



The Tahrir Institute
for Middle East Policy

Omnibus Spending Bill Reflects Changes to U.S. Assistance to Egypt

INTRODUCTION

On May 5, President Donald Trump signed the fiscal year 2017 [Omnibus Appropriations bill](#) into law, legislating funding levels for U.S. government programs, including the State and Foreign Operations (SFOPS) budget. After deliberations in the House of Representatives and Senate since the first versions of the bills were released in June of last year, this legislation was publicly released on May 1, and passed the House on May 3 and the Senate on May 4. The bill will provide full funding through September 30, 2017.

The following document highlights the implications of the Omnibus with respect to U.S. assistance to Egypt. The analysis herein highlights new changes, such as the addition of a clause to reprogram funds whose obligation has been impeded by recent restrictions on civil society, as well as continued conditions, like the requirement that 15 percent of foreign military financing (FMF) be withheld based on the Egyptian government's adherence to human rights. The document is accompanied by comprehensive tables comparing details of the bill to those of [FY15](#) and [FY16](#), as well as the [Senate's](#) and [House's](#) drafted 2017 appropriations bills.

APPROPRIATION DEVELOPMENTS

Economic Support Funds

As the tables below show, Egypt's Economic Support Funds (ESF) have been reduced from \$150 million in 2016 to \$112 million in 2017, a midway point between the Senate's proposed \$75 million and the House's \$150 million, and the most meager ESF package to Egypt in decades. These funds have seen a near-continuous drawdown since the 1998 "[Glide Path](#)" agreement with Israel to reduce economic support funds to both countries over a 10-year period, as well as a 2008 decision by former President George W. Bush to reduce funds as an effort to establish leverage in achieving his administration's regional democracy agenda.

However, the current reduction (from \$150 million in FY2016) likely reflects the backlog of \$500 to \$700 million of previously appropriated funds that have not been obligated (with \$460 million of this amount [accumulating](#) between 2009 and 2014). Challenges faced by U.S. partners in utilizing these funds in Egypt are related to the Egyptian government's recently intensified [crackdown](#) on civil society and criminalization of foreign funding. One such example is that of North Carolina-based RTI, which has been [unable](#) to receive the Egyptian government's authorization despite conducting technical assistance work in the education system for several years now. The Senate's FY17 bill sought to stem the flow of unobligated funds with both a reduction in ESF and a new condition known as the [Cooperation Determination Clause](#), which makes these funds reprogrammable to other countries should the Egyptian government interfere with them. The House did not include such restrictions but the two seemed to agree on the clause's purpose as the Omnibus includes language that reprograms this funding for "activities outside of Egypt" should they be blocked or interfered with.

Foreign Military Financing

Foreign Military Financing (FMF) in 2017 remains at its previously established level of \$1.3 billion. While the House version and President Barack Obama’s budget sought to remove the language to withhold 15 percent of FMF pending the satisfaction of democracy and human rights conditions (detailed in charts below) in FY17, the Omnibus has taken the Senate’s cue to keep it. Additionally, there is a new language within “Oversight and Consultation” stating the Secretary of State shall submit a plan to restructure military assistance and the benefits that this may have on the Egyptian military’s capabilities, as well as modifications regarding the procurement of military equipment.

Although financing levels are unchanged, the inclusion of the 15 percent conditions and new oversight language are important and indicate Congress’s potential frustration or interest in reexamining Egypt’s military assistance package. The Senate has been particularly vocal in recent months, with an April hearing on “[U.S. Assistance to Egypt](#)” displaying bipartisan agreement among members of the SFOPS subcommittee that FMF must be better tailored to Egypt’s security threats. Particularly given the seeming intractability of the [insurgency continuing](#) in North Sinai, which Egyptian and U.S. policymakers alike cite as justification for the urgency of military support, concerns remain about the appropriateness of weaponry used to the threats faced. Additionally, concern over human rights violations being committed by the Egyptian armed forces—as evidenced in a [recently-leaked video depicting extrajudicial killings](#)—and that the government’s repressive measures may be fueling extremism rather than curbing it have contributed to a desire to ensure that FMF is being used legally and appropriately. Particularly after a rather damning [GAO report](#) that detailed the failure to adequately monitor end-use delivery of defense articles, these concerns are reflected in the language on access, oversight, and achievement of security objectives.

