

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

H.R. 3766

To direct the President to establish guidelines for United States foreign development and economic assistance programs, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. RUBIO (for himself and Mr. CARDIN)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Aid Trans-

5 parency and Accountability Act of 2016”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-

9 TEES.—The term “appropriate congressional com-

10 mittees” means—

1 (A) the Committee on Foreign Relations of
2 the Senate;

3 (B) the Committee on Appropriations of
4 the Senate;

5 (C) the Committee on Foreign Affairs of
6 the House of Representatives; and

7 (D) the Committee on Appropriations of
8 the House of Representatives.

9 (2) EVALUATION.—The term “evaluation”
10 means, with respect to a covered United States for-
11 eign assistance program, the systematic collection
12 and analysis of information about the characteristics
13 and outcomes of the program, including projects
14 conducted under such program, as a basis for—

15 (A) making judgments and evaluations re-
16 garding the program;

17 (B) improving program effectiveness; and

18 (C) informing decisions about current and
19 future programming.

20 (3) COVERED UNITED STATES FOREIGN ASSIST-
21 ANCE.—The term “covered United States foreign as-
22 sistance” means assistance authorized under—

23 (A) part I of the Foreign Assistance Act of
24 1961 (22 U.S.C. 2151 et seq.), except for—

1 (i) title IV of chapter 2 of such part
2 (relating to the Overseas Private Invest-
3 ment Corporation); and

4 (ii) chapter 3 of such part (relating to
5 International Organizations and Pro-
6 grams);

7 (B) chapter 4 of part II of the Foreign As-
8 sistance Act of 1961 (22 U.S.C. 2346 et seq.;
9 relating to Economic Support Fund);

10 (C) the Millennium Challenge Act of 2003
11 (22 U.S.C. 7701 et seq.); and

12 (D) the Food for Peace Act (7 U.S.C.
13 1721 et seq.).

14 **SEC. 3. GUIDELINES FOR COVERED UNITED STATES FOR-**
15 **IGN ASSISTANCE PROGRAMS.**

16 (a) PURPOSES.—The purposes of this section are
17 to—

18 (1) evaluate the performance of covered United
19 States foreign assistance and its contribution to the
20 policies, strategies, projects, program goals, and pri-
21 orities undertaken by the Federal Government;

22 (2) support and promote innovative programs
23 to improve effectiveness; and

1 (3) coordinate the monitoring and evaluation
2 processes of Federal departments and agencies that
3 administer covered United States foreign assistance.

4 (b) ESTABLISHMENT OF GUIDELINES.—Not later
5 than 18 months after the date of the enactment of this
6 Act, the President shall set forth guidelines, according to
7 best practices of monitoring and evaluation studies and
8 analyses, for the establishment of measurable goals, per-
9 formance metrics, and monitoring and evaluation plans
10 that can be applied with reasonable consistency to covered
11 United States foreign assistance.

12 (c) OBJECTIVES OF GUIDELINES.—

13 (1) IN GENERAL.—The guidelines established
14 pursuant to subsection (b) shall provide direction to
15 Federal departments and agencies that administer
16 covered United States foreign assistance on—

17 (A) monitoring the use of resources;

18 (B) evaluating the outcomes and impacts
19 of covered United States foreign assistance
20 projects and programs; and

21 (C) applying the findings and conclusions
22 of such evaluations to proposed project and pro-
23 gram design.

24 (2) OBJECTIVES.—The guidelines established
25 pursuant to subsection (b) shall provide direction to

1 Federal departments and agencies that administer
2 covered United States foreign assistance on how
3 to—

4 (A) establish annual monitoring and eval-
5 uation objectives and timetables to plan and
6 manage the process of monitoring, evaluating,
7 analyzing progress, and applying learning to-
8 ward achieving results;

9 (B) develop specific project monitoring and
10 evaluation plans, including measurable goals
11 and performance metrics, and to identify the re-
12 sources necessary to conduct such evaluations,
13 which should be covered by program costs;

14 (C) apply rigorous monitoring and evalua-
15 tion methodologies to such programs, including
16 through the use of impact evaluations, ex-post
17 evaluations, or other methods, as appropriate,
18 that clearly define program logic, inputs, out-
19 puts, intermediate outcomes, and end outcomes;

20 (D) disseminate guidelines for the develop-
21 ment and implementation of monitoring and
22 evaluation programs to all personnel, especially
23 in the field, who are responsible for the design,
24 implementation, and management of covered
25 United States foreign assistance programs;

