

114TH CONGRESS
2D SESSION

S. 1875

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2016

Referred to the Committee on Foreign Affairs

AN ACT

To support enhanced accountability for United States
assistance to Afghanistan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Afghanistan Account-
3 ability Act of 2015”.

4 **SEC. 2. DEFINED TERM.**

5 In this Act, the term “appropriate congressional com-
6 mittees” means—

7 (1) the Committee on Foreign Relations of the
8 Senate;

9 (2) the Committee on Appropriations of the
10 Senate;

11 (3) the Committee on Armed Services of the
12 Senate;

13 (4) the Select Committee on Intelligence of the
14 Senate;

15 (5) the Committee on Foreign Affairs of the
16 House of Representatives;

17 (6) the Committee on Appropriations of the
18 House of Representatives;

19 (7) the Committee on Armed Services of the
20 House of Representatives; and

21 (8) the Permanent Select Committee on Intel-
22 ligence of the House of Representatives.

1 **TITLE I—EFFECTIVE AFGHANI-**
2 **STAN ASSISTANCE AND AC-**
3 **COUNTABILITY**

4 **SEC. 101. FINDINGS.**

5 Congress makes the following findings:

6 (1) Following the terrorist attacks of September
7 11, 2001, the United States launched Operation En-
8 during Freedom, and since then the United States
9 Armed Forces and the Afghan National Security
10 Forces have made countless sacrifices in defending
11 Afghanistan against the threat of terrorism and in-
12 surgency and by extension the United States and the
13 wider world.

14 (2) Since 2001, the United States has worked
15 with a broad coalition of nations that has helped to
16 dramatically improve numerous development indica-
17 tors within Afghanistan, including—

18 (A) a dramatic increase in the number of
19 girls enrolled in primary education from an esti-
20 mated 5,000 under the Taliban to 2,400,000
21 girls as of 2010;

22 (B) an increase in the percentage of indi-
23 viduals above the poverty line from 25.4 percent
24 in 2002 to 35.8 percent in 2011;

1 (C) an increase in the percentage of indi-
2 viduals who now have access to an improved
3 water source in rural areas from 22 percent in
4 2001 to 56 percent in 2012;

5 (D) a precipitous decline in maternal mor-
6 tality from 1200/100,000 births in 1995 to
7 400/100,000 births in 2013; and

8 (E) an expansion of women's rights.

9 (3) Numerous research studies have shown that
10 government corruption is a driver of conflict and
11 particularly so in Afghanistan, where it has served
12 as a powerful recruitment tool for the Taliban.

13 (4) Since the first democratic transfer of power
14 in the history of Afghanistan in 2014, President
15 Ashraf Ghani and Chief Executive Officer Abdullah
16 Abdullah have led a National Unity Government
17 that has identified key security and development
18 challenges in order to make Afghanistan a full and
19 productive member of the community of democratic
20 nations.

21 (5) The National Unity Government has re-
22 newed specific focus on addressing corruption within
23 the country as a driver of instability, including re-
24 opening a fraud case involving high level officials

1 and the Kabul Bank that resulted in the disappear-
2 ance of an estimated \$1,000,000,000.

3 (6) In its report “Realizing Self Reliance: Com-
4 mitments to Reform and Renewed Partnership”, the
5 Government of Afghanistan committed to the inter-
6 national community in London in December 2014,
7 to address the “main drivers of corruption in Af-
8 ghanistan,” including “collusive procurement prac-
9 tices, weak rule of law and abuse of the legal sys-
10 tem, and arbitrary regulations that build in incen-
11 tives to pay bribes”. Government of Afghanistan
12 commitments included—

13 (A) forming an independent anti-corrup-
14 tion commission with time-bound prosecutorial
15 powers;

16 (B) implementing recommendations by the
17 Monitoring and Evaluation Committee on a na-
18 tional action plan to reduce corruption;

19 (C) requiring all government officials to
20 provide public declarations of their assets;

21 (D) meeting all Financial Action Task
22 Force (FATF) requirements to further limit
23 and investigate illicit fund flows;

24 (E) forming a national procurement board
25 staffed by qualified professionals who will man-

1 age all large value contracts using internation-
2 ally recognized standards and procedures; and

3 (F) delineating the roles, responsibilities,
4 and jurisdiction of anti-corruption institutions
5 such as the High Office of Oversight and Anti-
6 Corruption (HOO) and the Attorney General to
7 restrict them to focus on their core function of
8 enforcement instead of oversight.

