

116TH CONGRESS
2D SESSION

S. 3820

To amend the United States International Broadcasting Act of 1994 to authorize the Open Technology Fund of the United States Agency for Global Media, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mrs. BLACKBURN (for herself, Mr. MENENDEZ, Mr. SCOTT of Florida, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the United States International Broadcasting Act of 1994 to authorize the Open Technology Fund of the United States Agency for Global Media, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Technology Fund
5 Authorization Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The political, economic, and social benefits
2 of the internet are important to advancing democ-
3 racy and freedom throughout the world.

4 (2) Authoritarian governments are investing bil-
5 lions of dollars each year to create, maintain, and
6 expand repressive internet censorship and surveil-
7 lance systems to limit free association, control access
8 to information, and prevent citizens from exercising
9 their rights to free speech.

10 (3) Over $\frac{2}{3}$ of the world's population live in
11 countries in which the internet is restricted. Govern-
12 ments shut down the internet more than 200 times
13 every year.

14 (4) Internet censorship and surveillance tech-
15 nology is rapidly being exported around the world,
16 particularly by the Government of the People's Re-
17 public of China, enabling widespread abuses by au-
18 thoritarian governments.

19 **SEC. 3. SENSE OF CONGRESS.**

20 It is the sense of Congress that it is in the interest
21 of the United States—

22 (1) to promote global internet freedom by coun-
23 tering internet censorship and repressive surveil-
24 lance;

25 (2) to protect the internet as a platform for—

- 1 (A) the free exchange of ideas;
- 2 (B) the promotion of human rights and de-
- 3 mocracy; and
- 4 (C) the advancement of a free press; and
- 5 (3) to support efforts that prevent the delib-
- 6 erate misuse of the internet to repress individuals
- 7 from exercising their rights to free speech and asso-
- 8 ciation, including countering the use of such tech-
- 9 nologies by authoritarian regimes.

10 **SEC. 4. ESTABLISHMENT OF THE OPEN TECHNOLOGY**

11 **FUND.**

12 (a) IN GENERAL.—The United States International

13 Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is

14 amended by inserting after section 309 the following:

15 **“SEC. 309A. OPEN TECHNOLOGY FUND.**

16 “(a) AUTHORITY.—

17 “(1) ESTABLISHMENT.—There is established a

18 grantee entity, to be known as the ‘Open Technology

19 Fund’, which shall carry out this section.

20 “(2) IN GENERAL.—Grants authorized under

21 section 305 shall be available to award annual

22 grants to the Open Technology fund for the purpose

23 of—

1 “(A) promoting, consistent with United
2 States law, unrestricted access to uncensored
3 sources of information via the internet; and

4 “(B) enabling journalists, including jour-
5 nalists employed by or affiliated with the Voice
6 of America, Radio Free Europe/Radio Liberty,
7 Radio Free Asia, the Middle East Broadcasting
8 Networks, the Office of Cuba Broadcasting, or
9 any entity funded by or partnering with the
10 United States Agency for Global Media to cre-
11 ate and disseminate news and information con-
12 sistent with the purposes, standards, and prin-
13 ciples specified in sections 302 and 303.

14 “(b) USE OF GRANT FUNDS.—The Open Technology
15 Fund shall use grant funds received pursuant to sub-
16 section (a)(2)—

17 “(1) to advance freedom of the press and unre-
18 stricted access to the internet in repressive environ-
19 ments overseas;

20 “(2) to research, develop, implement, and main-
21 tain—

22 “(A) technologies that circumvent tech-
23 niques used by authoritarian governments,
24 nonstate actors, and others to block or censor
25 access to the internet, including circumvention

1 tools that bypass internet blocking, filtering,
2 and other censorship techniques used to limit or
3 block legitimate access to content and informa-
4 tion; and

5 “(B) secure communication tools and other
6 forms of privacy and security technology that
7 facilitate the creation and distribution of news
8 and enable audiences to access media content
9 on censored websites;

10 “(3) to advance internet freedom by supporting
11 private and public sector research, development, im-
12 plementation, and maintenance of technologies that
13 provide secure and uncensored access to the internet
14 to counter attempts by authoritarian governments,
15 nonstate actors, and others to improperly restrict
16 freedom online;

17 “(4) to research and analyze emerging technical
18 threats and develop innovative solutions through col-
19 laboration with the private and public sectors to
20 maintain the technological advantage of the United
21 States Government over authoritarian governments,
22 nonstate actors, and others;

23 “(5) to develop, acquire, and distribute requisite
24 internet freedom technologies and techniques for the
25 United States Agency for Global Media, in accord-

1 ance with paragraph (2), and digital security inter-
2 ventions, to fully enable the creation and distribution
3 of digital content between and to all users and re-
4 gional audiences;

5 “(6) to prioritize programs for countries, the
6 governments of which restrict freedom of expression
7 on the internet, that are important to the national
8 interest of the United States in accordance with sec-
9 tion 7050(b)(2)(C) of the Department of State, For-
10 eign Operations, and Related Programs Appropria-
11 tions Act, 2020 (division G of Public Law 116–94);
12 and

13 “(7) to carry out any other effort consistent
14 with the purposes of this Act or press freedom over-
15 seas if requested or approved by the United States
16 Agency for Global Media.