1 (E) establish methodologies for the collec-
2 tion of data, including baseline data to serve as
3 a reference point against which progress can be
4 measured;

5 (F) evaluate, at least once in their lifetime,
6 all programs whose dollar value equals or ex-
7 ceeds the median program size for the relevant
8 office or bureau or an equivalent calculation to
9 ensure the majority of program resources are
10 evaluated;

11 (G) conduct impact evaluations on all pilot
12 programs before replicating, or conduct per-
13 formance evaluations and provide a justification
14 for not conducting an impact evaluation when
15 such an evaluation is deemed inappropriate or
16 impracticable;

17 (H) develop a clearinghouse capacity for
18 the collection, dissemination, and preservation
19 of knowledge and lessons learned to guide fu-
20 ture programs for United States foreign assist-
21 ance personnel, implementing partners, the
22 donor community, and aid recipient govern-
23 ments;

24 (I) internally distribute evaluation reports;

1 (J) publicly report each evaluation, includ-
2 ing an executive summary, a description of the
3 evaluation methodology, key findings, appro-
4 priate context, including quantitative and quali-
5 tative data when available, and recommenda-
6 tions made in the evaluation within 90 days
7 after the completion of the evaluation;

8 (K) undertake collaborative partnerships
9 and coordinate efforts with the academic com-
10 munity, implementing partners, and national
11 and international institutions, as appropriate,
12 that have expertise in program monitoring,
13 evaluation, and analysis when such partnerships
14 provide needed expertise or significantly im-
15 prove the evaluation and analysis;

16 (L) ensure verifiable, reliable, and timely
17 data, including from local beneficiaries and
18 stakeholders, are available to monitoring and
19 evaluation personnel to permit the objective
20 evaluation of the effectiveness of covered United
21 States foreign assistance programs, including
22 an assessment of assumptions and limitations
23 in such evaluations; and

24 (M) ensure that standards of professional
25 evaluation organizations for monitoring and

1 evaluation efforts are employed, including en-
2 suring the integrity and independence of evalua-
3 tions, permitting and encouraging the exercise
4 of professional judgment, and providing for
5 quality control and assurance in the monitoring
6 and evaluation process.

7 (d) PRESIDENT'S REPORT.—Not later than 18
8 months after the date of the enactment of this Act, the
9 President shall submit a report to the appropriate con-
10 gressional committees that contains a detailed description
11 of the guidelines established pursuant to subsection (b).
12 The report shall be submitted in unclassified form, but
13 it may contain a classified annex.

14 (e) COMPTROLLER GENERAL'S REPORT.—The
15 Comptroller General of the United States shall, not later
16 than 18 months after the report required by subsection
17 (d) is submitted to Congress, submit to the appropriate
18 congressional committees a report that—

19 (1) analyzes the guidelines established pursuant
20 to subsection (b); and

21 (2) assesses the implementation of the guide-
22 lines by the agencies, bureaus, and offices that im-
23 plement covered United States foreign assistance as
24 outlined in the President's budget request.

1 **SEC. 4. INFORMATION ON COVERED UNITED STATES FOR-**
2 **IGN ASSISTANCE PROGRAMS.**

3 (a) PUBLICATION OF INFORMATION.—

4 (1) UPDATE OF EXISTING WEBSITE.—Not later
5 than 90 days after the date of the enactment of this
6 Act, the Secretary of State shall update the Depart-
7 ment of State’s website, “ForeignAssistance.gov”, to
8 make publicly available comprehensive, timely, and
9 comparable information on covered United States
10 foreign assistance programs, including all informa-
11 tion required under subsection (b) that is available
12 to the Secretary of State.

13 (2) INFORMATION SHARING.—Not later than 2
14 years after the date of the enactment of this Act,
15 and quarterly thereafter, the head of each Federal
16 department or agency that administers covered
17 United States foreign assistance shall provide the
18 Secretary of State with comprehensive information
19 about the covered United States foreign assistance
20 programs carried out by such department or agency.

21 (3) UPDATES TO WEBSITE.—Not later than 2
22 years after the date of the enactment of this Act,
23 and quarterly thereafter, the Secretary of State shall
24 publish, on the “ForeignAssistance.gov” website or
25 through a successor online publication, the informa-
26 tion provided under subsection (b).