ANALYSIS

The Omnibus’ SFOPS appropriations bill calls for several adjustments to Egypt’s aid package. While these adjustments are not a significant deviation from FY16 numbers, and assistance continues to be predicated on Egypt’s relationship with the U.S. and fulfilling its 1979 treaty obligations, they do indicate a settling of the score on a few points of contention between the Senate and House, namely conditioning assistance based on upholding democracy and human rights, reprogramming ESF funds should they be interfered with, and the requirement for the Secretary of State to issue a report on benefits of restructuring on military’s capabilities. This was evidenced in the draft language of the SFOPS bills from these chambers of Congress, and may signal a trend that will continue in FY18.

In this regard, President Abdel-Fattah El Sisi’s recent trip to Washington likely included [aims](#) to restore Cash Flow Financing (CFF, which allows Egyptians to buy defense equipment on credit), after a 2015 White House statement that it would be terminated in 2018. But like other high expectations, it is [unclear](#) that the visit yielded any American flexibility in granting Egypt’s wish. Sources on Capitol Hill characterized Sisi’s Congressional meetings as difficult, with senators and representatives raising the issues of rights abuses, methods used in the war on terror (particularly in Sinai), and the detention of Americans (including Aya Hijazi, who has since been released).

The Senate SFOPS committee certainly seems open to a different way of approaching Egypt’s aid package and to have held the upper hand in FY17 decisions. Trump’s insistence that there was “no deal” that might lead to Sisi’s desired results after the state visit, along with the [proposal](#) in Trump’s “skinny budget” to slash ESF to the Senate’s previously proposed \$75 million, and the FY17 Omnibus’ adjustments to Egypt’s assistance package, give the sense that perhaps more change is on the way.

TABLE 1A: COMPARING FY17 FUND ALLOCATIONS TO PREVIOUS YEARS (ALL YEARS OMNIBUS)

<i>Economic Support Funds</i>	<i>Foreign Military Funds</i>
<p>\$112 million \$35M to higher education programs (\$10M to scholarships) Provided that it is available for democracy and development programs in Sinai Not available for cash transfer assistance or budget support unless Sec of State certifies that Egypt is taking steps to stabilize economy and implement market-based reforms Withhold amount equivalent to fees related to foreign funding case</p> <p>2017</p>	<p>\$1.3 billion 15% withheld based on democracy and human rights conditions This can be waived if in U.S. national security interest Does not apply to counter-terror, border security, and nonproliferation programs</p>
<p>\$150 million \$35M to higher education programs (\$10M to scholarships) Provided that it is available for education and economic growth Not available for cash transfer assistance or budget support unless Sec of State certifies that Egypt is taking steps to stabilize economy and implement market-based reforms Withhold amount equivalent to fees related to foreign funding case</p> <p>2016</p>	<p>\$1.3 billion 15% withheld based on democracy and human rights conditions This can be waived if in U.S. national security interest Does not apply to counter-terror, border security, and nonproliferation programs</p>
<p>\$150 million \$35M to higher education programs (\$10M to scholarships) Provided that it is available for democracy, education, economic growth, and Hepatitis C programs Not available for cash transfer assistance or budget support unless Sec of State certifies that Egypt is taking steps to stabilize economy and implement market-based reforms Withhold amount equivalent to fees related to foreign funding case</p> <p>2015</p>	<p>\$1.3 billion Provided that if Sec of State is unable to confirm conditions (noted below) funds are available at “minimum rate necessary to continue existing programs” Prior Year Funds may be made available.</p>

TABLE 1B: COMPARING FY FUNDING CONDITIONS TO PREVIOUS YEARS (ALL YEARS OMNIBUS)

<i>Certification and Report¹</i>	<i>Conditions²</i>	<i>National Security Waiver</i>
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>Applies to 15% of FMF: withheld if these conditions unmet (unless counter-terror, border security, nonproliferation—see previous page)</p> <ul style="list-style-type: none"> - Advance democracy and human rights in Egypt (includes protecting religious minorities and rights of women) - Reforms that protect freedoms of expression, association, and assembly, including ability of civil society organizations and media to function without interference - Release political prisoners; provide due process - Hold Egyptian security forces accountable, including officers who have violated human rights - Access for U.S. officials to conduct monitoring and evaluation 	<p>Sec of State may waive the conditions above if reports that doing so is in the interest of U.S. national security, and explains why they cannot be met.</p> <p>2017</p>
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>Applies to 15% of FMF: withheld if these conditions unmet (unless counter-terror, border security, nonproliferation—see previous page)</p> <ul style="list-style-type: none"> - Advance democracy and human rights in Egypt (includes protecting religious minorities and rights of women) - Reforms that protect freedoms of expression, association, and assembly, including ability of civil society organizations and media to function without interference - Release political prisoners; provide due process - Hold Egyptian security forces accountable, including officers who have violated human rights - Access for U.S. officials to conduct monitoring and evaluation 	<p>Sec of State may waive the conditions above if reports that doing so is in the interest of U.S. national security, and explains why they cannot be met.</p> <p>2016</p>
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>Applies to all funds: \$725.85M conditional on Sec of State report that Egypt</p> <ul style="list-style-type: none"> - Free and fair parliamentary elections - Laws and policies to govern democratically and protect rights of individuals - Implement reforms that protect freedoms of expression, association, and assembly, including ability of civil society organizations and media to function without interference - Consistent steps to protect rights of women and religious minorities - Due process of law for detainees - Conduct credible investigations and prosecutions of the use of excessive force by security forces - Released American citizens deemed as political prisoners and dismissed charges <p>\$725.85M more conditional on Sec of State report that</p> <ul style="list-style-type: none"> - Previous reforms are still taking place 180 days after inaction. 	<p>N/A</p> <p>2015</p>

¹ Applies to all funds. ² Termed “Fiscal Year 2015 Funds” in FY15.

TABLE 1B: COMPARING FY FUNDING CONDITIONS TO PREVIOUS YEARS (ALL YEARS OMNIBUS)

<i>Security Exemption</i>	<i>Oversight and Consultation</i> ³	<i>Reprogramming ESF</i>	
2017	<ul style="list-style-type: none"> - Sec of State will take practical steps to ensure that mechanisms for monitoring, oversight and control of funds are in place - Within 90 days, Sec of State should submit plan to Appropriations Committees on restructuring military assistance. Includes benefits of restructuring on military’s capabilities and modifications regarding procurement of military equipment 	<p>If Sec of State determines and informs Committees on Appropriations that ESF funds are being blocked or interfered with, such funds may be reprogramed for “activities outside of Egypt”</p>	
2016	<ul style="list-style-type: none"> - Sec of State will take practical steps to ensure that mechanisms for monitoring, oversight and control of funds are in place - Within 90 days, Sec of State should consult with appropriations committees on plans to restructure military assistance 	N/A	
2015	<p>Funds can be obligated despite conditions:</p> <ul style="list-style-type: none"> - If for counter-terror, border security, non proliferation and Sinai development programs - Sec of State reports that they are important for U.S. national security 	<ul style="list-style-type: none"> - Within 30 days, Sec of State is to submit report describing those defense articles withheld from delivery - Within 90 days, Sec Of State should consult with appropriations committees on plans to restructure military assistance, including cash flow financing 	N/A

³This was not a separate section in FY15.

TABLE 2A: COMPARING OMNIBUS FUND ALLOCATIONS TO SENATE AND HOUSE DRAFTS (FY17)

<i>Economic Support Funds</i>	<i>Foreign Military Financing</i>
<p>\$112 million</p> <ul style="list-style-type: none"> - \$35M to higher education programs (\$10M to scholarships) - Provided that it is made available for democracy and development programs in Sinai - Not available for cash transfer assistance or budget support unless Sec of State certifies that Egypt is taking steps to stabilize economy and implement market-based reforms - Withhold amount equivalent to fees related to foreign funding case 	<p>\$1.3B</p> <ul style="list-style-type: none"> - 15% withheld based on democracy and human rights conditions (see below) - Does not apply to counter-terror, border security, and nonproliferation programs
OMNIBUS	
<p>\$150M</p> <ul style="list-style-type: none"> - Provided that made available for democracy and development and security programs in Sinai - Provided that it is not available for cash transfer assistance or budget support unless Sec. of State certifies that gov't is taking steps to stabilize economy and implement market-based reforms - Withhold amount equivalent to fees related to foreign funding case 	<p>\$1.3B</p> <ul style="list-style-type: none"> - Provided that Sec of State reports on impact of restructuring military assistance to Egypt - Nothing withheld based on democracy and human rights conditions
HOUSE	
<p>\$75M</p> <ul style="list-style-type: none"> - \$35M to higher education programs (\$10M to scholarships) - Provided that it is available for democracy and development programs in Sinai - Not available for cash transfer assistance or budget support unless Sec of State certifies that Egypt is taking steps to stabilize economy and implement market-based reforms - Withhold amount equivalent to fees related to foreign funding case 	<p>\$1.3B</p> <ul style="list-style-type: none"> - 15% percent withheld based on democracy and human rights conditions (see below) - Does not apply to counter-terror, border security, and nonproliferation programs
SENATE	

TABLE 2B: COMPARING OMNIBUS FUNDING CONDITIONS TO SENATE AND HOUSE DRAFTS (FY17)

<i>Certification and Report</i> ⁴	<i>Report on Governance</i> ⁵	<i>Conditions</i>
OMNIBUS		
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>N/A</p>	<p>15% of FMF can be withheld if these conditions unmet (unless counter-terror, border security, nonproliferation—see above)</p> <ul style="list-style-type: none"> - Advance democracy and human rights in Egypt (includes protecting religious minorities and rights of women) - Reforms that protect freedoms of expression, assembly, and association, including ability of civil society organizations and media to function without interference - Release political prisoners; provide due process - Hold Egyptian security forces accountable, <i>including officers who have violated human rights</i> - Access for U.S. officials to conduct monitoring and evaluation
HOUSE		
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>Every 90 Days Sec of State must report on Egypt government's steps to:</p> <ul style="list-style-type: none"> - Advance democracy and human rights (govern democratically; protect minorities) - Implement reforms that protect first amendment freedoms; support civil society - Improve transparency and accountability of security forces (can be classified if necessary) <p>Aid is not conditional on this report, but there is no waiver either</p>	<p>No conditions, but government's democracy and human rights steps noted in governance report</p>
SENATE		
<p>Sec of State must certify and report that Egypt:</p> <ul style="list-style-type: none"> - Sustains its strategic relationship with U.S. - Meets obligations under 1979 treaty 	<p>N/A</p>	<p>15% of FMF can be withheld if these conditions unmet (unless counter-terror, border security, and nonproliferation— see above)</p> <ul style="list-style-type: none"> - Reforms that protect First Amendment rights - Release political prisoners; provide due process - Hold Egyptian security forces accountable - Investigation of extrajudicial killings and disappearances; mentions Giulio Regeni - Access for U.S. officials to conduct monitoring and evaluation

⁴Applies to all assistance. ⁵Applies to all assistance.

TABLE 2B: COMPARING OMNIBUS FUNDING CONDITIONS TO SENATE AND HOUSE DRAFTS (FY17)

<i>National Security Waiver</i>	<i>Oversight & Consultation</i>	<i>Reprogramming ESF</i>
<p>Sec of State may waive the conditions above if reports that doing so is in the interest of U.S. national security, and explains why they cannot be met</p>	<ul style="list-style-type: none"> - Sec of State will take practical steps to ensure that mechanisms for monitoring, oversight and control of funds are in place - Within 90 days, Sec of State should submit plan to Appropriations Committees on restructuring military assistance. Includes benefits of restructuring on military's capabilities and modifications regarding procurement of military equipment 	<p>If Sec of State determines and informs Committees on Appropriations that ESF funds are being blocked or interfered with, such funds may be reprogrammed for "activities outside of Egypt"</p>
OMNIBUS		
<p>N/A; no waiver because there are no conditions</p>	<p>N/A</p>	<p>N/A</p>
HOUSE		
<p>Sec of State may waive the conditions above if reports that doing so is in the interest of U.S. national security, and explains why they cannot be met</p>	<ul style="list-style-type: none"> - Sec of State will take practical steps to ensure that mechanisms for monitoring, oversight and control of funds are in place - Within 90 days, Sec of State should consult with appropriations committees on any plan to restructure military assistance. 	<p>Cooperation Determination Clause says ESF funds can be "reprogrammed" outside Egypt if its government prohibits or interferes with distribution</p>
SENATE		



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