proposal for
16 the grant award not later than 1 year
17 after the date on which the grant ex-
18 pires.

19 “(iii) EXTENSION.—An Executive
20 agency may post the complete proposal for
21 a research and development grant award
22 after the expiration of the 1-year period
23 described in clause (ii)(II) if the recipient
24 of the research and development grant
25 award—

1 “(I) petitions the Executive agen-
2 cy to post the complete proposal for
3 the grant award after the expiration
4 of that period; and

5 “(II) demonstrates that posting
6 the complete proposal during the 1-
7 year period would adversely affect the
8 recipient.

9 “(C) SENSITIVE INFORMATION.—

10 “(i) PERSONALLY IDENTIFIABLE IN-
11 FORMATION.—A recipient of a grant
12 awarded by an Executive agency may re-
13 quest that the Executive agency redact any
14 personally identifiable information from a
15 post on the grants website maintained
16 under this section.

17 “(ii) VULNERABILITIES IN CRITICAL
18 INFRASTRUCTURE.—An Executive agency
19 may not post on the grants website main-
20 tained under this section any sensitive in-
21 formation related to vulnerabilities in crit-
22 ical infrastructure.

23 “(e) SUBMISSION AND PUBLICATION OF GRANT SO-
24 LICITATION FORECAST ON THE GRANTS WEBSITE.—

1 “(1) REQUIREMENT.—Not later than November
2 30 of each year or not later than 60 days after the
3 date on which amounts are appropriated to an Exec-
4 utive agency for a fiscal year, whichever is later, the
5 head of the Executive agency shall post a forecast,
6 in accordance with paragraph (2), of all non-emer-
7 gency grant solicitations that the Executive agency
8 expects to issue for the following calendar year,
9 which—

10 “(A) shall be based on the best informa-
11 tion available; and

12 “(B) shall not be binding on the Executive
13 agency.

14 “(2) MATTERS INCLUDED.—The forecast re-
15 quired under paragraph (1) shall include, to the ex-
16 tent practicable, for each expected grant solicitation
17 in a machine-readable format—

18 “(A) a brief description of the subject and
19 purpose of the grant, organized by the organi-
20 zational unit of the Executive agency;

21 “(B) contact information for the organiza-
22 tional unit or individual responsible for the
23 grant, if known, including name, telephone
24 number, and electronic mail address;

1 “(C) the expected or actual dates for the
2 issuance of the grant solicitation and applica-
3 tion and the grant application submission dead-
4 line;

5 “(D) the estimated amount of the average
6 grant award, the estimated maximum and min-
7 imum amounts of the grant award, if applica-
8 ble, and the estimated total number of grant
9 awards to be made; and

10 “(E) a description of the total amount
11 available to be awarded.

12 “(f) PUBLICATION OF INFORMATION.—Nothing in
13 this section shall be construed to require the publication
14 of information otherwise exempt from disclosure under
15 section 552 of title 5 (commonly referred to as the ‘Free-
16 dom of Information Act’), except for the application of
17 subsection (b)(5) of such section to pre-decisional docu-
18 ments that are posted pursuant to the requirements under
19 subsection (d).

20 “(g) TRANSPARENCY OF INFORMATION.—To the ex-
21 tent practicable, the grants website maintained under this
22 section shall—

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

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

4 “(3) permit the information described in this
5 section to be searched;

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

8 “(5) permit the information described in this
9 section to be disseminated via automatic electronic
10 means;

11 “(6) permit the information described in this
12 section to be freely shared by the public, such as by
13 social media;

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

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

19 **“§ 7405. Debriefing**

20 “If requested by an applicant for a competitive grant,
21 for each grant award made in an amount in excess of
22 \$100,000 pursuant to a merit-based selection procedure,
23 an Executive agency shall provide the applicant with a
24 timely debriefing explaining the basis for the award deci-

1 sion of the Executive agency, including, if applicable, the
 2 decision not to award a grant to the applicant.

3 **“§ 7406. Inspector General review of peer review**
 4 **process**

5 “Not later than 18 months after the date of enact-
 6 ment of the Grant Reform and New Transparency Act of
 7 2016, the Inspector General of each Executive agency that
 8 awards competitive grants shall conduct a review of the
 9 effectiveness of the conflicts of interest policy of the Exec-
 10 utive agency, including a review of a random selection of
 11 peer review processes, with respect to the peer review proc-
 12 ess for competitive grants in order to detect favoritism.”.

13 (b) CLERICAL AMENDMENT.—The table of chapters
 14 at the beginning of subtitle V of title 31, United States
 15 Code, is amended by inserting after the item relating to
 16 chapter 73 the following:

“74. Grant Transparency Requirements 7401”.

17 **SEC. 3. GRANTS WORKFORCE REPORT.**

18 (a) DEFINITIONS.—In this section:

19 (1) EXECUTIVE AGENCY.—The term “Executive
 20 agency” has the meaning given the term in section
 21 105 of title 5, United States Code, except the term
 22 does not include the Government Accountability Of-
 23 fice.

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

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

4 (A) grant planning, including pro-
5 grammatic activities;

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

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

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

13 (E) preparing the Notice of Award and ne-
14 gotiating terms and conditions; or

15 (F) post-award closeout activities, includ-
16 ing final technical and financial reports.

17 (b) REPORT.—Not later than 180 days after the date
18 of enactment of this Act, the Comptroller General of the
19 United States shall submit to the Committee on Homeland
20 Security and Governmental Affairs of the Senate and the
21 Committee on Oversight and Government Reform of the
22 House of Representatives a report on the Federal grants
23 workforce, which shall address—

1 (1) the size of the Federal grants workforce and
2 expected trends in Federal employment for the Fed-
3 eral grants workforce;

4 (2) the adequacy of training opportunities for
5 the Federal grants workforce;

6 (3) whether the Federal Acquisition Institute or
7 any other existing entity engaged in acquisition
8 workforce training should be made available for
9 grant training;

10 (4) whether a warrant system similar to that
11 used in the Federal acquisition system should be es-
12 tablished for Federal officials authorized to award
13 grants;

14 (5) the use by Executive agencies of suspension
15 and debarment actions taken against grantees dur-
16 ing the 3-year period preceding the date on which
17 the report is submitted, and the level of agency re-
18 sources assigned to the suspension and debarment
19 functions; and

20 (6) any recommendations for improving the
21 Federal grants workforce.

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