1 (b) MATTERS TO BE INCLUDED.—

2 (1) IN GENERAL.—The information described in
3 subsection (a)—

4 (A) shall be published for each country on
5 a detailed basis, such as award-by-award; or

6 (B) if assistance is provided on a regional
7 level, shall be published for each such region on
8 a detailed basis, such as award-by-award.

9 (2) TYPES OF INFORMATION.—

10 (A) IN GENERAL.—To ensure the trans-
11 parency, accountability, and effectiveness of
12 covered United States foreign assistance pro-
13 grams, the information described in subsection
14 (a) shall include—

15 (i) links to all regional, country, and
16 sector assistance strategies, annual budget
17 documents, congressional budget justifica-
18 tions, and evaluations in accordance with
19 section 3(e)(2)(J);

20 (ii) basic descriptive summaries for
21 covered United States foreign assistance
22 programs and awards under such pro-
23 grams; and

24 (iii) obligations and expenditures.

1 (B) PUBLICATION.—Each type of informa-
2 tion described in subparagraph (A) shall be
3 published or updated on the appropriate website
4 not later than 90 days after the date on which
5 the information is issued.

6 (C) RULE OF CONSTRUCTION.—Nothing in
7 this paragraph may be construed to require a
8 Federal department or agency that administers
9 covered United States foreign assistance to pro-
10 vide any information that does not relate to, or
11 is not otherwise required by, the covered United
12 States foreign assistance programs carried out
13 by such department or agency.

14 (3) REPORT IN LIEU OF INCLUSION.—

15 (A) HEALTH OR SECURITY OF IMPLE-
16 MENTING PARTNERS.—If the head of a Federal
17 department or agency, in consultation with the
18 Secretary of State, makes a determination that
19 the inclusion of a required item of information
20 online would jeopardize the health or security of
21 an implementing partner or program bene-
22 ficiary or would require the release of propri-
23 etary information of an implementing partner
24 or program beneficiary, the head of the Federal
25 department or agency shall provide such deter-

1 mination in writing to the appropriate congres-
2 sional committees, including the basis for such
3 determination.

4 (B) NATIONAL INTERESTS OF THE UNITED
5 STATES.—If the Secretary of State makes a de-
6 termination that the inclusion of a required
7 item of information online would be detrimental
8 to the national interests of the United States,
9 the Secretary of State shall provide such deter-
10 mination, including the basis for such deter-
11 mination, in writing to the appropriate congres-
12 sional committees.

13 (C) FORM.—Information provided under
14 this paragraph may be provided in classified
15 form, as appropriate.

16 (4) FAILURE TO COMPLY.—If a Federal depart-
17 ment or agency fails to comply with the require-
18 ments under paragraph (1), (2), or (3) of subsection
19 (a), or subsection (c), with respect to providing in-
20 formation described in subsection (a), and the infor-
21 mation is not subject to a determination under sub-
22 paragraph (A) or (B) of paragraph (3) not to make
23 the information publicly available, the Director of
24 the Office of Management and Budget, in consulta-
25 tion with the head of such department or agency,

1 not later than one year after the date of the enact-
2 ment of this Act, shall submit a consolidated report
3 to the appropriate congressional committees that in-
4 cludes, with respect to each required item of infor-
5 mation not made publicly available—

6 (A) a detailed explanation of the reason for
7 not making such information publicly available;
8 and

9 (B) a description of the department's or
10 agency's plan and timeline for—

11 (i) making such information publicly
12 available; and

13 (ii) ensuring that such information is
14 made publicly available in subsequent
15 years.

16 (c) SCOPE OF INFORMATION.—The online publication
17 required under subsection (a) shall, at a minimum—

18 (1) in each of the fiscal years 2016 through
19 2019, provide the information required under sub-
20 section (b) for fiscal years 2015 through the current
21 fiscal year; and

22 (2) for fiscal year 2020 and each fiscal year
23 thereafter, provide the information required under
24 subsection (b) for the immediately preceding 5 fiscal
25 years in a fully searchable form.

1 (d) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the Secretary of State and the Administrator
3 of the United States Agency for International Develop-
4 ment should coordinate the consolidation of processes and
5 data collection and presentation for the Department of
6 State’s website, “ForeignAssistance.gov”, and the United
7 States Agency for International Development’s website,
8 “Explorer.USAID.gov”, to the extent that is possible to
9 maximize efficiencies, no later than the end of fiscal year
10 2018.