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114TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 114–264

GRANTS OVERSIGHT AND NEW EFFICIENCY ACT

SEPTEMBER 18, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

[To accompany H.R. 3089]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 3089) to close out expired grants, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grants Oversight and New Efficiency Act" or the "GONE Act".

49–006

SEC. 2. IDENTIFYING AND CLOSING OUT EXPIRED GRANTS.

(a) EXPIRED GRANT REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall instruct the head of each agency, in coordination with the Secretary, to submit to Congress and the Secretary a report, not later than December 31 of the first calendar year beginning after the date of the enactment of this Act, that—

(A) lists each covered grant held by such agency;

(B) recommends which of the covered grants described in subparagraph (A) should be closed out; and

(C) for each covered grant, explains why the covered grant has not been closed out.

(2) USE OF DATA SYSTEMS.—An agency may use existing multiagency data systems to prepare the report required under paragraph (1).

(3) EXPLANATION OF MISSING INFORMATION.—If the head of an agency is unable to submit all of the information required to be included in the report under paragraph (1), the report shall include an explanation of why the information is not available, including any shortcomings with existing grant data systems.

(b) NOTICE FROM AGENCIES.—

(1) IN GENERAL.—Not later than 1 year after the date on which the head of an agency submits the report required under subsection (a), the head of the agency shall provide notice to the Secretary specifying whether the head of the agency has closed out grant awards associated with all of the covered grants.

(2) NOTICE TO CONGRESS.—Not later than 90 days after the date on which all of the notices required pursuant to paragraph (1) have been provided or March 31 of the calendar year following the calendar year described in subsection (a)(1), whichever is sooner, the Secretary shall compile the notices submitted pursuant to paragraph (1) and submit to Congress a report on such notices.

(c) DEFINITIONS.—In this section:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551 of title 5, United States Code.

(2) CLOSED OUT.—The term "closed out" means the closeout of a grant account conducted in accordance with section 200 of title 2, Code of Federal Regulations, including section 200.343 of such title, or any successor thereto.

(3) COVERED GRANT.—The term "covered grant" means a grant in a Federal agency cash payment management system held by the United States Government for which—

(A) the grant award period of performance, including any extensions, has been expired for not less than 2 years; and

(B) the grant has not been closed out in accordance with section 200.343 of title 2, Code of Federal Regulations, or any successor thereto.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 3089, the Grants Oversight and New Efficiency (GONE) Act brings greater efficiency to the federal grant cycle by requiring agencies to identify expired grant accounts for closure.

The bill requires agencies to coordinate with the Secretary of Health and Human Services (HHS) to submit to Congress a report that (1) lists each covered grant[1] held by that agency, (2) identifies grants for closure, and (3) explains why the covered grants have not been closed. One year after submission of the report, HHS will report to Congress on the status of the grants identified for closure.

BACKGROUND AND NEED FOR LEGISLATION

In fiscal year 2014, the federal government's outlays for grants to state and local governments totaled $529.9 billion.[2] A 2012 Gov-

[1] The bill defines a "covered grant" as a grant within a federal agency cash payment management system that has been expired for at least two years and has not been closed out.

[2] Office of Mgmt. and Budget, *Fiscal Year 2016 Historical Tables,* Table 12.1 (Feb. 2, 2015).

ernment Accountability Office (GAO) report found that over $794 million in undisbursed balances remained in HHS' Payment Management System (PMS) across 10,548 expired grant accounts.[3] The report also identified more than 28,000 expired grant accounts[4] in PMS with zero undisbursed funds remaining in them.[5] Additionally, GAO noted that there is over $126 million in undisbursed balances in dormant accounts[6] in the Automated Standards for Application of Payments (ASAP), amounting to nearly $1 billion in undisbursed grant balances within PMS and ASAP.[7]

Expired grant accounts cost agencies money. For example, the Program Support Center (PSC), which operates PMS, charges fees to the grant awarding agencies for each account it operates.[8] As a result, PSC charged agencies approximately $173,000 per month in fees for the more than 28,000 expired grants with no funds remaining in them in fiscal year 2011.[9] Further, the total annual charges—assuming the accounts are maintained for an entire year—are approximately $2 million.[10] These funds could arguably be used to support critical mission needs or returned to the Treasury.

The GONE Act addresses the issues associated with expired grant accounts by requiring agencies to identify expired accounts that should be closed, and explain why those accounts have not yet been closed. The bill requires agencies to report to Congress a year after identifying these grants to detail the progress made with respect to closure. This process will bring greater accountability to the closeout portion of grants administration.

H.R. 3089 mandates that HHS coordinate with agency heads in submitting reports to Congress. HHS was chosen for this role because of its grants volume and its efforts to improve grant closeout practices within the agency. According to GAO's report, HHS is the largest grant-making agency and is responsible for about three-fourths of all undisbursed funds in expired PMS accounts.[11] HHS is also responsible for 79 percent of expired grant accounts with no funds in PMS.[12]

In her testimony submitted for a Senate Subcommittee hearing in February of 2011, then-HHS official, Nancy Gunderson, explained that HHS developed an Accelerated Closeout Team that resulted in the deobligation of $116 million across 2,700 grant awards during the 2011 calendar year.[13] Ms. Gunderson also stat-

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[3] Gov't Accountability Office, *Grants Management: Action Needed to Improve the Timeliness of Grant Closeouts by Federal Agencies,* at 11 (Apr. 2012) (GAO–125–360) (hereinafter "GAO"). PMS is a grants database that is housed at HHS.

