



# Global Security Contingency Fund (GSCF): Summary and Issue Overview

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## Summary

The new Global Security Contingency Fund (GSCF), established by Congress in December 2011, responds to long-standing congressional concerns that the U.S. government needs to address multiple deficiencies that have undermined interagency efforts abroad, in particular efforts to meet emergent challenges.

Created as a four-year pilot project by the FY2012 National Defense Authorization Act (P.L. 112-81), Section 1207, the GSCF is jointly administered and funded by the Department of State and the Department of Defense (DOD).

The GSCF provides resources for training and other support to enable foreign military and security forces to conduct security and counterterrorism operations and participate in coalition operations, as well as for justice sector, rule of law, and stabilization programs. The GSCF is placed under the State Department budget. Although decisions are to be jointly made by the Secretaries of State and Defense, the mandated mechanism puts the Secretary of State in the lead. (The legislation also includes three one-year transitional authorities for counterterrorism and peacekeeping assistance to Africa and Yemen, for which the Secretary of Defense has the lead.)

The GSCF is seen as an important step in improving U.S. efforts to deal with crises and emergent threats and to take advantage of unexpected opportunities. It incorporates features of previous legislation and reflects recommendations to improve current national security structures and practices. Many hope that it will provide a model for interagency cooperation on security assistance that will overcome the disadvantages of the current system of agency-centric budgets and efforts.

The FY2012 omnibus appropriations act (P.L. 112-74) does not appropriate new monies to the fund for regular budget programs, but permits DOD and the State Department to transfer up to \$250 million to the GSCF from other accounts, with a limit of \$200 million from DOD and \$50 million from State from specified accounts. (P.L. 112-74 specifies that these transfer authorities are in addition to any other transfer authorities available to these departments.) The FY2012 NDAA authorizes a higher limit for FY2012 of \$350 million. (This authorized amount includes both GSCF funding and up to \$150 million in funding for the one-year transitional authorities.) For FY2013 and future years, the FY2012 NDAA sets a limit of \$300 million. The FY2012 NDAA also provides that the State Department contribution shall not be less than 20% of the total amount required for a specific activity, and the DOD contribution not more than 80%.

In its February 2012 FY2013 budget submission, the State Department requested a \$25 million GSCF appropriation, and \$50 million in transfer authority. DOD did not request an appropriation or any new transfer authority.

Issues that Congress may choose to consider include the State Department's ability and capacity to lead GSCF activities; possible funding and flexibility drawbacks for DOD; the desirability of providing DOD with authority to train non-military security forces, including law enforcement; and the potential effectiveness of GSCF programs in the absence of a strategy for security assistance. In the context of FY2013 appropriations action, Congress may consider whether to provide a specific GSCF appropriation. The Senate version of the FY2013 Department of State, Foreign Operations and Related Appropriations Act (S. 3241) would appropriate \$25 million to the GSCF.

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## Introduction

At the Obama Administration's request, in December 2011 Congress enacted into law a new, joint State Department and Department of Defense (DOD) Global Security Contingency Fund (GSCF) to assist countries with emergent security-related needs. The Administration proposed the GSCF with its FY2012 budget submission as a "pilot project" for State and the DOD to jointly fund and plan security efforts.<sup>1</sup> These efforts include programs to provide training and support for foreign governments' security and counterterrorism operations, as well as justice sector, rule of law, and stabilization programs.

As proposed, the GSCF's stated purpose was to enable the United States to better "address rapidly changing, transnational, asymmetric threats, and emergent opportunities."<sup>2</sup> "Pooled" DOD and State Department funds would be used to develop interagency responses to build the security capacity of foreign states, prevent conflict, and stabilize countries in conflict or emerging from conflict.

Demonstrating its interest in the experiment, Congress provided GSCF authority as Section 1207<sup>3</sup> of the FY2012 National Defense Authorization Act (P.L. 112-81) for four fiscal years rather than the three years requested.<sup>4</sup> As enacted, Section 1207 also contains two transitional authorities for counterterrorism operations and peacekeeping support in Africa and one for counterterrorism assistance in Yemen. All three transitional authorities expire at the end of FY2012.

Many see the GSCF as an innovative first step in addressing the problems inherent in the current agency-based budgeting and program development systems that impede rapid U.S. responses to events abroad. Although some view the GSCF primarily as a means to provide DOD funds for activities usually conducted by the State Department, with its relatively smaller budget, others look to the GSCF as a possible means to foster more timely, coherent, and effective U.S. government responses to emerging threats and opportunities and to provide an impetus for improving interagency coordination in security and stabilization missions.

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<sup>1</sup> Its origin was a broader mechanism proposed by former Secretary of Defense Robert M. Gates to Secretary of State Hillary Clinton in 2009 to create a joint State-DOD "pool" of funds to build the security capacity of foreign states, prevent conflict, and stabilize countries in conflict or emerging from conflict. In public *fora*, Gates advocated the pooled fund concept as a means to "incentivize collaboration between different agencies of our government." Office of the Assistant Secretary of Defense (Public Affairs) Speechwriters Office, "Remarks as Delivered by Secretary of Defense Robert M. Gates, The Nixon Center's Distinguished Service Award, The Nixon Center, Washington, D.C.," press release, February 24, 2010, <http://www.usglc.org/USCLCdocs/Secretary%10of%20Defense%20Gates%20-%20Nixon%20Center.pdf>.

<sup>2</sup> State Department FY2012 Congressional Budget Justification (CBJ), February 2011, p. 161.

<sup>3</sup> This Section 1207 is not the same as the controversial Section 1207 Security and Stabilization Assistance provision of the National Defense Authorization Act of FY2006 (P.L. 109-163), as amended, that authorized the Secretary of Defense to transfer up to \$100 million per fiscal year in defense articles, services, training or other support for reconstruction, stabilization, and security activities abroad. That authority expired in FY2010.

<sup>4</sup> The final legislation retains the basic concept and fundamental elements of the Administration's request, but incorporates compromises regarding differing uses, restrictions, and funding amounts among the Administration, House, and Senate versions of the bill. The House version was contained in Section 1204 of H.R. 1540, the FY2012 National Defense Authorization Act (NDAA), as passed by the House May 26, 2011. The identical measure was incorporated as Section 924 in H.R. 2583, the Foreign Relations Authorization Act for FY2012, as passed by the House Foreign Affairs Committee on July 21, 2011. The Senate Armed Service Committee (SASC) incorporated its proposal as Section 1207 of S. 1253, the version of the FY2012 NDAA that SASC reported to the Senate on June 22, 2011 (S.Rept. 112-26). Earlier, SASC had incorporated the Administration's proposal, submitted to Congress on May 6, in its courtesy version of the FY2012 NDAA, S. 981, Section 1214, introduced May 12, 2011.

This report provides basic information on the GSCF legislation. It starts with a brief discussion of the origins of the legislation, then summarizes the legislation's provisions. It concludes with a short analysis of salient issues.

## Origins

The GSCF concept has its origins in long-standing perceptions that multiple deficiencies in current national security structures and practices have undermined U.S. efforts to respond rapidly and effectively to emergent situations abroad. Analysts have identified the U.S. government's current agency-centric national security system as a key impediment to rational budgeting and planning for national security efforts that require contributions from multiple agencies. Analysts have long proposed changes to address deficiencies along the following lines:<sup>5</sup>

- *Provide the State Department with a flexible funding account to respond to emerging needs and crises.* For many years, the George W. Bush Administration repeatedly sought a State Department emergency response fund that would facilitate immediate responses to crises and emerging threats. Congress denied such requests several times, but in 2005 it authorized DOD to transfer up to \$100 million of its own funds to the State Department for such purposes.<sup>6</sup> "Section 1207" authority expired at the end of FY2010; in FY2011, Congress established a U.S. Agency for International Development (USAID) account, the Complex Crises Fund, for the same purposes, with a \$50 million appropriation in FY2011 and \$40 million in FY2012 (\$30 million of which is for Overseas Contingency Operations). It has not made a similar account available to the State Department.
- *Develop mechanisms to promote greater interagency cooperation in planning security and stabilization programs.* Analysts point to many problems inherent in programming by individual agencies. Because agencies usually do not consult or coordinate with others when planning programs, there can be unnecessary duplication and overlap. Also, because agencies conduct programs targeted at the issues that fall under their purview, there are often serious gaps. Of particular concern are the "governance gaps" (i.e., the formulation of security assistance programs to train and equip military forces without components to improve the ability of government institutions to manage those forces). The goal of greater interagency cooperation is to

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<sup>5</sup> These proposals are contained in a variety of reports by government agencies as well as non-governmental defense and foreign affairs research organization. See, for example, U.S. Department of State and United States Agency for International Development, *The Quadrennial Diplomacy and Development Review (QDDR)*, Washington, D.C., December 2010, p. 203; Gordon Adams and Rebecca Williams, *A New Way Forward: Rebalancing Security Assistance Programs and Authorities*, Henry L. Stimson Center, Washington, DC, March 2011, p. 34; Project on National Security Reform, *Turning Ideas Into Action*, September 2009, p. 219; RAND and the American Academy of Diplomacy, *Integrating Instruments of Power and Influence: Lessons Learned and Best Practices, Report of a Panel of Senior Practitioners*, 2008, pp. 22-23; Center for Strategic and International Studies, *Integrating 21<sup>st</sup> Century Development and Security Assistance*, 2007, p. 38. For a CRS overview of the unified budget issue, see CRS Report R42133, *Building Civilian Interagency Capacity for Missions Abroad: Key Proposals and Issues for Congress*, by Nina M. Serafino, Catherine Dale, and Pat Towell, pp. 52-56, hereafter referred to as CRS Report R42133.

<sup>6</sup> Section 1207 of the FY2006 NDAA, P.L. 109-163, as amended. See CRS Report RS22871, *Department of Defense "Section 1207" Security and Stabilization Assistance: Background and Congressional Concerns, FY2006-FY2010*, by Nina M. Serafino.

develop coherent security and stabilization programs that address all elements of a problem.

- *Clarify and rationalize security roles and missions.* The appropriate division of labor between the State Department and DOD, especially for security assistance, is a matter of debate. Since military assistance first became a significant component of U.S. foreign policy after World War II, oversight of those programs has always been vested in a civilian, usually the Secretary of State. In 1961, Congress made the Secretary of State responsible, by law, for “the continuous supervision and general direction” of that assistance.<sup>7</sup> Beginning in the 1980s, however, Congress has called on DOD to contribute its manpower and funding to an increasingly broad range of national security efforts under new DOD authorities. After the terrorist attacks on the United States of September 11, 2001 (9/11), DOD has requested and Congress has approved multiple new DOD authorities. Some fill gaps when civilian funding and personnel are not available Others, DOD argues, provide a means to address critical needs in an effort to protect U.S. troops and minimize U.S. military operations. The goal is to reach agreement on an appropriate model for post-9/11 civil-military activities and missions, either by strengthening the State Department’s ability to lead and conduct security assistance programs on its own or by creating new modes of sharing responsibility.
- *Create a “unified” budget system for national security missions along functional rather than agency lines.* For over a decade, analysts have urged the U.S. government to consolidate budgets for national security activities. In particular, they have recommended that the White House present Congress annually with either a unified national security budget or a series of unified budgets for a specific multi-agency national security activity, such as counterterrorism or security assistance. The goal is to rationalize government-wide resource allocation and promote due consideration of the tradeoffs involved in allocating those resources. Unified budgets are also recommended as a means to provide greater transparency and accountability in U.S. government spending, and facilitate congressional oversight of national security programs.

The Obama Administration presented the GSCF as a means of identifying potential difficulties in combining State Department and DOD funds and testing the possibilities for combining agency expertise and efforts to conduct security activities. If successful, the GSCF may provide impetus to these changes and set a precedent for broader interagency funding and efforts.