17 “(c) **METHODOLOGY.**—In carrying out subsection
18 (b), the Open Technology Fund shall—

19 “(1)(A) support fully open-source tools, code,
20 and components, to the extent practicable, to ensure
21 such supported tools and technologies are as secure,
22 transparent, and accessible as possible; and

23 “(B) require that any such tools, components,
24 code, or technology supported by the Open Tech-

1 nology Fund remain fully open-source, to the extent
2 practicable;

3 “(2) support technologies that undergo com-
4 prehensive security audits to ensure that such tech-
5 nologies are secure and have not been compromised
6 in a manner detrimental to the interests of the
7 United States or to individuals or organizations ben-
8 efitting from programs supported by the Open Tech-
9 nology Fund;

10 “(3) review and periodically update, as nec-
11 essary, security auditing procedures used by the
12 Open Technology Fund to reflect current industry
13 security standards;

14 “(4) establish safeguards to mitigate the use of
15 such supported technologies for illicit purposes;

16 “(5) solicit project proposals through an open,
17 transparent, and competitive application process to
18 attract innovative applications and reduce barriers to
19 entry;

20 “(6)(A) seek input from technical, regional, and
21 subject matter experts from a wide range of relevant
22 disciplines; and

23 “(B) to review, provide feedback, and evaluate
24 proposals to ensure that the most competitive
25 projects are funded;

1 “(7) implement an independent review process,
2 through which proposals are reviewed by such ex-
3 perts to ensure the highest degree of technical re-
4 view and due diligence;

5 “(8) maximize cooperation with the public and
6 private sectors, foreign allies, and partner countries
7 to maximize efficiencies and eliminate duplication of
8 efforts; and

9 “(9) utilize any other methodology approved by
10 the United States Agency for Global Media in fur-
11 therance of the mission of the Open Technology
12 Fund.

13 “(d) GRANT AGREEMENT.—Any grant agreement
14 with, or grants made to, the Open Technology Fund under
15 this section shall be subject to the following limitations
16 and restrictions:

17 “(1) The headquarters of the Open Technology
18 Fund and its senior administrative and managerial
19 staff shall be located in a location which ensures
20 economy, operational effectiveness, and account-
21 ability to the United States Agency for Global
22 Media.

23 “(2) Grants awarded under this section shall be
24 made pursuant to a grant agreement requiring
25 that—

1 “(A) grant funds are only used on activi-
2 ties consistent with this section; and

3 “(B) failure to comply with such require-
4 ment shall result in termination of the grant
5 without further fiscal obligation to the United
6 States.

7 “(3) Each grant agreement under this section
8 shall require that each contract entered into by the
9 Open Technology Fund specify that all obligations
10 are assumed by the grantee and not by the United
11 States Government.

12 “(4) Each grant agreement under this section
13 shall require that any lease agreements entered into
14 by the Open Technology Fund shall be, to the max-
15 imum extent possible, assignable to the United
16 States Government.

17 “(5) Administrative and managerial costs for
18 operation of the Open Technology Fund—

19 “(A) should be kept to a minimum; and

20 “(B) to the maximum extent feasible,
21 should not exceed the costs that would have
22 been incurred if the Open Technology Fund had
23 been operated as a Federal entity rather than
24 as a grantee.

1 “(6) Grant funds may not be used for any ac-
2 tivity whose purpose is influencing the passage or
3 defeat of legislation considered by Congress.

4 “(e) RELATIONSHIP TO THE UNITED STATES AGEN-
5 CY FOR GLOBAL MEDIA.—

6 “(1) IN GENERAL.—The Open Technology
7 Fund shall be subject to the oversight and govern-
8 ance by the United States Agency for Global Media
9 in accordance with section 305.

10 “(2) ASSISTANCE.—The United States Agency
11 for Global Media, its broadcast entities, and the
12 Open Technology Fund should render such assist-
13 ance to each other as may be necessary to carry out
14 the purposes of this section or any other provision
15 under this Act.

16 “(3) NOT A FEDERAL AGENCY OR INSTRUMEN-
17 TALITY.—Nothing in this section may be construed
18 to make the Open Technology Fund an agency or in-
19 strumentality of the Federal Government.

