

Calendar No. 641

115TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 115-354

GRANT REPORTING EFFICIENCY AND
AGREEMENTS TRANSPARENCY ACT OF 2018

—
R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3484

TO MODERNIZE FEDERAL GRANT REPORTING, AND FOR OTHER
PURPOSES



NOVEMBER 13, 2018.—Ordered to be printed

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TRANSPARENCY ACT OF 2018

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Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3484]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3484) to modernize Federal grant reporting, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 3484, the Grant Reporting Efficiency and Agreements Transparency Act of 2018, or the GREAT Act, is to improve and modernize reporting by recipients of Federal grants. The bill does so by requiring the Director of the Office of Management and Budget (OMB), and the Secretary of the Executive Branch agency that awards the most Federal grants each year, to create data standards for grantee reporting requirements across the Federal Government.

II. BACKGROUND AND THE NEED FOR LEGISLATION

In 2014, Congress approved, and President Obama signed, the Digital Accountability and Transparency (DATA) Act, the nation's first open data law.¹ Included among the Act's provisions was the authorization of a 12-month pilot program to examine whether the establishment of data reporting standards across Federal agencies would reduce duplicative reporting requirements for Federal award recipients.²

The DATA Act tasked OMB with implementing the pilot program.³ As authorized, the pilot program applied standard data reporting requirements to contracts, grants, and sub-awards with a combined value over \$1 billion.⁴ OMB examined Federal spending data and how Federal awardees reported data back to the Federal Government to analyze the influence of standardized terms and interoperable financial data systems.⁵ The pilot program also included a variety of award recipients as participants, including recipients that accept awards from multiple Federal programs across multiple Federal agencies.⁶

OMB also tasked several agencies with overseeing differing aspects of the pilot program, including the Department of Health and Human Services (HHS).⁷ OMB made HHS responsible for the grants portion of the DATA pilot program due to its high involvement with grant recipients and maintenance of Grants.gov.⁸ To address inconsistent terms used in grant reporting, HHS created the Common Data Element Repository (CDER) Library model.⁹ The CDER is an online repository of Federal Government program data, terms, and attributes of grant reporting.¹⁰ CDER is designed to provide a framework of agreed-upon data standards, improve transparency, and promote consistency in definitions and terms in the Federal grant world.¹¹ Using CDER, HHS collected and analyzed data related to grants from a 12-month reporting period.¹²

Upon completion of the grant portion of the pilot program, HHS, and ultimately OMB, concluded that grant reporting could be completed in a more accurate and timely fashion if they had access to an online repository containing defined data standards, such as the CDER Library.¹³ OMB issued guidance to Federal agencies, explaining how agencies are to apply data standards in the hopes of lessening the compliance burden and simplify the reporting proc-

¹Pub. L. No. 113–101 (2014).

²*Id.* at § 5(b).

³*Id.* at (b)(1).

⁴*Id.* at (b)(2)(A).

⁵Office of Mgmt. & Budget, *Report to Congress: DATA Act Pilot Program 4* (Aug. 10, 2017), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration_reports/2017_data_act_section5_report.pdf.

⁶*Id.* at 4.

⁷*Id.*

⁸*Id.* at 32. *Grants.gov* is a centralized website that allows grant seekers to find and apply for federal funding opportunities. Grants.gov, *About the Grants.gov Program Management Office*, <https://www.grants.gov/web/grants/support/about-grants-gov.html> (last visited Oct. 9, 2018).

⁹Dep't Of Health & Human Services, *Common Data Repository (CDER) Library*, <https://www.hhs.gov/about/agencies/asfr/data-act-program-management-office/common-data-element-repository/index.html> (last visited Nov. 2, 2018).

¹⁰*Id.*

¹¹*Id.*

¹²Office of Mgmt. & Budget, *supra* note 5 at 37.

¹³Memorandum from Mick Mulvaney, Director of the Office of Mgmt. & Budget, to Heads of Executive Departments and Agencies (Sept. 5, 2018) available at <https://www.whitehouse.gov/wp-content/uploads/2018/09/M-18-24.pdf>; Office of Mgmt. & Budget, *supra* note 5 at 42.

ess.¹⁴ OMB had four recommendations for grant reporting: (1) require that reported data elements are defined; (2) require that reported data is collected and maintained in a central location; (3) allow data to be re-used and auto-populated across the Government; and (4) have resources available to explain requirements and business processes when necessary.¹⁵

Although the DATA Act pilot program had a two-year sunset, the positive feedback from HHS's work with the pilot program as it related to Federal grants led to the introduction of S. 3484 by Senators James Lankford (R-OK) and Michael Enzi (R-WY). S. 3484 implements all four of OMB's recommendations for Federal agencies to modernizing reporting by defining and imposing data standards in an open repository managed by HHS and OMB. The data standards OMB and HHS establish will be applied government-wide to all Federal grant recipients' reporting to ensure continuity and efficiency.

III. LEGISLATIVE HISTORY

S. 3484, the Grant Reporting Efficiency and Agreements Transparency Act of 2018, or the GREAT Act, was introduced on September 24, 2018, by Senators James Lankford (R-OK) and Michael Enzi (R-WY). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3484 at a business meeting on September 26, 2018. Senator Heidi Heitkamp offered an amendment that ensures that the guidance issued by OMB and the standard-setting agency is regularly updated to reflect the most current technology and grant requirements. The amendment was agreed to without objection with Senators Johnson, Portman, Lankford, Paul, Enzi, Hoeven, Daines, McCaskill, Carper, Peters, Heitkamp, Hassan, Harris, and Jones present. S. 3484 was approved, as amended, by voice vote *en bloc* with Senators Johnson, Portman, Lankford, Paul, Enzi, Hoeven, Daines, McCaskill, Carper, Peters, Heitkamp, Hassan, Harris, and Jones present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the Grant Reporting Efficiency and Agreements Transparency Act of 2018, or the GREAT Act.

Section 2. Purposes

This section lays out the purposes of the bill, to improve Federal awardee's reporting to the Federal Government by creating and using data standards when reporting annual productivity, budget requests, and other correspondence. The data standards are to be created by the Director of OMB and the Secretary of the standard-setting agency (as defined in section 4 of this bill).

¹⁴Memorandum from David Mader, Controller of the Office of Mgmt. & Budget, to Heads of Executive Departments and Agencies (May 3, 2016) *available at* <https://obamawhitehouse.archives.gov/sites/default/files/omb/financial/memos/management-procedures-memorandum-no-2016-03-additional-guidance-for-data-act-implementation.pdf>.

¹⁵Office of Mgmt. & Budget, *supra* note 5 at 6.

Section 3. Definitions

This section explains that the terms agency, Director, Federal award, and Secretary have the same meanings as they are given in section 6401 of title 31, United States Code, which are added by section 4 of this bill.

Section 4. Data standards for grant reporting

This section adds a new Chapter 64 to follow chapter 63 in title 31 of the United States Code.

New section 6401 of Chapter 64 provides definitions for agency, core data elements, director, executive department, federal award, secretary, standard-setting agency, and state.

New section 6402 provides that the Executive department that issues the most Federal awards in a calendar year shall be considered the standard-setting agency. The Secretary of the standard-setting agency and Director of OMB shall establish the Government-wide data standards for all reporting by Federal award recipients. The data standards need to be consistent with accounting and reporting principles, nonproprietary, and yield information by being fully searchable and machine-readable.

New section 6403 details that the Secretary of the standard-setting agency and Director of OMB need to produce guidance directing all agencies to apply the data standards established under new section 6402 to all applicable reports from award recipients, not later than two years after the date of enactment of this bill. The guidance will help assimilate current reporting practices, while allowing exceptions for Indian Tribes.

New section 6404 explains the requirements of agencies. Three years from enactment, agencies are required to have all grant and cooperative agreements recipients use the data standards established for all information collection requests.

Section 5. Single Audit Act

This section amends Sections 7502 and 7502 of United States Code to require all audit-related information to be electronic and machine-readable.

Section 6. Consolidation of assistance-related information; publication of public information as open data

This section states that OMB and the standard-setting agency need to collect and maintain the federal award information received from the reports. The federal award information is to be displayed in a government-wide data set that is publically available.

Section 7. Evaluation of nonproprietary identifiers

This section establishes that OMB and the standard-setting agency should decide on using nonproprietary identifiers for the data standards, keeping in mind the accessibility and cost to recipients of federal awardees.

Section 8. Rule of construction

This section includes a rule of construction that provisions of this Act shall not be interpreted to require the collection of data that is not already required.

Section 9. No additional funds authorized

This section makes clear that no additional funds are authorized to carry out this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 19, 2018.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3484, the GREAT Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 3484—GREAT Act

Summary: S. 3484 aims to make information about federal grant programs more easily accessible and transparent. The bill would authorize the Office of Management and Budget (OMB) to designate an executive agency to establish data standards for all government reporting on such programs. CBO estimates that implementing S. 3484 would cost \$50 million over the 2019–2023 period, assuming appropriation of the necessary funds.