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<sup>7</sup> The Foreign Assistance Act, as amended, Section 622(c) (P.L. 85-195, 22 U.S.C. 2382), provides that the Secretary of State, under the direction of the President, “shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs ... to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.” Section 623 establishes the role of the Secretary of Defense regarding security assistance provided under the FAA, giving him primary responsibility for (1) the determination of military end-item requirements; (2) the procurement of military equipment in a manner which permits its integration with service programs; (3) the supervision of end-item use by the recipient countries; (4) the supervision of the training of foreign military and related civilian personnel; (5) the movement and delivery of military end-items; and (6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance, education and training....” The Secretary of Defense is also charged with responsibility for determining “priorities in the procurement, delivery, and allocation of military equipment....”The term military assistance has gradually replaced by the more generic term “security assistance.” There are no standard U.S. government definitions for either military assistance or security assistance.

## **Basic Provisions**

### **Uses and Approval Processes**

Assistance may be provided under the three-year GSCF authority for three purposes, as detailed below. Assistance “may include the provision of equipment, supplies, and training.” (GSCF funds would be available to either the Secretary of State or the Secretary of Defense for such assistance.) The GSCF planning and approval processes are managed in the Department of State by the Bureau of Political-Military Affairs and in the Defense Department by the Partnership Strategy and Stability Operations office under the Under Secretary of Defense for Policy.

The first two GSCF purposes and uses—security and counterterrorism training, and coalition support—are similar to those of the Global Train and Equip authority provided by Section 1206 of the FY2006 NDAA, P.L. 109-163, as amended. There are, however, four differences.<sup>8</sup> For Section 1206 programs, the Secretary of Defense is in the lead. In addition, Section 1206 may only be used to assist military forces and maritime security forces, not the full range of security forces permitted by Section 1207. Further, GSCF counterterrorism assistance may be provided to the foreign government agencies responsible for the military and specified security forces receiving assistance. Section 1206 has no such provision. Finally, GSCF authority is provided notwithstanding any other provision of law with two exceptions (see below), while Section 1206 has no notwithstanding provision.

### **Security and Counterterrorism Training**

Section 1207 (b)(1)(A) authorizes the use of the GSCF “to enhance the capabilities of military forces and other security forces responsible for conducting border and maritime security, internal security, and counterterrorism operations, as well as the government agencies responsible for such forces.” Recipient countries would be designated by the Secretary of State with the concurrence (i.e., approval) of the Secretary of Defense. Programs to provide this support would be jointly formulated by the Secretary of State and the Secretary of Defense, and approved by the Secretary of State, with the concurrence of the Secretary of Defense before implementation.

### **Coalition Support**

Section 1207 (b)(1)(B) permits GSCF assistance to national military forces and other specified security forces to enable them to “participate in or support military, stability, or peace support operations consistent with United States foreign policy and national security interests.” Just as with security and counterterrorism training assistance, recipient countries would be designated by the Secretary of State with the concurrence of the Secretary of Defense. These programs are also jointly formulated by the Secretary of State and the Secretary of Defense, and approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

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<sup>8</sup> See CRS Report RS22855, *Security Assistance Reform: “Section 1206” Background and Issues for Congress*, by Nina M. Serafino.

## **Justice Sector, Rule of Law, and Stabilization Assistance**

Section 1207(b)(2) authorizes using the GSCF to assist the justice sector (including law enforcement and prisons), and to conduct rule of law programs and stabilization efforts “where the Secretary of State, in consultation with the Secretary of Defense, determines that conflict or instability in a region challenges the existing capability of civilian providers to deliver such assistance.” The Secretary of State also designates recipients of this type of assistance and implements activities with the *concurrence* of the Secretary of Defense. However, unlike the preceding types of assistance where the Secretaries of State and Defense would jointly formulate programs, the Secretary of State formulates these programs in *consultation* with the Secretary of Defense. State and DOD staff will determine an appropriate consultation mechanism.