20 “(4) DETAILEES.—Employees of a grantee of
21 the United States Agency for Global Media may be
22 detailed to the Agency, in accordance with the Inter-
23 governmental Personnel Act of 1970 (42 U.S.C.
24 4701 et seq.) and Federal employees may be detailed

1 to a grantee of the United States Agency for Global
2 Media, in accordance with such Act.

3 “(f) RELATIONSHIP TO OTHER UNITED STATES
4 GOVERNMENT-FUNDED INTERNET FREEDOM PRO-
5 GRAMS.—The United States Agency for Global Media
6 shall ensure that internet freedom research and develop-
7 ment projects of the Open Technology Fund are decon-
8 flicted with internet freedom programs of the Department
9 of State and other relevant United States Government de-
10 partments. Agencies should still share information and
11 best practices relating to the implementation of sub-
12 sections (b) and (c).

13 “(g) REPORTING REQUIREMENTS.—

14 “(1) ANNUAL REPORT.—The Open Technology
15 Fund shall highlight, in its annual report, internet
16 freedom activities, including a comprehensive assess-
17 ment of the Open Technology Fund’s activities relat-
18 ing to the implementation of subsections (b) and (c),
19 which shall include—

20 “(A) an assessment of the current state of
21 global internet freedom, including—

22 “(i) trends in censorship and surveil-
23 lance technologies and internet shutdowns;
24 and

1 “(ii) the threats such pose to journal-
2 ists, citizens, and human rights and civil
3 society organizations; and

4 “(B) a description of the technology
5 projects supported by the Open Technology
6 Fund and the associated impact of such
7 projects in the most recently completed year, in-
8 cluding—

9 “(i) the countries and regions in
10 which such technologies were deployed;

11 “(ii) any associated metrics indicating
12 audience usage of such technologies; and

13 “(iii) future-year technology project
14 initiatives.

15 “(2) ASSESSMENT OF THE EFFECTIVENESS OF
16 THE OPEN TECHNOLOGY FUND.—Not later than 2
17 years after the date of the enactment of this section,
18 the Inspector General of the Department of State
19 and the Foreign Service shall submit a report to the
20 appropriate congressional committees that indi-
21 cates—

22 “(A) whether the Open Technology Fund
23 is—

24 “(i) technically sound;

25 “(ii) cost effective; and

1 “(iii) satisfying the requirements
2 under this section; and

3 “(B) the extent to which the interests of
4 the United States are being served by maintain-
5 ing the work of the Open Technology Fund.

6 “(h) AUDIT AUTHORITIES.—

7 “(1) IN GENERAL.—Financial transactions of
8 the Open Technology Fund that relate to functions
9 carried out under this section may be audited by the
10 Government Accountability Office in accordance with
11 such principles and procedures and under such rules
12 and regulations as may be prescribed by the Comp-
13 troller General of the United States. Any such audit
14 shall be conducted at the place or places at which
15 accounts of the Open Technology Fund are normally
16 kept.

17 “(2) ACCESS BY GAO.—The Government Ac-
18 countability Office shall have access to all books, ac-
19 counts, records, reports, files, papers, and property
20 belonging to or in use by the Open Technology Fund
21 pertaining to financial transactions as may be nec-
22 essary to facilitate an audit. The Government Ac-
23 countability Office shall be afforded full facilities for
24 verifying transactions with any assets held by de-
25 positories, fiscal agents, and custodians. All such

1 books, accounts, records, reports, files, papers, and
2 property of the Open Technology Fund shall remain
3 in the possession and custody of the Open Tech-
4 nology Fund.

5 “(3) EXERCISE OF AUTHORITIES.—Notwith-
6 standing any other provision of law, the Inspector
7 General of the Department of State and the Foreign
8 Service is authorized to exercise the authorities of
9 the Inspector General Act of 1978 with respect to
10 the Open Technology Fund.”.

11 (b) CONFORMING AMENDMENTS.—The United States
12 International Broadcasting Act of 1994 is amended—

13 (1) in section 304(d) (22 U.S.C. 6203(d)), by
14 inserting “the Open Technology Fund,” before “the
15 Middle East Broadcasting Networks”;

16 (2) in sections 305(a)(20) and 310(c) (22
17 U.S.C. 6204(a)(20) and 6209(c)), by inserting “the
18 Open Technology Fund,” before “or the Middle East
19 Broadcasting Networks” each place such term ap-
20 pears; and

21 (3) in section 310 (22 U.S.C. 6209), by insert-
22 ing “the Open Technology Fund,” before “and the
23 Middle East Broadcasting Networks” each place
24 such term appears.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated for the Open Technology
3 Fund, which shall be used to carry out section 309A of
4 the United States International Broadcasting Act of 1994,
5 as added by subsection (a)—

6 (1) \$20,000,000 for fiscal year 2021; and

7 (2) \$25,000,000 for fiscal year 2022.

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