

*AAU Association of American Universities*  
*APLU Association of Public and Land-grant Universities*  
*COGR Council on Governmental Relations*

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November 28, 2011

The Honorable Darrell E. Issa  
Chairman, House Committee on Oversight  
and Government Reform  
2157 Rayburn House Office Building  
Washington, DC, 20515

The Honorable James Lankford  
Chairman, House Subcommittee on Technology,  
Information Policy, Intergovernmental Relations,  
and Procurement Reform  
509 Cannon House Office Building  
Washington, DC, 20515

Dear Chairman Issa and Chairman Lankford:

On behalf of the Association of American Universities, the Association of Public and Land-grant Universities, and the Council on Governmental Relations, we write to express our concerns about HR 3433, the Grant Reform and New Transparency (GRANT) Act of 2011, and its potential adverse effects on scientific research and our nation's innovation system. Together, our associations represent the leading U.S. research universities, which receive nearly half of all competitively awarded federal grants, more than any other sector. We have appreciated the opportunity to comment on early drafts of the bill; however, in its current form, we would oppose the legislation if the full House were to consider the bill. We urge you to make changes to this legislation along the lines we outline below.

The GRANT Act aims to provide greater transparency to federal grant programs as a means of increasing accountability. The leaders and faculty at our member universities take seriously their responsibility to steward responsibly competitively awarded federal grant funds. We appreciate the need for appropriate transparency to help ensure that taxpayers and policymakers have the necessary information and assurances that federal grant monies are well-managed and executed as intended.

Under current laws and regulations governing federal grants, research universities and their faculty already provide to the federal government comprehensive financial and compliance information, which is publicly available. GPR, OMB Circulars A-21, A-110, and A-133, as well as individual agency grant policies are just a few of the federal requirements that universities must meet in order to receive federal grant awards. Accountability for – including the transparency of – competitively awarded federal research grants is very robust. Consequently, we do not understand the need for this legislation as it pertains to competitively awarded federal research grants. It may be that greater accountability is needed for federal grants other than those for scientific research; however, the one-size-fits-all approach to transparency in the legislation would have unintended and detrimental consequences to our nation's basic research enterprise if the bill becomes law.

While it is unfortunate that no hearings were held on this legislation, we appreciate the opportunity that you and the Committee staff provided our associations to review and comment on draft versions of the legislation, and we appreciate the efforts made thus far to address some of our concerns. Despite important improvements that are now included in the Committee-passed legislation, we remain very concerned about the legislation, especially the following provisions proposed in Section 7404 part (d) on "Grant Award Information":

- **Section 7404 part (d) (1)** – A federal grant award is not official until it is received by a university and the university begins charging expenditures to a grant. Federal agencies often contact the researcher and/or university to inform them that a grant proposal has been selected for funding prior to the official Notice of Award being received by the institution. This is done to allow the institution to begin review and approval of certain “just in time” procedures, such as protocols for research involving human subjects or animals, pending receipt of the official notice. We believe the Committee-approved bill should be revised to require the information to be posted to the new government-wide website after the institution has received a completely executed Notice of Award.
- **Section 7404 part (d) (2) (A) EXECUTED GRANT AGREEMENT** – There are situations where, for national security or public safety reasons, posting the terms and conditions of a federal grant agreement would not be in the public interest. In such circumstances, we believe the exception to posting information allowed for in Section 7404 part (d) (3) should be expanded to include grant agreement terms and conditions.
- **Section 7404 part (d) (2) (B) COPY OF PROPOSAL, APPLICATION, OR PLAN** – Research proposals contain the ideas, procedures, and preliminary research findings of a scientist that make the case for the federal agency to fund a particular area of research that could result in significant breakthroughs. Posting full grant applications would make such ideas and preliminary results available to anyone, domestic and foreign, looking for a shortcut to further their own research or to steal intellectual property, thus undermining the hard work and intellectual capital the applicant and institution have already invested in the project. Moreover, under the newly reformed U.S. patent law (which allows for the first person or entity to file for a patent to receive it), making full grant proposals public will undermine the competitive position of the U.S. in one of the few arenas in which we still maintain a global competitive advantage. This section of the bill should be revised to require only the posting of abstracts.
- **Section 7404 part (d) (2) (C) AWARD DECISION DOCUMENTATION AND RANKINGS and (D) JUSTIFICATION FOR DEVIATING FROM RANKINGS** – Rankings of research grant proposals are only one of the decision factors federal agencies use to make awards. Agencies also consider whether research grant proposals meet programmatic goals and the fit with an agency’s mission. In these two sections, the bill requires agencies to describe how applications will be selected for award (this is already required by an OMB Final Policy Directive on Financial Assistance Program Announcements issued on June 23, 2003), so these two sections could be combined to simply state that, in accordance with Section 7402[c](2)[C], the agency will publicly describe its decision-making process for selecting the application for funding.
- **Section 7404 part (d) (2) (E) DISCLOSURE OF PEER REVIEWERS** – We remain very concerned about this element of the bill. Anonymity in the peer review process for reviewing scientific and other academic grant proposals has served science and our nation very well over the past several decades. Anonymity in the process permits greater candor in the evaluation of grant applications and thereby, contributes to a higher quality of review than would otherwise occur if the names of peer reviewers related to a specific application were known. The promise of anonymity is also helpful in recruiting volunteer peer reviewers. We recognize that the Committee-approved bill provides for some degree of anonymity; however, because some disciplines are so small, true anonymity may not be possible. As such, we believe that the downsides of disclosure outweigh the potential benefits, and that this provision should be eliminated.

Let us be clear that we offer these concerns and our recommendations for improvements despite our strong doubt about the need for this legislation as it pertains to competitively awarded federal research grants.

Again, we thank you and your staff for considering our concerns. We hope to continue our dialogue about ways in which your goal to bring greater transparency to competitively awarded federal grants can be achieved without harming scientific research.

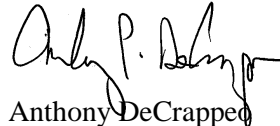
Sincerely,



Hunter R. Rawlings III  
President  
AAU



Peter McPherson  
President  
APLU



Anthony DeCrappeo  
President  
COGR

- cc: The Honorable Elijah Cummings, Ranking Member, House Government Reform and Oversight Committee  
The Honorable Gerald Connolly, Ranking Member, House Subcommittee on Technology, Information Policy, Intergovernmental Relations, and Procurement Reform  
The Honorable John A. Boehner, Speaker, U.S. House of Representatives  
The Honorable Eric Cantor, Majority Leader, U.S. House of Representatives  
The Honorable Kevin McCarthy, Majority Whip, U.S. House of Representatives  
The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives  
The Honorable Steny Hoyer, Minority Whip, U.S. House of Representatives