## **Transitional Authorities for Horn of Africa Counterterrorism and Peacekeeping and Yemen Counterterrorism**

In addition to the GSCF authority requested by the Administration, Section 1207(n) establishes three new transitional authorities that would permit the Secretary of Defense, with the concurrence of the Secretary of State, to assist counterterrorism and peacekeeping efforts in Africa and Yemen during FY2012. Assistance may include the provision of equipment, supplies, and training, as well as assistance for minor military construction, for the following purposes:

- “To enhance the capacity of the national military forces, security agencies serving a similar defense function, and border security forces of Djibouti, Ethiopia, and Kenya to conduct counterterrorism operations against al-Qaeda, al-Qaeda affiliates, and al Shabaab.”
- “To enhance the capacity of national military forces participating in the African Union Mission in Somalia to conduct the counterterrorism operations described” above.
- “To enhance the ability of the Yemen Ministry of Interior Counter Terrorism Forces to conduct counter-terrorism operations against al-Qaeda in the Arabian Peninsula and its affiliates.”

## **Funding Provisions and Expiration**

The FY2012 NDAA establishes a GSCF account “on the books of the Treasury of the United States”; the FY2012 omnibus appropriations act (P.L. 112-74)<sup>9</sup> specifies that it has been placed under the State Department. The NDAA provides that the contribution of the Secretary of State to an activity shall not be less than 20% of the total amount required for that activity, and the contribution of the Secretary of Defense shall not be more than 80%.

## **Funding Snapshot**

The FY2012 appropriations act provides no new money for the fund, but permits DOD and the State Department to transfer up to \$250 million from other, specified accounts during FY2012.

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<sup>9</sup> Consolidated Appropriations Act, P.L. 112-74, signed into law December 23, 2011.



The limits that may be transferred are \$200 million from DOD and \$50 million from State from the specified accounts. (The FY2012 appropriations act also states that these transfer authorities are in addition to any other transfer authorities available to these departments.)

Under the FY2012 NDAA, monies may be transferred from the GSCF to the “agency or account determined to be the most appropriate to facilitate” assistance. (No official is specified as responsible for the determination.) As noted above, the main GSCF authority expires on September 30, 2015, but amounts appropriated or transferred before that date for programs already in progress would remain available until the programs are completed.

FY2012 authorization and appropriations amounts for the GSCF differ. The FY2012 NDAA authorized a limit of \$350 million for FY2012 (i.e., \$100 million more than the new transfer authority provided in the appropriations acts). The FY2012 appropriations transfer authorities are solely for the GSCF. The FY2012 NDAA authorized amount, however, covers funding for both the GSCF and for the three transitional authorities. The FY2012 NDAA permits up to \$150 million for the transitional authorities. Thus, if State and DOD choose to fund the transitional authorities up to the full amount, the FY2012 NDAA authorized amount available for GSCF programs would be \$200 million, or \$50 million less than the amount provided by the new transfer authorities provided by the appropriations act.

For FY2013-FY2015, the FY2012 NDAA stipulates that the authorized amount may not exceed \$300 million.<sup>10</sup>

**Table I. GSCF Funding Limits**  
(\$ Millions)

Fiscal Year	Appropriations Request		NDAA Authorization			Appropriations Authority to Transfer Funds to GSCF from Specified Accounts			Appropriations Specifically for GSCF	
	DOD	State	DOD	State	Combined	DOD	State	Combined	DOD	State
FY2012	0 <sup>a</sup>	50 <sup>a</sup>	200	NA	350	200	50	250	0	0
FY2013	0	25 <sup>b</sup>	200	NA	300	NYD	NYD	NYD	NYD	NYD
FY2014-FY2015	NYD	NA	200	NA	300	NYD	NYD	NYD	NYD	NYD

**Note:** NA = Not Applicable; NYD = Not Yet Determined.

- a. The Administration also requested a total transfer authority of \$500 million, without further specification.
- b. The Administration also requested a \$50 million transfer authority.