9 (7) The December 2014 Government of Af-
10 ghanistan report “Realizing Self Reliance: Commit-
11 ments to Reform and Renewed Partnership”, ex-
12 pressed a commitment to “enhancing productivity,
13 growth and revenues” by—

14 (A) developing natural resources through
15 public-private partnerships that bring in rents,
16 taxes, and profits;

17 (B) removing obstacles to trade and transit
18 and ending smuggling that diverts revenue
19 away from the treasury;

20 (C) negotiating expanded market access in
21 regional and global markets;

22 (D) gradually formalizing the informal
23 economy and changing the compact between the
24 state and citizens to one where citizens pay

1 taxes for services they tangibly benefit from;
2 and

3 (E) transferring government payments
4 electronically to eliminate losses in transit.

5 (8) In 2012, international donors and the Gov-
6 ernment of Afghanistan agreed to the Tokyo Mutual
7 Accountability Framework (“TMAF”) which com-
8 mitted to provide \$4,000,000,000 in economic assist-
9 ance per year from 2012–2015 and sustain assist-
10 ance at or near the same levels of the past decade
11 through 2017, while the Government of Afghanistan
12 committed to meet benchmarks related to democracy
13 and governance, public finance and revenue genera-
14 tion, and economic development.

15 (9) At the end of 2014, under the TMAF, the
16 Government of Afghanistan had fallen short in meet-
17 ing benchmarks related to: revenue collection, the
18 enhancement of women’s rights, corruption and the
19 illicit economy, and the protection of human rights.

20 (10) In the Joint Declaration following the
21 London Conference on Afghanistan of December 4,
22 2014, the international community and the new Gov-
23 ernment of Afghanistan agreed to refresh the exist-
24 ing TMAF and associated commitments at the 2015
25 Senior Officials Meeting based on the reform pro-

1 gram and priorities as laid out by the Government
2 of Afghanistan.

3 (11) Afghanistan faces great difficulties in
4 making progress in countering illegal narcotics and
5 remains the leading global illicit opium poppy pro-
6 ducer.

7 (12) The illegal narcotics trade results in the
8 transfer of illicit funds and encourages and also re-
9 quires corrupt financial transactions, and, if mini-
10 mized, could have beneficial impacts on trade and
11 reduce overall levels of corruption.

12 (13) The international community has endorsed
13 Afghanistan's longer-term development following the
14 war and identified the criticality of the "trans-
15 formation decade" from 2015–2024 outlined by the
16 Government of Afghanistan and has acknowledged
17 that the Government of Afghanistan will seek con-
18 tinued international assistance in order for it to be-
19 come a stable, self-sustained partner in the commu-
20 nity of democratic countries.

21 (14) As development assistance from the United
22 States and broader international community gradu-
23 ally diminishes in the coming years, the accelerated
24 development of the Afghan private sector and gov-
25 erning institutions becomes even more necessary to

1 maintain the gains of the past decade and to en-
2 hance our mutual goals of Afghan security and sta-
3 bility.

4 (15) While Afghan National Security Forces
5 (ANSF) have taken over lead combat responsibil-
6 ities, they continue to operate in close coordination
7 with, and with significant resources from the inter-
8 national community, under the Resolute Support
9 Mission and in coordination with ongoing counter-
10 terrorism operations. Development of civilian over-
11 sight institutions for the security sector has lagged.
12 Such oversight will be important for ensuring that
13 Afghan security forces are accountable and do not
14 abuse their powers.

15 **SEC. 102. SENSE OF CONGRESS ON UNITED STATES ASSIST-**
16 **ANCE AND ACCOUNTABILITY IN AFGHANI-**
17 **STAN.**

18 It is the sense of Congress that—

19 (1) the National Unity Government of Afghani-
20 stan has made a substantial commitment to reform
21 that should be supported but also subject to height-
22 ened scrutiny by the Afghan people and inter-
23 national donors given past failures and persistent
24 challenges in the country;

1 (2) Afghanistan is at a critical inflection point,
2 having gone through political and security transi-
3 tions as the international community draws down its
4 military forces. The international community should
5 work closely with the new government in supporting
6 development priorities for the rest of the trans-
7 formation decade that translate into producing con-
8 crete development results for the Afghan people;

