

receiving TSA. For example the Office of Special Counsel wrote to Senate leadership describing how providing IGs with this authority will enhance IG efforts to reduce government waste and abuse, and how TSA has been helpful in reprisal investigations undertaken by the Office of Special Counsel. Nongovernmental organizations emphasized in a May 2016 letter to Congress that OIGs are essential to a well-functioning Government, and noted that providing access to agency information, including through TSA, would allow OIGs to conduct proper oversight. As evidenced by both Congressional and stakeholder support, TSA will benefit the IG community in carrying out its oversight operations.

CONCLUSION

CIGIE appreciates your continued support of our work and the House Committee on Oversight and Government Reform's efforts to improve government oversight through H.R. 4917. In the decades since the IG Act's passage, IGs have saved taxpayers hundreds of billions of dollars and improved the programs and operations of the Federal government through their independent oversight. Testimonial subpoena authority would further improve the ability of IGs to detect and prevent fraud, waste, and abuse in Federal operations. As Representative Russell stated, "Inspectors General are an essential partner for Congress and by extension to we the people that empower government," and "we must provide Inspectors General with the tools they need to fully accomplish their mission. Testimonial subpoena authority is one such tool, and a critical one at that."

Thank you for your continued support of CIGIE and its member IGs. We remain available to continue to work with you and the Congress on the important issues addressed in this legislation. If you have any questions, please do not hesitate to contact me.

Sincerely,

KATHY A. BULLER,
Chair, CIGIE Legislation Committee.

Mr. RUSSELL. Mr. Speaker, lastly, I would like to thank my Democratic colleagues for their support and thoughtful dialogue, particularly the gentleman from Virginia (Mr. CONNOLLY) and the gentleman from Pennsylvania (Mr. CARTWRIGHT), who sponsored this bill with me.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

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Mr. GOMEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would give inspectors general the ability to subpoena witnesses to testify. This would be a significant new authority.

Although I believe most IGs would act responsibly, it is important that we include safeguards to protect against potential abuse of this new authority.

This bill includes several such safeguards. The bill would require an IG, before issuing a subpoena, to go through two reviews.

The first review would be conducted by the Council of Inspectors General for Integrity and Efficiency. A panel of three council members would have to approve the subpoena before the IG could issue it.

The second review would be conducted by the attorney general, who would have the opportunity to block a

subpoena if it would interfere with an ongoing investigation.

The bill attempts to strike a careful balance in granting IGs the authority to interview witnesses outside of the government while also providing these important checks against potential abuse.

Mr. Speaker, I yield back the balance of my time.

Mr. RUSSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the chief complaints of the American people is that we can't hold our government accountable. This bill goes a long way to correct that.

In the future, no longer will people be able to simply walk away from agencies and duties in government without any accounting. We have built in the safeguards, and we have worked in a bipartisan way, so that we can achieve that aim.

Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. RUSSELL) that the House suspend the rules and pass the bill, H.R. 4917.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GUIDANCE OUT OF DARKNESS ACT

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4809) to increase access to agency guidance documents, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guidance Out Of Darkness Act" or the "GOOD Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to increase the transparency of agency guidance documents and to make guidance documents more readily available to the public.

SEC. 3. PUBLICATION OF GUIDANCE DOCUMENTS ON THE INTERNET.

(a) IN GENERAL.—On the date on which an agency issues a guidance document, the head of the agency shall publish the guidance document in accordance with subsection (c).

(b) PREVIOUSLY ISSUED GUIDANCE DOCUMENTS.—With respect to any guidance document issued by an agency before the effective date of this Act that is in effect on the effective date of this Act, the head of each agency shall meet the requirements of subsection (c).

(c) SINGLE LOCATION.—The head of each agency shall:

(1) Publish any guidance document issued by the agency in a single location on an online portal designated by the Director of the Office of Management and Budget.

(2) With respect to a guidance document issued by an agency, include a hyperlink on

the online portal of the agency that provides access to the guidance document published pursuant to paragraph (1).

(3) Ensure that any guidance document published pursuant to paragraph (1) is—

(A) clearly identified as a guidance document;

(B) sorted into subcategories, as appropriate;

(C) published in a machine-readable and open format; and

(D) searchable.

(4) Ensure that any hyperlink described in paragraph (2) be prominently displayed on the online portal of the agency.

(d) RESCINDED GUIDANCE DOCUMENTS.—Not later than the date on which a guidance document issued by an agency is rescinded, the head of the agency shall on the online portal described in subsection (c)(1)—

(1) maintain a copy of the rescinded guidance document; and

(2) indicate—

(A) that the guidance document is rescinded; and

(B) the date on which the guidance document was rescinded.

(e) DEADLINE TO DESIGNATE PORTAL.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall designate an online portal in accordance with subsection (c)(1).

SEC. 4. RULES OF CONSTRUCTION.

(a) GUIDANCE DOCUMENTS.—In this Act, the term "guidance document" shall be construed broadly.

(b) CONGRESSIONAL REVIEW.—Nothing in this Act may be construed to affect whether a guidance document qualifies as a rule for purposes of chapter 8 of title 5, United States Code.