<sup>10</sup> The authorization act (FY2012 NDAA, P.L. 112-81) also provides the Secretary of State with the authority (under section 635(d) of the Foreign Assistance Act of 1961, as amended) to accept contributions in the form of “money, funds, property, and services.” Any amounts in the fund would be available until expended. GSCF monies could be used for necessary administrative expenses.

## **Funding Provisions by Agency**

### **DOD FY2012 Funding Provisions**

Section 8089 of the P.L. 112-74 omnibus appropriations act provides that DOD may transfer up to \$200 million in DOD funds to the GSCF. The FY2012 NDAA does not authorize new funds to effect that transfer, but provides that DOD may transfer up to \$200 million per fiscal year<sup>11</sup> from its defense-wide operation and maintenance account to the GSCF. Section 8089 provisions are subject to the FY2012 NDAA cap on total funding and limit of no more than 80% on the DOD contribution.

### **State Department FY2012 Funding Provisions**

The State Department requested a \$50 million appropriation as its contribution to the GSCF in FY2012. Just as with DOD, however, the P.L. 112-74 appropriations act provides no new monies for the State Department contribution to the fund. Instead, Section 8004 of this act permits the State Department to transfer to the GSCF up to \$50 million from funds appropriated to three accounts in the State Department Overseas Contingency Operations section of the act, that is, Foreign Military Financing (FMF), International Narcotics Control and Law Enforcement (INCLE), and the Pakistan Counterinsurgency Capability Fund (PCCF).<sup>12</sup> Section 8004 provisions are subject to the FY2012 NDAA cap on total funding and limit of no less than 20% on the State Department contribution.

## **Funding for FY2012 Transitional Authorities**

Of the authorized \$350 million, the FY2012 NDAA states that up to \$150 million may be dedicated to two specified purposes.

- Up to \$75 million may be used to improve counterterrorism operations in Africa. This assistance may be used to enhance “the capacity of the national military forces, security agencies serving a similar defense function, and border security forces of Djibouti, Ethiopia, and Kenya to conduct counterterrorism operations against al-Qaeda, al-Qaeda affiliates, and al Shabaab” and the capacity “of national military forces participating in the African Union Mission in Somalia to conduct counterterrorism operations” against those same forces.
- Up to \$75 million may be used to enhance the ability of the Yemen Ministry of Interior Counterterrorism Forces to conduct counterterrorism operations against al-Qaeda in the Arabian Peninsula and its affiliates.<sup>13</sup>

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<sup>11</sup> This transfer authority is provided “in accordance with established procedures for reprogramming under section 1001 of this Act ( P.L. 112-81) and successor provisions of law.” Section 1001 places a number of restrictions on reprogramings, which can total no more than \$4 billion and must be made from a lower to a higher priority program. Section 1001 also provides that the amount transferred is consider to increase the amount authorized for the account to which it is transferred. Transfer authority is also provided by Division A of the Consolidated Appropriations Act, P.L. 112-74, Department of Defense Appropriations Act, 2012, Section 8089.

<sup>12</sup> Division I, Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, Title VIII, Overseas Contingency Operations, Section 8004.

<sup>13</sup> For more information on counterterrorism efforts in Africa and U.S. support for those efforts, see CRS Report (continued...)

## **FY2013 Funding Request and Congressional Action**

In its FY2013 budget submission, the State Department requests a \$25 million GSCF appropriation and a \$50 million transfer authority. DOD does not request an appropriation or any new transfer authority. The Senate version of the FY2013 Department of State, Foreign Operations and Related Appropriations Act (S. 3241) would appropriate \$25 million to the GSCF, but does not provide specific transfer authority. The House version of the bill (H.R. 5857) has no GSCF provisions.

## **Limitations, Conditions, and Exemptions**

Congress provides GSCF authority notwithstanding any other provision of law, with two exceptions. These are the Foreign Assistance Act (FAA) of 1961, as amended (P.L. 85-195), Section 620A prohibition on assistance to governments supporting international terrorism, and the FAA Section 620J prohibition on assistance to foreign security forces for which the Secretary of State has determined there is credible evidence of gross violations of human rights (the “Leahy Amendment”). The legislation makes clear that the four-year GSCF authorization is not intended to replace other legislation.<sup>14</sup> GSCF programs are required to include elements to promote the observance of and respect for human rights and fundamental freedoms, as well as respect for legitimate civilian authority.