9 (3) sustainable accountability and reform of Af-
10 ghan governing institutions will not come from the
11 international community but from a commitment by
12 the Government of Afghanistan and society rein-
13 forced by domestic watchdog groups and internal
14 government accountability monitoring mechanisms;

15 (4) the United States Government should deep-
16 en its dialogue on anti-corruption efforts with the
17 Government of Afghanistan to develop effective over-
18 sight mechanisms to ensure large donor contracts do
19 not contribute to corruption;

20 (5) the United States should encourage Af-
21 ghanistan's participation in the Open Government
22 Partnership, a multilateral initiative in which gov-
23 ernment and civil society collaborate to promote
24 transparency, fight corruption, and use technologies
25 to strengthen government;

1 (6) the United States should urge the Govern-
2 ment of Afghanistan to build upon existing anti-
3 money laundering and countering terrorism financ-
4 ing legislation by developing effective regulations
5 and institutions to implement reforms;

6 (7) the United States should urge the Govern-
7 ment of Afghanistan to broaden personal asset dis-
8 closures to include members of the covered officials’
9 immediate families or households and develop effec-
10 tive mechanisms for verifying disclosed information;

11 (8) in the event of future egregious cases of
12 corruption in Afghanistan, the President should im-
13 pose visa bans and asset freezes on those respon-
14 sible, especially in instances where United States as-
15 sistance is stolen or misappropriated;

16 (9) the United States Government should co-
17 operate with the Government of Afghanistan and
18 with international donors to develop a series of strict
19 accountability benchmarks based on the refreshed
20 Tokyo Mutual Accountability Framework and the
21 Government of Afghanistan’s own “Realizing Self
22 Reliance” report commitments that will condition
23 levels of assistance and the amount of on-budget as-
24 sistance on anti-corruption performance acceptable
25 to donors;

1 (10) the United States should support the Af-
2 ghan Parliament to refine and strengthen the legal
3 framework of anti-corruption and anti-money laun-
4 dering laws to address beneficial ownership, coun-
5 tering bid-rigging and other contracting and pro-
6 curement fraud, criminal investigations of financial
7 transactions, complementary banks, personal asset
8 or other financial declarations and disclosures as re-
9 quired by law or regulation, efforts to meet FATF
10 requirements, and other areas to further inhibit the
11 illicit flow of money;

12 (11) the commitment by the Government of Af-
13 ghanistan to strengthen its nascent private sector
14 should be supported and sustained using the full
15 array of tools of the United States, including tech-
16 nical and legal assistance;

17 (12) United States assistance to the Afghan ju-
18 dicial system and other Afghan legal institutions
19 that enable and empower private sector development
20 by instilling greater investor confidence should be
21 prioritized to ensure the protection of private prop-
22 erty, the sanctity of contracts, and effective dispute
23 resolution mechanisms for businesses and investors;

24 (13) the United States Government should
25 identify opportunities for the United States to intro-

1 duce trade facilitation as part of the economic rela-
2 tionship between the 2 countries;

3 (14) the Governments of the United States and
4 Afghanistan should work together to identify more
5 Afghan products and raw materials to be included
6 on the United States Generalized System of Pref-
7 erences (GSP) treatment list;

8 (15) the American University of Afghanistan is
9 an emerging pillar in Afghanistan’s education sys-
10 tem and has provided a unique opportunity for high-
11 er education for Afghan youth, especially women;
12 and

13 (16) the United States should encourage the
14 Government of Afghanistan to implement with ur-
15 gency electoral reforms in accordance with the
16 “Agreement between the Two Campaign Teams Re-
17 garding the Structure of the National Unity Govern-
18 ment”.

