



To: Members of the House Committee on Oversight and Reform

From: National Taxpayers Union

Date: July 11, 2023

Subject: NTU's Views on July 12, 2023 Committee Markup

I. Introduction and Key Taxpayer Considerations

On behalf of the National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, we write to express our views on several measures slated for consideration before the House Committee on Oversight and Reform on July 12, 2023. NTU applauds the Committee for your continued efforts to advance legislation that improves government efficiency, enhances transparency, and protects taxpayers from wasteful spending. As such, NTU strongly urges Committee members to support **H.R. 4435, H.R. 1209, H.R. 890, H.R. 3230, and H.R. 4428**.

H.R. 4435 - The Unauthorized Spending Accountability (USA) Act - Support

This legislation by House Energy and Commerce Committee Chair Cathy McMorris-Rodgers (R-WA) would help empower Congress to better exercise its power of the purse by requiring the periodic re-authorization of federal programs. Currently some "zombie" programs continue to use federal funding without being reauthorized. Regardless of the merits of these programs, it is undeniable that they are being funded without sufficient oversight and accountability. The USA Act would create a mechanism that forces congressional committees to take charge of the expenditures within their jurisdiction. After the enactment of this bill, unauthorized programs would see their budgets reduced by 10 percent in the first year, and 15 percent in each of the following two years, after which they would be completely sunset. These spending reductions would be applied to the overall federal discretionary budget.

H.R. 1209 - The Fair and Open Competition Act - Support

This legislation by Chair James Comer (R-KY), would disallow federal agencies and grantees from creating requirements for contractors to sign project labor agreements (PLAs) as a condition of winning construction contracts with federal taxpayer funds attached. NTU led a [12 member coalition](#) to support this bill earlier this year as well.

Last year, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration proposed amending the Federal Acquisition Regulation (FAR) to implement an Executive Order requiring costly PLAs on federal construction contracts in cases where the total estimated cost to the

government is \$35 million or more, unless an exception applies. In addition, over [\\$100 billion](#) worth of federal assistance to state and local government infrastructure projects have been subjected to pro-PLA language embedded in federal agency grant programs. These anti-competitive and inflationary policies were not enacted in law by Congress, but rather through administrative fiat. This bill will prevent Congress from being circumvented by unelected bureaucrats and will reduce taxpayer expenditures on unnecessary and inflationary criteria for contractors.

H.R. 890 - The Guidance Out of Darkness (GOOD) Act - Support

The Guidance Out of Darkness (GOOD) Act, also introduced by Chair James Comer, (R-KY) is a strong step toward improving transparency of federal rules for the general public and businesses alike.

Federal rules and regulations can often have an economic impact on businesses similar to taxes, as they can increase operating costs in order to comply with federal standards. In recent years, Washington bureaucrats have ignored the regulatory rulemaking process by implementing “guidance”—a creative way to mandate new policies without the same hurdles as regulations. Since guidance is not subject to the same public process as formal rules, which are required to be shared with the public for comments and input prior to finalization, regulatory guidance documents can be used to circumvent public input.

This legislation shines light on rules that are stuck in the shadows of the bureaucracy by requiring agencies to post their regulatory guidance documents in a central location on their website. Ensuring agencies report their guidance documents online is a reasonable solution to hold the bureaucracy responsible. Powerful federal agencies can sometimes issue significant rules and policies through means other than a formal regulation, and this legislation would ensure that items such as memos, news releases, letters, and blog posts are available for public review.

H.R. 3230 - The Unfunded Mandates Accountability and Transparency Act - Support

House Education and Workforce Committee Chair Virginia Foxx’s (R-NC) Unfunded Mandates Information and Transparency Act, which would [improve reporting of unfunded mandates](#) by extending reporting requirements to fifteen independent agencies that were excluded from the original law. These include powerful regulators such as the Securities and Exchange Commission, the Federal Communications Commission, and the Federal Deposit Insurance Corporation. The proposal would also strengthen enforcement by creating a point of order against proposals private sector mandates, another oversight in the original law.

H.R. 4428 - The Guidance Clarity Act - Support

This legislation, introduced by Rep. Blaine Luetkemeyer (R-MO), would require all federal agencies to include a guidance clarity statement that states the guidance is not issued in accordance with the rulemaking process and therefore is not legally binding. While guidance documents are solely intended to clarify an agency’s policy or interpretation of a regulation, agencies have recently used guidance to issue new policy as if it were a binding regulation. Since guidance is not subject to the same public process as formal rules, which are required to be

shared with the public for comments and input prior to finalization, regulatory guidance documents can be used to circumvent public input.

II. Contact Information

Thank you for your consideration. Should you have any questions about the content in this memo, please do not hesitate to reach out to Nicholas Johns at NJohns@ntu.org.