Enacting S. 3484 could affect direct spending by agencies that are authorized to use receipts from the sale of goods, fees, and other collections to cover operating costs. Therefore, pay-as-you-go procedures apply. Because most agencies can adjust the amounts collected as operating costs change, CBO estimates that any net changes in direct spending by those agencies would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 3484 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3484 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 3484 is shown in the following table. The costs

of the legislation fall within all budget functions that contain salaries and expenses for grant programs.

	By fiscal year, in millions of dollars—					
	2019	2020	2021	2022	2023	2019-2023
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	10	10	10	10	10	50
Estimated Outlays	10	10	10	10	10	50

Basis of estimate: For this estimate, CBO assumes that S. 3484 will be enacted near the end of 2018. Estimated outlays are based on historical spending patterns for similar activities.

The federal government uses several databases to monitor and track agency spending. For example, a Department of Health and Human Services (HHS) website, www.grants.gov, provides information about federal grants and contracts. Information on federal spending also is available through an OMB website, www.USAspending.gov, which displays award amounts for all federal contracts, grants, and loans. Information from HHS and OMB indicates that under current law, the federal government has standardized some reporting requirements by grant recipients but that the information is not collected or reported consistently across government programs that award grants.

For this estimate, CBO assumes that HHS would be the lead agency to implement S. 3484. HHS spends about \$10 million to \$12 million annually on its www.grants.gov website, and CBO expects that implementing S. 3484 would involve the same level of effort spread across multiple departments and agencies. Initial tasks would require personnel to develop the data structure and data elements; subsequent work would involve modifying computer systems and training personnel. In total, CBO estimates that implementing S. 3484 would cost \$50 million over the 2019–2023 period, subject to the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 3484 could affect direct spending by agencies that are not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any changes in direct spending would be negligible. Enacting the bill would not affect revenues.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 3484 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

Mandates: S. 3484 contains no intergovernmental or private-sector mandates as defined in UMRA.

Previous cost estimate: On July 23, 2018, CBO transmitted a cost estimate for H.R. 4887, the GREAT Act, as ordered reported by the House Committee on Oversight and Government Reform on February 6, 2018. The two versions of the bill are similar and their estimated costs are the same.

Estimate prepared by: Federal Costs: Matthew Pickford; Mandates: Andrew Laughlin.

Estimate reviewed by: Kim P. Cawley, Unit Chief, Natural Resources Cost Estimate Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 31—MONEY AND FINANCE

* * * * *

Subtitle V—General Assistance Administration

Chap.		Sec.
61.	Program Information	6101.
	* * * * *	
64.	Data standards for grant reporting	6401.
	* * * * *	

CHAPTER 64—DATA STANDARDS FOR GRANT REPORTING

Sec.

6401. *Definitions.*

6402. *Data standards for grant reporting.*

6403. *Guidance applying data standards for grant reporting.*

6404. *Agency requirements.*

SEC. 6401. DEFINITIONS.

In this chapter:

(1) *AGENCY.*—The term “agency” has the meaning given the term in section 552(f) of title 5.

(2) *CORE DATA ELEMENTS.*—The term “core data elements” means data elements that—

(A) *are not program-specific in nature; and*

(B) *are required by agencies for all or the vast majority of Federal grant and cooperative assistance recipients for purposes of reporting.*

(3) *DIRECTOR.*—The term “Director” means the Director of the Office of Management and Budget.

(4) *EXECUTIVE DEPARTMENT.*—The term “Executive department” has the meaning given the term in section 101 of title 5.

(5) *FEDERAL AWARD.*—The term “Federal award”—

(A) *means the transfer of anything of value for a public purpose of support or stimulation authorized by a law of the United States, including financial assistance and Government facilities, services, and property;*

(B) includes a Federal grant, subgrant, award, or cooperative agreement; and

(C) does not include—

(i) conventional public information services or procurement of property or services for the direct benefit or use of the Government; or

(ii) an agreement that provides only—

(I) direct Government cash assistance to an individual;

(II) a subsidy;

(III) a loan;

(IV) a loan guarantee; or

(V) insurance.

(6) **SECRETARY.**—The term “Secretary” means the head of the standard-setting agency.

(7) **STANDARD-SETTING AGENCY.**—The term “standard-setting agency” means the Executive department designated under section 6402(a)(1).