SEC. 5. DEFINITIONS.

In this Act:

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

(2) GUIDANCE DOCUMENT.—The term "guidance document"—

(A) means an agency statement of general applicability (other than a rule that has the force and effect of law promulgated in accordance with the notice and public procedure under section 553 of title 5, United States Code) that—

(i) does not have the force and effect of law; and

(ii) sets forth—

(I) an agency decision or a policy on a statutory, regulatory, or technical issue; or

(II) an interpretation of a statutory or regulatory issue; and

(B) may include any of the following:

(i) A memorandum.

(ii) A notice.

(iii) A bulletin.

(iv) A directive.

(v) A news release.

(vi) A letter.

(vii) A blog post.

(viii) A no-action letter.

(ix) A speech by an agency official.

(x) An advisory.

(xi) A manual.

(xii) A circular.

(xiii) Any combination of the items described in clauses (i) through (xii).

(3) RULE.—The term "rule" has the meaning given that term in section 551 of title 5, United States Code.

SEC. 6. EFFECTIVE DATE.

Except as provided in section 3(e), this Act shall take effect on the date that is 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Oklahoma (Mr. RUSSELL) and the gentleman from California (Mr. GOMEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma.

GENERAL LEAVE

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. RUSSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of H.R. 4809, the Guidance Out of Darkness, or GOOD, Act, which was introduced by my colleague and friend from North Carolina, Mr. WALKER.

Regulatory guidance is widely used by agencies. The guidance applies to industry and taxpayers alike. However, we really don't know the full universe of agency guidance.

Professor Nicholas Parrillo of Yale Law School, who testified before the Oversight and Government Reform Committee earlier this year said, "There is no comprehensive compilation of guidance, but everyone agrees its volume is oceanic."

The Oversight and Government Reform Committee has been looking into agency use of guidance over the past year, and we found this is an area of government in need of reform.

H.R. 4809 introduces much-needed elements of transparency and consistency to the process of disseminating agency guidance documents.

In 2007, the Office of Management and Budget issued what is known as the "Good Guidance Bulletin." This bulletin requires Federal agencies to follow certain best practices when issuing significant guidance documents, which are those that are the costliest to comply with or are otherwise exceptionally impactful.

The Good Guidance Bulletin requires agencies to maintain lists of their significant guidance documents on their websites so that they can be readily found by the people and entities the documents affect. The GOOD Act expands this posting requirement to all guidance documents. Regulated entities shouldn't have to search high and low to find out how agencies interpret the laws and regulations that affect every sector of the economy. The public deserves to have this information, and this legislation will make these policy documents more accessible to the public.

Mr. Speaker, I urge all Members to support this legislation, and I reserve the balance of my time.

Mr. GOMEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we can all agree that agencies should be transparent about what guidance is currently in effect for agency employees.

During committee consideration of this legislation, Democratic members raised concerns that the bill should not be used for a purpose other than simple transparency. Unfortunately, the Senate sponsor of the companion legislation was quoted as stating that the bill could be used to eliminate guidance issued during President Barack Obama's administration by making those guidance documents available for disapproval under the Congressional Review Act.

Mr. Speaker, I thank the majority for working with minority to address the concerns expressed in committee. The majority agreed to include a provision in the bill that clarifies that this bill will not be used to influence whether guidance falls under the Congressional Review Act.

The bill we are considering today states that "Nothing in this Act may be construed to affect whether a guidance document qualifies as a rule for purposes of chapter 8 of title 5, United States Code."

There are additional improvements I believe should be made to the bill. For example, the definition in the bill of what would be considered a guidance document remains very broad, and it is unclear about who decides what is considered a guidance document.

The bill also makes no exceptions for national security or other sensitive documents. However, I do not object to this bill moving forward, but I do hope the majority will continue to work with all Members as this legislation moves through the legislative process.

Mr. Speaker, I reserve the balance of my time.

Mr. RUSSELL. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. WALKER), the sponsor of this bill, my friend.

Mr. WALKER. Mr. Speaker, I rise today in support of H.R. 4809, the Guidance Out of Darkness, or GOOD, Act.

Mr. Speaker, those who must live their lives or run their businesses according to a set of rules have a right to know what those rules are.

To foster accountability and transparency in Federal regulation, Congress passed the Administrative Procedure Act in 1946, which required disclosure or publication of administrative rules. Unfortunately, the law contains an exception for what we commonly refer to as guidance documents.

Guidance documents are sporadically posted on agency websites and the websites of component agencies and offices, while some are not posted at all. That inconsistency places burdens on regulated entities.

Small businesses are especially harmed because they do not have the resources to hire full-time compliance staff. Instead, small-business owners have to take the time and energy away from their businesses to stay up to date on each new regulatory guidance.

The GOOD Act requires transparency and consistency in the regulatory process.

The public deserves to know what guidance documents are out there. They deserve to know how the agencies administering our laws interpret those laws and regulations.

H.R. 4809 requires agencies to post their guidance documents online in one centralized location. Agencies create these documents and expect the guidance to be followed. They should, therefore, have no problem gathering and posting these documents for the American people to see.