[4] The GAO report defines an expired grant account as one that is open more than three months after the grant end date and that has had no disbursement in the previous nine months. HR 3089, however, only examines grant accounts that have been expired for at least two years.

[5] GAO, at 19.

[6] A dormant account is one that has been inactive for two years or more.

[7] GAO, at 20. "ASAP is an all-electronic payment and information system developed jointly by the Bureau of the Fiscal Service and the Federal Reserve Bank." The Fed operates the system. *See* Bureau of the Fiscal Service, U.S. Dept. of the Treasury, *Automated Standard Application for Payments (ASAP), available at https://www.fiscal.treasury.gov/fsservices/gov/pmt/asap/background.htm* (last visited Aug. 21, 2015).

[8] *Id.,* at 18.

[9] *Id.,* at 19.

[10] *Id.*

[11] GAO, at 11.

[12] *Id.,* at 19.

[13] *Assessing Grants Management Practices at Federal Agencies: Hearing Before the S. Comm. on Homeland Sec. & Governmental Affairs, Subcomm. on Fed. Financial Mgmt., Gov't Info., Fed.*

Continued

ed that HHS was successful in closing out 42.5 percent of the 60,722 HHS grants ready for closeout in PMS during fiscal year 2011.[14] Again, due to HHS's successful closeout efforts and the agency's large share of total grants, the GONE Act utilizes HHS as the coordinating agency for its reporting.

The GONE Act will bring needed accountability and oversight to grants administration. The bill is another step toward improving the grants closeout process to reduce inefficiency and waste within government.

LEGISLATIVE HISTORY

H.R. 3089, the Grants Oversight and New Efficiency (GONE) Act, was introduced by Congressman Tim Walberg (R–MI) on July 16, 2015, and referred to the Committee on Oversight and Government Reform. Congresswoman Brenda Lawrence (D–MI) is an original cosponsor.

Similar legislation, S. 1115, was introduced in the Senate on April 28, 2015, by Senator Deb Fischer (R–NE), and referred to the Senate Committee on Homeland Security and Governmental Affairs. On June 24, 2015, the Senate Committee on Homeland Security and Governmental Affairs ordered S. 1115 reported favorably, with an amendment.

Sen. Fischer introduced an identical bill, S. 1792, in the 113th Congress, that was referred to the Senate Committee on Homeland Security and Governmental Affairs. No further action was taken.

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the Grants Oversight and New Efficiency (GONE) Act.

Section 2. Identifying and closing out expired grants

Mandates that no later than 180 days after passage, the Director of the Office of Management and Budget (OMB) shall direct each agency head to coordinate with the Secretary of the Department of Health and Human Services (HHS) to submit to Congress and HHS a report listing each covered grant held by the federal government. Covered grants are those within the cash payment management system that have been expired for two or more years and have not been closed out. The report is to recommend which covered grants should be closed and why each covered grant has not been closed. The report is to be issued not after December 31 of the first calendar year beginning after enactment.

Agencies that cannot submit the required information must report why such information is not available and explain any shortcomings with their grant data system.

No later than one year after the head of an agency submits its report, the agency head will notify HHS whether the agency has closed out the covered grants discussed in its report. HHS is required to compile this information and provide it Congress.

Serv. and In'l Security, 112th Cong. (July 25, 2012) (written statement of Nancy J. Gunderson, Deputy Assistant Secretary for Grants and Acquisition Policy and Accountability, Dep't. of Health & Human Serv., at 3).

[14] *Id.*

EXPLANATION OF AMENDMENTS

Congressman Walberg offered an amendment in nature of a substitute to clarify the intent of the bill. The amendment in the nature of a substitute was adopted by voice vote.

COMMITTEE CONSIDERATION

On July 22, 2015, the Committee met in open session and ordered reported favorably the bill, H.R. 3089, as amended, by voice vote, a quorum being present.

ROLL CALL VOTES

No recorded votes were taken during Full Committee consideration of H.R. 3089.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill outlines measures to close out expired grants. As such, it does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of the bill is to close out expired grants.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551. However, the Director of the Office of Management and Budget is directed to issue guidelines.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of Rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

H.R. 3089—GONE Act

H.R. 3089 would direct federal agencies to prepare reports on efforts to close out financial accounts for federal grants that have expired. Grant accounts are closed when all administrative actions have been completed by the non-federal entity. Those actions may involve additional payments to grantees or payments from the grantee to the federal government.

Under current law, agencies are required to track expired grant accounts. CBO anticipates that under H.R. 3089, some agencies' workloads would increase slightly to prepare reports. Based on information from the Office of Management and Budget (OMB) and the Department of Health and Human Services (HHS), CBO estimates that increased administrative costs related to those reports would total $8 million over the 2016–2020 period; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 3089 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Information on the *USASpending* website, maintained by the Treasury Department, indicates that the government has awarded almost $600 billion annually in grants over the past five years. In 2012, the Government Accountability Office reported that about 80 percent of all grants are provided through payment systems of HHS and the Treasury; undisbursed grants totaled about $720 million in about 10,000 expired accounts that year. In 2012, OMB advised that agencies should take appropriate action to close out such accounts in a timely manner.

H.R. 3089 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On July 31, 2015, CBO transmitted a cost estimate for S. 1115, the GONE Act, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on June 24, 2015. The two bills are similar, and the estimated costs are the same.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

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