19 **SEC. 103. UNITED STATES ASSISTANCE POLICY FOR AF-**
20 **GHANISTAN.**

21 It is the policy of the United States—

22 (1) to conduct assistance programs that result
23 in highly effective, impact driven development out-
24 comes for the people of Afghanistan while maintain-

1 ing the highest standards of accountability for
2 United States taxpayers;

3 (2) that all United States Government agencies
4 and entities working in Afghanistan coordinate,
5 plan, and regularly review plans in a coherent, well-
6 informed process to develop United States policy and
7 assistance programming;

8 (3) to support the development of effective Gov-
9 ernment of Afghanistan oversight institutions and
10 domestic watchdog civil society organizations;

11 (4) subject to significant evident progress made
12 in meeting TMAF accountability and improved gov-
13 ernance as it relates to development, to abide by re-
14 source commitments made as part of the Tokyo Mu-
15 tual Accountability Framework;

16 (5) to provide incentivized assistance to Af-
17 ghanistan's governing institutions based upon
18 verifiable and measurable development outcomes and
19 on-budget assistance based upon demonstrated ca-
20 pacity improvements that are mutually agreed to by
21 the Government of Afghanistan and Government of
22 the United States;

23 (6) to support the development of democratic
24 governing institutions in Afghanistan, promote the

1 development of a growing private sector, and
2 strengthen civil society in Afghanistan;

3 (7) to recognize that Afghanistan's sustainable
4 development is grounded in growing the regional
5 economy, and to support the efforts of the Govern-
6 ment and people of Afghanistan to build strong re-
7 gional economic connectivity with the country's
8 neighbors;

9 (8) to support, where appropriate, proven pro-
10 grams that promote private sector job creation in
11 Afghanistan; and

12 (9) that assistance programs in direct support
13 of Afghan women and girls remain a priority for the
14 United States, including specific efforts to support
15 women and girls education, meaningful engagement
16 in political and reconciliation processes, training and
17 recruitment of Afghan female police and security
18 forces, advancement of women's legal rights, eco-
19 nomic development, and efforts to increase the over-
20 all health and well-being of Afghan women and girls.

21 **SEC. 104. EFFECTIVE AFGHANISTAN ASSISTANCE AND AC-**
22 **COUNTABILITY.**

23 (a) STRATEGY TO COMBAT CORRUPTION IN AF-
24 GHANISTAN.—

1 (1) IN GENERAL.—The Secretary of State, in
2 consultation with the Secretary of Defense and the
3 Government of Afghanistan, shall develop a com-
4 prehensive interagency strategy for United States
5 assistance that is sustainable and is not counter-pro-
6 ductive to combating corruption in Afghanistan.

7 (2) ELEMENTS.—The strategy developed under
8 paragraph (1) should include the following elements:

9 (A) Multi-year goals, objectives, and meas-
10 urable outcomes for targeted activities to
11 strengthen selected Afghan official institutions
12 and nongovernmental organizations to prevent,
13 investigate, deter, and prosecute corruption.

14 (B) An operational plan incorporating all
15 United States Government programming to im-
16 plement the anti-corruption goals and objec-
17 tives.

18 (C) A summary of United States efforts to
19 coordinate with other international donors to
20 ensure that anti-corruption advice or program-
21 ming provided to the Government of Afghani-
22 stan is not contradictory.

23 (D) A focus on the development of govern-
24 mental and nongovernmental Afghan capacity
25 to ensure accountability and combat corruption.

1 (E) An evaluation of Afghan civil society
2 anti-corruption capacities that includes their
3 ability to use technology to combat corruption.

4 (b) AFGHANISTAN ANTI-CORRUPTION FUND.—Sub-
5 ject to the availability of funds, the President is authorized
6 to provide technical and financial assistance to official
7 Government of Afghanistan anti-corruption and audit in-
8 stitutions and Afghan civil society watchdog groups in
9 support of the anti-corruption priorities identified by the
10 Government of Afghanistan and the United States Gov-
11 ernment. Subject to careful consideration by the United
12 States Government of the legitimacy, efficacy, and direct
13 impact and influence of such entities and individuals, of-
14 fices, and organizations that are funded under this sub-
15 section could include—

- 16 (1) the Supreme Audit Office;
17 (2) the Attorney General;
18 (3) the Ministry of Justice;
19 (4) Inspectors General within key ministries;
20 (5) the Independent Joint Anti-Corruption
21 Monitoring and Evaluation Committee (MEC);
22 (6) the major crimes task force, Technical In-
23 vestigative Unit, and the Sensitive Investigative
24 Unit;

1 (7) the High Office of Oversight and Anti-Cor-
2 ruption;

3 (8) the Anti-Corruption Tribunal;

4 (9) the Financial Transactions and Reports
5 Analysis Center of Afghanistan;

6 (10) the proposed procurement board; and

7 (11) civil society organizations engaged in over-
8 sight, anti-corruption advocacy, and support of good
9 governance.

