December 12, 2011

The Honorable Ralph M. Hall  Eddie Bernice Johnson
Chairman  Ranking Member
Committee on Science, Space, and Technology  Committee on Science, Space, and Technology
Washington, DC 20515  Washington, DC 20515

Dear Chairman Hall and Ranking Member Johnson:

We are writing with respect to H.R. 3433, the “GRANT Act,” which was ordered reported by the Oversight and Government Reform Committee on November 17, 2011. Since this bill is within the jurisdiction of your committee, we are conveying concerns about the legislation we have heard from federal agencies and universities.

Universities and federal scientific agencies primarily are concerned by the provision in the bill that would require grant-making agencies to post online copies of all applications submitted to them. This requirement could endanger American intellectual property and potentially allow groundbreaking American innovations to be stolen by competing institutions and foreign adversaries. By contrast, agencies like the National Science Foundation and National Institutes of Health already post grant abstracts, which provide public transparency of grant funding without endangering American intellectual property.

In addition to intellectual property concerns, this requirement would create an immense amount of paperwork for agencies and universities. In order to shield against breaches to intellectual property law, these groups would be forced to increase the number of lawyers in order to perform extensive redactions to every grant application. Estimates suggest that the National Science Foundation alone would be required to post well over 150,000 pages of documents. At a time when federal agency and university funding is declining significantly, it would not seem to be prudent to impose such a labor-intensive requirement. Some have suggested requiring universities or other grantees to complete paperwork instead, but this would constitute an unfunded mandate on cash-strapped public universities which already are experiencing steep tuition increases.

Representatives from the Defense Advanced Research Project Agency, the National Institutes of Health, the National Science Foundation, and major research universities have all recommended that abstracts of grant proposals, rather than full applications, be posted online. However, the amendment that would have implemented this recommendation was rejected by the Oversight Committee majority.

We cannot afford, even unintentionally, to impose new, expensive requirements on universities and federal agencies that are already facing financial strain. More critically, however, we cannot afford to
risk that foreign adversaries could access America’s vital intellectual property by simply accessing it from a federal website from grant applications. Thank you for your consideration, and we stand ready to work with you to address these issues should the GRANT Act be considered on the House floor.

Sincerely,

Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform

Gerry Connolly
Ranking Member
Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform