

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1062

To amend the Foreign Assistance Act of 1961 to provide for the establishment and implementation of a system to verify that persons who receive United States foreign assistance funds are not affiliated with or do not support foreign terrorist organizations or do not otherwise commit or support acts of international terrorism, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2009

Ms. ROS-LEHTINEN (for herself, Mr. MCCOTTER, Mr. BURTON of Indiana, Mr. WILSON of South Carolina, Mr. BOOZMAN, Mr. MACK, Mr. ROHR-ABACHER, Mr. POE of Texas, Mr. INGLIS, Mr. BILIRAKIS, Mr. GALLEGLY, Mr. GOODLATTE, Mr. SAM JOHNSON of Texas, Ms. FOXX, Mrs. MYRICK, Mr. MILLER of Florida, Mr. LAMBORN, Ms. FALLIN, and Mrs. LUMMIS) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To amend the Foreign Assistance Act of 1961 to provide for the establishment and implementation of a system to verify that persons who receive United States foreign assistance funds are not affiliated with or do not support foreign terrorist organizations or do not otherwise commit or support acts of international terrorism, 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 “United States Foreign  
3 Assistance Partner Vetting System Act of 2009”.

4 **SEC. 2. FINDINGS; SENSE OF CONGRESS; STATEMENT OF**  
5 **POLICY.**

6 (a) FINDINGS.—Congress finds that—

7 (1) current measures to ensure the vetting of  
8 recipients and subrecipients to ensure that United  
9 States foreign assistance is not distributed to per-  
10 sons who are affiliated with or support foreign ter-  
11 rorist organizations or who otherwise commit or sup-  
12 port acts of international terrorism are insufficient  
13 to secure the interests and citizens of the United  
14 States at home and abroad;

15 (2) it has been reported that the United States  
16 Agency for International Development has previously  
17 disbursed foreign assistance funds to the Hamas-  
18 linked Islamic University in Gaza, where Palestinian  
19 police had arrested five Iranians who were allegedly  
20 making rockets and explosives;

21 (3) it has been reported that in 2006 the  
22 United States Agency for International Development  
23 gave \$2,300,000 in aid to Al-Quds University, which  
24 is linked to the Hamas terrorist organization and  
25 had held celebrations in honor of the man credited

1 with designing and building the first suicide bomb  
2 belts;

3 (4) in 2006, the United States Embassy in Bos-  
4 nia discovered that a recipient of grant assistance  
5 from the United States Agency for International De-  
6 velopment in Bosnia had been on a terrorism “watch  
7 list” since May 1997;

8 (5) it has been reported that the United States  
9 Agency for International Development distributed  
10 aid to a man in Pakistan who was later sentenced  
11 to four years in prison for making false statements  
12 regarding his ties to a follower of Osama bin Laden,  
13 the leader of the terrorist group known as Al-Qaeda;

14 (6) it has been reported that the United States  
15 Agency for International Development distributed  
16 funds to the Islamic American Relief Agency, a do-  
17 mestic charity which was later identified by the De-  
18 partment of the Treasury as a specially designated  
19 global terrorist organization that had engaged in  
20 transactions for the benefit of terrorists affiliated  
21 with Al-Qaeda and the Taliban;

22 (7) measures to prevent the territory, resources,  
23 and financial services of the United States from  
24 being used to commit terrorist acts and to protect  
25 them from such acts should include a system for the

1 vetting of recipients and subrecipients to ensure that  
2 United States foreign assistance is not distributed to  
3 persons who are affiliated with or support foreign  
4 terrorist organizations or who otherwise commit or  
5 support acts of international terrorism; and

6 (8) an inspector general's audit of USAID West  
7 Bank/Gaza, monitoring the implementation of Exec-  
8 utive Order 13324 (relating to blocking property and  
9 prohibiting transactions with persons who commit,  
10 threaten to commit, or support acts of international  
11 terrorism), revealed that improved vetting proce-  
12 dures, and the consistent use of antiterrorism  
13 clauses and certifications would effectively safeguard  
14 United States foreign assistance funding distributed  
15 through the United States Agency for International  
16 Development from reaching persons who are affili-  
17 ated with or support foreign terrorist organizations  
18 or who otherwise commit or support acts of inter-  
19 national terrorism.

20 (b) SENSE OF CONGRESS.—It is the sense of Con-  
21 gress that—

22 (1) combating the financing of acts of inter-  
23 national terrorism is essential to safeguarding the  
24 interests of the territory of the United States, its  
25 citizens, and its interests abroad;

1           (2) threats of acts of international terrorism  
2           committed by foreign terrorists, including the ter-  
3           rorist attacks committed on September 11, 2001, in  
4           New York and Pennsylvania and against the Pen-  
5           tagon, acts recognized and condemned in United Na-  
6           tions Security Council Resolutions 1269 (October  
7           19, 1999) and 1368 (September 12, 2001), and the  
8           continuing and immediate threat of further attacks  
9           on United States citizens and the United States con-  
10          stitute a threat to United States national security;

11          (3) the Secretary of State should certify that  
12          United States foreign assistance is secured from dis-  
13          bursement to persons who are affiliated with or sup-  
14          port foreign terrorist organizations or who otherwise  
15          commit or support acts of international terrorism;  
16          and

17          (4) securing United States taxpayer funds from  
18          disbursement to persons who are affiliated with or  
19          support foreign terrorist organizations or who other-  
20          wise commit or support acts of international ter-  
21          rorism requires—

22                  (A) a system for the vetting of persons and  
23                  entities that are receiving or administering  
24                  United States foreign assistance funds to en-  
25                  sure that such persons and entities are not af-

1           filiated with or do not support foreign terrorist  
2           organizations or do not otherwise commit or  
3           support acts of international terrorism;

4           (B) certifications by persons and entities  
5           receiving or administering United States foreign  
6           assistance funds that such persons and entities  
7           will not commit or support acts of international  
8           terrorism; and

9           (C) inclusion of antiterrorism clauses in  
10          contracts, grants, and cooperative agreements.

11         (c) STATEMENT OF POLICY.—It is the policy of the  
12         United States to protect the people, property, and terri-  
13         tory of the United States against acts of international ter-  
14         rorism through the implementation of a system to verify  
15         that persons who receive United States foreign assistance  
16         funds do not commit or support acts of international ter-  
17         rorism.

18         **SEC. 3. VETTING SYSTEM FOR UNITED STATES FOREIGN**  
19                 **ASSISTANCE.**

20         Part III of the Foreign Assistance Act of 1961 (22  
21         U.S.C. 2351 et seq.) is amended by adding at the end  
22         the following new chapter:

1       **“CHAPTER 4—VETTING SYSTEM FOR**  
2       **UNITED STATES FOREIGN ASSISTANCE**

3       **“SEC. 671. DEFINITIONS.**

4       “In this chapter:

5               “(1) ACT OF INTERNATIONAL TERRORISM.—

6       The term ‘act of international terrorism’ means an  
7       act—

8               “(A) which is violent or dangerous to  
9               human life, property, or infrastructure; and

10              “(B) which appears to be intended—

11                      “(i) to intimidate or coerce a civilian  
12                      population;

13                      “(ii) to influence the policy of a gov-  
14                      ernment by intimidation or coercion; or

15                      “(iii) to affect the conduct of a gov-  
16                      ernment by mass destruction, assassina-  
17                      tion, kidnapping, or hostage-taking.

18              “(2) APPROPRIATE CONGRESSIONAL COMMIT-  
19       TEES.—The term ‘appropriate congressional com-  
20       mittees’ means—

21                      “(A) the Committee on Foreign Affairs  
22                      and the Committee on Appropriations of the  
23                      House of Representatives; and

1           “(B) the Committee on Foreign Relations  
2           and the Committee on Appropriations of the  
3           Senate.

4           “(3) FOREIGN TERRORIST ORGANIZATION.—  
5           The term ‘foreign terrorist organization’ means an  
6           organization designated as a foreign terrorist organi-  
7           zation by the Secretary of State in accordance with  
8           section 219(a) of the Immigration and Nationality  
9           Act (8 U.S.C. 1189(a)).

10          “(4) PERSON.—The term ‘person’ means any  
11          individual, organization, or other private or govern-  
12          ment entity, and includes a partnership, institution,  
13          association, corporation, or other organization,  
14          group, or subgroup.

15          “(5) PERSON WHO RECEIVES UNITED STATES  
16          FOREIGN ASSISTANCE FUNDS.—The term ‘person  
17          who receives United States foreign assistance funds’  
18          means a person who is a grantee, subgrantee, con-  
19          tractor, subcontractor, awardee or sub-awardee, or  
20          any other person, including international organiza-  
21          tions, as determined by the Secretary of State, who  
22          is receiving United States foreign assistance funds.

23          “(6) SUPPORT.—The term ‘support’ means,  
24          with respect to an act of international terrorism, the  
25          provision of material support or resources, including

1 by means of currency or monetary instruments or fi-  
2 nancial securities, financial services, lodging,  
3 safehouses, false documentation or identification,  
4 communications equipment, facilities, weapons, le-  
5 thal substances, explosives, transportation, and other  
6 physical assets, but such term does not include the  
7 provision of medicine or religious materials.

8 “(7) UNITED STATES FOREIGN ASSISTANCE.—

9 The term ‘United States foreign assistance’ means—

10 “(A) assistance authorized under this Act;

11 “(B) assistance authorized under the

12 FREEDOM Support Act (22 U.S.C. 5801 et

13 seq.), the Support for East European Democ-

14 racy (SEED) Act of 1989 (22 U.S.C. 5401 et

15 seq.), the Afghanistan Freedom Support Act of

16 2002 (22 U.S.C. 7501 et seq.), the United

17 States Leadership Against HIV/AIDS, Tuber-

18 culosis, and Malaria Act of 2003 (22 U.S.C.

19 7601 et seq.), the Millennium Challenge Act of

20 2003 (22 U.S.C. 7701 et seq.); and

21 “(C) assistance authorized under any other

22 provision of law that is classified under Inter-

23 national Affairs Budget Function 150 for bilat-

24 eral economic assistance administered by the

25 Department of State or the United States

1 Agency for International Development or for  
2 assistance provided through the Overseas Pri-  
3 vate Investment Corporation or the Trade and  
4 Development Agency.

5 **“SEC. 672. PROHIBITION ON UNITED STATES FOREIGN AS-**  
6 **SISTANCE.**

7 “For fiscal year 2010 and each subsequent fiscal  
8 year, United States foreign assistance funds may not be  
9 provided to persons who are affiliated with or support for-  
10 eign terrorist organizations or who otherwise commit or  
11 support acts of international terrorism, as determined pur-  
12 suant to the vetting system established under section 673.

13 **“SEC. 673. VETTING SYSTEM TO ENSURE UNITED STATES**  
14 **FOREIGN ASSISTANCE IS NOT USED FOR TER-**  
15 **RORIST ACTIVITIES.**

16 “(a) ESTABLISHMENT OF SYSTEM.—Not later than  
17 June 30, 2010, the Secretary of State, in consultation  
18 with the Administrator of the United States Agency for  
19 International Development, shall establish and implement  
20 in accordance with the requirements of this section a sys-  
21 tem to verify that persons who receive United States for-  
22 eign assistance funds are not affiliated with or do not sup-  
23 port foreign terrorist organizations or do not otherwise  
24 commit or support acts of international terrorism.

1       “(b) ELEMENTS OF SYSTEM.—The system required  
2 under subsection (a) shall contain the following elements:

3               “(1) COLLECTION OF INFORMATION.—

4                       “(A) IN GENERAL.—Collection of the in-  
5 formation described in subparagraph (B) with  
6 respect to persons who receive United States  
7 foreign assistance, including individuals who are  
8 directors, officers, or other officials, or are oth-  
9 erwise employed by such person for the specific  
10 project for which the person is applying for  
11 funding.

12                       “(B) INFORMATION DESCRIBED.—The in-  
13 formation referred to in subparagraph (A) in-  
14 cludes the name, date of birth, place of birth,  
15 country of origin, Social Security Number or  
16 other identification type or number, nationality,  
17 residential address, mailing address, phone  
18 number, electronic mail (e-mail) address, and  
19 organizational affiliations of the personnel.

20                       “(C) EXCEPTION.—The Secretary of State  
21 may modify the type and amount of information  
22 collected from non-United States persons who  
23 receive United States foreign assistance pursu-  
24 ant to this paragraph if collection of all or part  
25 of the information described in subparagraph

1 (B) with respect to the personnel of such per-  
2 son is impracticable due to a lack of local ad-  
3 ministrative resources or facilities resulting  
4 in—

5 “(i) a lack of official records from  
6 which identifying information might be col-  
7 lected or verified; or

8 “(ii) deficiencies in official records  
9 from which identifying information might  
10 be collected or verified.

11 “(2) VETTING OF INFORMATION.—Vetting of  
12 information collected under paragraph (1) against  
13 appropriate United States Government databases to  
14 ensure that persons who receive United States for-  
15 eign assistance—

16 “(A) are not affiliated with or do not sup-  
17 port foreign terrorist organizations; or

18 “(B) do not otherwise commit or support  
19 acts of international terrorism.

20 “(3) CERTIFICATION BY PERSON.—Certification  
21 by persons who receive United States foreign assist-  
22 ance funds that such persons are not affiliated with  
23 or do not support foreign terrorist organizations or  
24 do not otherwise commit or support acts of inter-  
25 national terrorism and that such persons have taken

1 all reasonable steps to ensure that persons employed  
2 by such persons for the specific project for which  
3 such persons are applying for funding are not affili-  
4 ated with or do not support foreign terrorist organi-  
5 zations or do not otherwise commit or support acts  
6 of international terrorism.

7 “(4) ADMINISTRATIVE PROVISIONS.—Adminis-  
8 trative provisions to ensure that contracts, grants,  
9 cooperative agreements, or any other similar instru-  
10 ments contain provisions specifying the obligations  
11 under this chapter of persons who receive United  
12 States foreign assistance funds.

13 “(c) REVIEW BY COMPTROLLER GENERAL.—

14 “(1) IN GENERAL.—The Comptroller General of  
15 the United States shall carry out an annual review  
16 of the use of United States foreign assistance funds  
17 to ensure compliance with the requirements of this  
18 section. The Secretary of State, the Administrator of  
19 the United States Agency for International Develop-  
20 ment, and the heads of other United States Govern-  
21 ment departments and agencies who receive or ad-  
22 minister United States foreign assistance funding  
23 shall make available to the Comptroller General all  
24 relevant documents, records, and other information,

1 as appropriate, for purposes of carrying out the re-  
2 view.

3 “(2) REPORT.—Not later than June 30, 2011,  
4 and June 30, 2012, the Comptroller General of the  
5 United States shall submit to the appropriate con-  
6 gressional committees a report on the findings of the  
7 review carried out under paragraph (1). The report  
8 shall be submitted in unclassified form, but may  
9 contain a classified annex, if appropriate.

10 “(d) REPORT.—Not later January 1, 2011, and an-  
11 nually thereafter, the Secretary of State, in consultation  
12 with the Administrator for the United States Agency for  
13 International Development, shall submit to the appro-  
14 priate congressional committees a report describing the  
15 status of the implementation of this section, including an  
16 assessment of the effectiveness of the vetting procedures  
17 under this section and recommendations for improvements  
18 and comparisons with best practices. The report required  
19 under this subsection shall be submitted in conjunction  
20 with the annual budget request submitted by the President  
21 to Congress under section 1105 of title 31, United States  
22 Code.

1 **“SEC. 674. INFORMATION AND PROCEDURAL SAFEGUARDS**  
2 **RELATING TO DENIALS OF UNITED STATES**  
3 **FOREIGN ASSISTANCE.**

4 “(a) IN GENERAL.—The Secretary of State shall en-  
5 sure that persons who are denied United States foreign  
6 assistance funds, as determined pursuant to the vetting  
7 system established under section 673, are provided the in-  
8 formation and afforded the procedural safeguards de-  
9 scribed in subsection (b).

10 “(b) INFORMATION AND PROCEDURAL SAFE-  
11 GUARDS.—A person referred to in subsection (a) shall  
12 be—

13 “(1) provided as comprehensive and detailed a  
14 written explanation of the basis for the determina-  
15 tion as the national security interests of the United  
16 States and other applicable law permit;

17 “(2) provided a reasonable opportunity to reply  
18 in writing to the determination, and to request a re-  
19 view of the determination by the panel described in  
20 paragraph (4) of this subsection;

21 “(3) provided written notice of and reasons for  
22 the results of the review, the identity of the deciding  
23 authority, and written notice of the right to appeal  
24 to the panel described in paragraph (4) of this sub-  
25 section;

1           “(4) provided an opportunity to appeal in writ-  
2           ing to a panel, appointed by the Secretary of State,  
3           which shall be comprised of at least three members,  
4           who are qualified for access to all information upon  
5           which this determination is based through appro-  
6           priate clearance procedures, and the decisions of  
7           which shall be in writing; and

8           “(5) provided an opportunity to appear person-  
9           ally and to present relevant documents, materials,  
10          and information before the panel described in para-  
11          graph (4) of this subsection.

12          “(c) NO PRIVATE CAUSE OF ACTION.—Nothing in  
13          this section shall be construed to create a private cause  
14          of action for damages or injunctive relief.

15          “(d) REGULATIONS; ADDITIONAL REVIEW PRO-  
16          CEEDINGS.—The Secretary of State and the Adminis-  
17          trator of the United States Agency for International De-  
18          velopment shall promulgate regulations to implement this  
19          section and, at their sole discretion and as resources and  
20          national security considerations permit, may provide addi-  
21          tional review proceedings beyond those required under  
22          subsection (a).

23          “(e) SPECIAL CERTIFICATION TO MODIFY PROCE-  
24          DURAL SAFEGUARDS.—If the Secretary of State certifies  
25          to the appropriate congressional committees that a proce-

1   dure set forth in this section cannot be made available in  
2   a particular case without damaging the national security  
3   interests of the United States by revealing classified infor-  
4   mation, the procedure shall not be made available in such  
5   case.

6       “(f) COMPLIANCE WITH FREEDOM OF INFORMATION  
7   ACT AND PRIVACY ACT REQUIREMENTS.—

8           “(1) IN GENERAL.—Records in the system of  
9       records maintained for purposes of this chapter shall  
10      be made available only in accordance with section  
11      552 of title 5, United States Code (commonly re-  
12      ferred to as the ‘Freedom of Information Act’), and  
13      section 552a of title 5, United States Code (com-  
14      monly referred to as the ‘Privacy Act’). The classi-  
15      fication of any record provided by an agency for in-  
16      clusion in or use by the system of records main-  
17      tained for purposes of this chapter shall not be  
18      modified by reason of its inclusion in or use by such  
19      system of records.

20           “(2) DEFINITIONS.—In this section, the terms  
21      ‘agency’, ‘record’, and ‘system of records’ have the  
22      meanings given such terms in section 552a(a) of  
23      title 5, United States Code.

1 **“SEC. 675. AUDIT BY COMPTROLLER GENERAL.**

2       “(a) AUDIT.—The Comptroller General of the United  
3 States shall conduct on a biennial basis an audit of the  
4 implementation of this chapter.

5       “(b) REPORT.—The Comptroller General shall sub-  
6 mit to the appropriate congressional committees a report  
7 that contains the findings of the audit conducted under  
8 subsection (a). The report shall be submitted in unclassi-  
9 fied form, but may contain a classified annex, if necessary.

10 **“SEC. 676. AUTHORIZATION OF APPROPRIATIONS.**

11       “To carry out this chapter, there are authorized to  
12 be appropriated such sums that may be necessary for fis-  
13 cal year 2010 and each subsequent fiscal year”.

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