(8) **STATE.**—The term “State” means each State of the United States, the District of Columbia, each commonwealth, territory, or possession of the United States, and each federally recognized Indian Tribe.

SEC. 6402. DATA STANDARDS FOR GRANT REPORTING.

(a) **IN GENERAL.**—

(1) **DESIGNATION OF STANDARD-SETTING AGENCY.**—The Director shall designate the Executive department that issues the most Federal awards in a calendar year as the standard-setting agency.

(2) **ESTABLISHMENT OF STANDARDS.**—Not later than 1 year after the date of enactment of this chapter, the Secretary and the Director shall establish Government-wide data standards for information reported by recipients of Federal awards.

(3) **DATA ELEMENTS.**—The data standards established under paragraph (2) shall include, at a minimum—

(A) standard definitions for data elements required for managing Federal awards; and

(B) unique identifiers for Federal awards and recipients of Federal awards that can be consistently applied Government-wide.

(b) **SCOPE.**—The data standards established under subsection (a)—

(1) shall include core data elements; and

(2) may cover any information required to be reported to any agency by recipients of Federal awards, including audit-related information reported under chapter 75 of this title.

(c) **REQUIREMENTS.**—The data standards established under subsection (a) shall, to the extent reasonable and practicable—

(1) render information reported by recipients of Federal grant and cooperative agreement awards fully searchable and machine-readable;

(2) be nonproprietary;

(3) incorporate standards developed and maintained by voluntary consensus standards bodies;

(4) be consistent with and implement applicable accounting and reporting principles; and

(5) incorporate the data standards established under the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

(d) CONSULTATION.—In establishing the data standards under subsection (a), the Secretary and the Director shall consult with, as appropriate—

(1) the Secretary of the Treasury to ensure that the data standards established under subsection (a) incorporate the data standards established under the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note);

(2) the head of each agency that issues Federal awards;

(3) recipients of Federal awards and organizations representing recipients of Federal awards;

(4) private sector experts;

(5) members of the public, including privacy experts, privacy advocates, and industry stakeholders; and

(6) State and local governments.

SEC. 6403. GUIDANCE APPLYING DATA STANDARDS FOR GRANT REPORTING.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this chapter—

(1) the Secretary and the Director shall issue guidance to all agencies directing the agencies to apply the data standards established under section 6402(a) to all applicable reporting by recipients of Federal grants and cooperative agreement awards; and

(2) the Director shall prescribe guidance applying the data standards established under section 6402(a) to audit-related information reported under chapter 75 of this title.

(b) GUIDANCE.—The guidance issued under this section shall—

(1) to the extent reasonable and practicable—

(A) minimize the disruption to existing reporting practices for agencies and for recipients of Federal grant and cooperative agreement awards; and

(B) explore opportunities to implement modern technologies in Federal award reporting;

(2) allow the Director to permit exceptions for categories of grants, including exceptions for Federal awards granted to Indian Tribes and tribal organizations consistent with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), if the Director publishes a list of such exceptions; and

(3) take into consideration the consultation required under section 6402(d).

(c) UPDATING GUIDANCE.—

(1) IN GENERAL.—Not less frequently than once every 10 years, the Secretary and the Director shall update the guidance issued under subsection (a).

(2) PROCEDURES.—In updating guidance under paragraph (1), the Secretary and the Director shall, to the maximum extent practicable, follow the procedures for the development of the data standards and guidance prescribed under this section and section 6402.

SEC. 6404. AGENCY REQUIREMENTS.

Not later than 1 year after the date on which guidance is issued or updated under subsection (b) or (c), respectively, of section 6403, the head of each agency shall ensure that all of the grants and cooperative agreements of the agency use data standards for all future information collection requests, and amend existing information collection requests covered by chapter 35 of title 44 (commonly known as the "Paperwork Reduction Act"), to comply with the data standards established under section 6402 of this chapter, consistent with the guidance issued by the Secretary and the Director under section 6403 of this chapter.

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CHAPTER 75—REQUIREMENT FOR SINGLE AUDITS

* * * * *

SEC. 7502. AUDIT REQUIREMENTS; EXEMPTIONS.

(a) * * *

* * * * *

(h) The non-federal entity shall transmit the reporting package, in an electronic form consistent with the data standards established under chapter 64 and which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

* * * * *

SEC. 7505. REGULATIONS.

(a) * * *

* * * * *

(d) *Such guidance shall require audit-related information reported under this chapter to be reported in an electronic form consistent with the data standards established under chapter 64.*

* * * * *