At the request of the Oversight and Government Reform Committee, dozens of agencies have disclosed information to us on their use of guidance documents. The results have been staggering.

To date, agencies have provided lists of more than 18,000 guidance documents issued just in the past decade, and that is just a portion of Federal guidance documents. There are a handful of agencies that have been unable or flat out refused to produce a list of guidance documents for the committees.

I believe we would agree this is a red flag. If an agency doesn't bother to keep track of its guidance documents, then how in the world can businesses and taxpayers be expected to comply with them?

The burden should be on the agencies to make guidance documents publicly available and easy to find. That is all this bill does. It requires agencies to post information they should already have in a central location so it can be easily found. This is a small step agencies can take that will have significant benefits, alleviating burdens on regulated entities and the public.

I thank the bipartisan group of my colleagues who supported H.R. 4809 during committee consideration of this bill, and I urge all Members to support this legislation. Why? Because this legislation is commonsense reform that Members of both parties can support in the name of good governance and transparency.

Mr. Speaker, there is one additional item that is common sense that I believe both parties could support, and that is wishing my wife a happy birthday today.

Mr. GOMEZ. Mr. Speaker, I yield back the balance of my time.

Mr. RUSSELL. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. RUSSELL) that the House suspend the rules and pass the bill, H.R. 4809, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GRANT REPORTING EFFICIENCY AND AGREEMENTS TRANSPARENCY ACT OF 2018

Mr. RUSSELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4887) to modernize Federal grant reporting, and for other purposes, as amended.

The Clerk read the title of the bill.
The text of the bill is as follows:

H.R. 4887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Grant Reporting Efficiency and Agreements Transparency Act of 2018” or the “GREAT Act”.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) modernize reporting by recipients of Federal grants and cooperative agreements by creating and imposing data standards for the information that grants and cooperative agreement recipients must report to the Federal Government;

(2) implement the recommendation by the Director of the Office of Management and Budget, under section 5(b)(6) of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note), which includes the development of a “comprehensive taxonomy of standard definitions for core data elements required for managing Federal financial assistance awards”;

(3) reduce burden and compliance costs of recipients of Federal grants and cooperative agreements by enabling technology solutions, existing or yet to be developed, by both the public and private sectors, to better manage data recipients already provide to the Federal Government; and

(4) to strengthen oversight and management of Federal grants and cooperative agreements by agencies through consolidated collection and display of and access to open data that has been standardized, and where appropriate, transparency to the public.

SEC. 3. DATA STANDARDS FOR GRANT REPORTING.

(a) AMENDMENT.—Subtitle V of title 31, United States Code, is amended by inserting after chapter 63 the following new chapter:

“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.

“§ 6401. Definitions

“In this chapter:

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

“(2) CORE DATA ELEMENTS.—The term ‘core data elements’ means data elements that are not program-specific in nature and 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) 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 grants, subgrants, awards, and cooperative agreements; 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.

“(5) SECRETARY.—The term ‘Secretary’ means the head of the standard-setting agency.

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

“(7) 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.

“§ 6402. Data standards for grant reporting

“(a) IN GENERAL.—

“(1) DESIGNATION OF STANDARD-SETTING AGENCY.—The Director shall designate the Executive department (as defined in section 101 of title 5) 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 the enactment of this chapter, the Secretary and the Director shall establish Governmentwide 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 entities receiving Federal awards that can be consistently applied Governmentwide.

“(b) SCOPE.—The data standards established under subsection (a) shall include core data elements and 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 required to be 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 incorporate the data standards created 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.

“§ 6403. Guidance applying data standards for grant reporting

“(a) IN GENERAL.—Not later than 2 years after the date of the 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 to all applicable reporting by recipients of Federal grant and cooperative agreement awards; and

“(2) the Director shall prescribe guidance applying the data standards to audit-related information reported under chapter 75.

“(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 within Federal award reporting;

“(2) allow the Director to permit exceptions for categories of grants if the Director publishes a list of such exceptions, including exceptions for Indian Tribes and Tribal organizations consistent with the Indian Self-Determination and Education Assistance Act; and

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

“§ 6404. Agency requirements

“Not later than 3 years after the date of the enactment of this chapter, the head of each agency shall ensure that all of the agency’s grants and cooperative agreements use data standards for all future information collection requests and amend existing information collection requests covered by chapter 35 of title 44 (commonly referred to as the Paperwork Reduction Act) to comply with the data standards established under section 6402, consistent with the guidance issued by the Secretary and the Director under section 6403.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 63 the following new item:

“64. Data Standards for Grant Reporting 6401”.

SEC. 4. SINGLE AUDIT ACT.

(a) AMENDMENTS.—

(1) Section 7502(h) of title 31, United States Code, is amended by inserting before “to a Federal clearinghouse” the following “in an electronic form consistent with the data standards established under chapter 64,”.

(2) Section 7505 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(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.”.

(b) GUIDANCE.—Not later than 2 years after the date of the enactment of this Act, the Director shall issue guidance requiring audit-related information reported under chapter 75 of title 31, United States Code, to be reported in an electronic form consistent with the data standards established under chapter 64 of title 31, United States Code, as added by section 3.