10 (c) PROMOTION OF HUMAN RIGHTS, PRESS FREE-
11 DOM, AND SECURITY SECTOR ACCOUNTABILITY.—

12 (1) IN GENERAL.—Subject to the availability of
13 funds, the Secretary of State, in consultation with
14 the Secretary of Defense, is authorized to provide
15 support for efforts of the Government of Afghani-
16 stan to improve oversight and accountability of the
17 Afghan National Security Forces, including the Af-
18 ghan National Police, and Afghan local police, and
19 strengthen Afghan civil society and investigative
20 journalists to provide watchdog oversight of these in-
21 stitutions. Subject to due consideration of the legit-
22 imacy, efficacy, and direct impact and influence of
23 such entities and individuals, these efforts could in-
24 clude—

1 (A) supporting the ANSF to strengthen
2 the capacity, independence, and power of its in-
3 ternal Inspector General to collect and inves-
4 tigate all credible reports of abuse by armed
5 forces;

6 (B) supporting the Office of the Attorney
7 General and the Ministries of Defense and Inte-
8 rior to be better capable to investigate and, if
9 appropriate, criminally prosecute police, mili-
10 tary, intelligence, and militia personnel, regard-
11 less of rank, found responsible for human rights
12 abuses and war crimes;

13 (C) considering establishing a special inde-
14 pendent mechanism to investigate government
15 officials and security force officers implicated in
16 abuses;

17 (D) supporting the Ministry of Interior to
18 establish a centralized register of all detainees
19 held in police and National Directorate of Secu-
20 rity custody, and ensure that it is accessible to
21 independent monitors and is updated regularly
22 and in a transparent manner;

23 (E) supporting implementation of the Ac-
24 cess to Information Law and the 2009 Mass
25 Media Law, particularly provisions of the latter

that would disband the Media Violations Investigation Commission and replace it with a Mass Media Commission;

(F) supporting the Attorney General’s Office to undertake prompt, impartial, and thorough investigations into all attacks on journalists and media organizations and bring prosecutions as appropriate; and

(G) supporting the further establishment of civil society organizations to provide essential “watchdog” oversight of the police and armed forces; as well as efforts to strengthen and improve coordination among civil society organizations, such as the Afghan Independent Human Rights Commission.

SEC. 105. REPORTS.

(a) REPORTING ON CORRUPTION IN AFGHANISTAN.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter through 2024, the Secretary of State shall submit to the appropriate congressional committees a report listing each individual who the President determines, based on credible evidence—

(1) is a Government of Afghanistan official, a senior associate, or close relative of such an official, who is responsible for, or complicit in, ordering, con-

1 trolling, or otherwise directing, acts of significant
2 corruption, including the expropriation of private or
3 public assets for personal gain, corruption related to
4 government contracts or the extraction of natural re-
5 sources, bribery, or the facilitation or transfer of the
6 proceeds of corruption to foreign jurisdictions; or

7 (2) has materially assisted, sponsored, or pro-
8 vided financial, material, or technological support
9 for, or goods or services in support of, an activity
10 described above.

11 (b) REPORT ON CIVILIAN-MILITARY ASSISTANCE EF-
12 FORTS IN AFGHANISTAN.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of the enactment of this Act, the Comp-
15 troller General of the United States shall submit a
16 report to the appropriate congressional committees
17 that describes civilian-military assistance efforts in
18 Afghanistan.

19 (2) ELEMENTS.—The report required under
20 paragraph (1) shall include the following elements:

21 (A) A description of lessons learned from
22 conducting development programming in Af-
23 ghanistan to include recommendations on how
24 to improve coordination between United States

1 development agencies and the United States
2 Armed Forces.

3 (B) An assessment of the ability of the
4 United States Agency for International Devel-
5 opment to advance development goals within
6 Afghanistan, operating alongside providers of
7 United States military assistance.

8 (C) An assessment of whether funding
9 under the Commander's Emergency Response
10 Program achieved the program's counterinsur-
11 gency goals, including force protection, and
12 whether this program had any long term devel-
13 opment impact, including any negative unin-
14 tended consequences.

Passed the Senate April 28, 2016.

Attest: JULIE E. ADAMS,
Secretary.