The notwithstanding provision does not extend to the transitional authorities. Two limitations apply to the transitional authorities. Funding cannot be used “to provide any type of assistance that is otherwise prohibited by any provision of law.” It also cannot be used to provide a country with assistance that it is otherwise prohibited from receiving by any other provision of law.

## **Congressional Oversight**

GSCF reporting requirements are extensive, but not unusual. The authorizing legislation requires the Secretary of State, with the concurrence of the Secretary of Defense, to notify specified congressional committees at three points. The committees to be notified are the House and Senate Appropriations Committees and Armed Services Committees, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations.

- The first notification requirement mandates that the Secretary of State, with the concurrence of the Secretary of Defense, notify Congress 15 days after the date on which all necessary guidance has been issued and the processes for implementing programs “are established and fully operational.” A similar notification is required for the transitional authorities.

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(...continued)

R41473, *Countering Terrorism in East Africa: The U.S. Response*, by Lauren Ploch Blanchard. For more information on Yemen and U.S. assistance to Yemen, see CRS Report RL34170, *Yemen: Background and U.S. Relations*, by Jeremy M. Sharp.

<sup>14</sup> Section 1207(e) states that the “authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations.”

- The Secretary of State, with the concurrence of the Secretary of Defense, must also notify the specified committees not less than 15 days before initiating an activity. No funds may be transferred into the fund until 15 days after Congress is notified. The notification regarding the initiation of program activities is to include a detailed justification for the program, its budget, execution, plan and timeline, a list of other security-related assistance or justice sector and stabilization assistance being provided to that country that is related to or supported by that activity, and any other appropriate information. The transitional authorities carry similar reporting requirements.
- A third requirement is for an annual report on programs, activities, and funding, jointly submitted by the Secretary of State and the Secretary of Defense. The first report is to be provided no later than October 30, 2012. Subsequent reports are to be provided annually thereafter.

The appropriations legislation requires the State Department to notify the appropriations committees 15 days prior to making any transfers from the INCLE, FMF, and PCCF accounts to the GSCF in accordance with regular notification procedures, including a detailed justification, implementation plan, and timeline for each proposed project. It is not, however, subject to prior consultation with the appropriations committees. It requires DOD to notify the congressional defense committees in writing 30 days prior to making transfers to the GSCF with the source of funds and a detailed justification, execution plan, and timeline for each proposed project.

## **Current Status of GSCF Assistance and Organization**

As of the date of this report, no GSCF assistance has been provided.<sup>15</sup> The departments are developing an interagency consensus on national priorities for security sector assistance, as well as a FY2012 assistance plan. DOD and State staff have examined various proposals, but none has yet been deemed by both departments of sufficient priority to merit funding.

The House Armed Services Committee, in its report on the National Defense Authorization Act for FY2013 (H.R. 4310), has expressed concern with the GSCF decision-making process. It stated its expectation that the departments “begin exercising the authority in a timely manner.”<sup>16</sup>

## **Issues for Congress in Brief**

For some policymakers and analysts, the GSCF proposal is a positive, long-awaited first step toward the development of integrated, interagency funding streams for agencies that carry out

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<sup>15</sup> On June 15, 2012, however, DOD notified the Congress of plans for assistance to Yemen under the transitional authority of Section 1207(n)(1)(C).

<sup>16</sup> U.S. Congress, House Committee on Armed Services, *National Defense Authorization Act for Fiscal Year 2013*, Report on H.R. 4310 together with Additional and Dissenting Views, 112<sup>th</sup> Cong., 2<sup>nd</sup> sess., May 11, 2012, H.Rept. 112-479 (Washington: GPO, 2012), p. 257.

related programs. For others, the GSCF proposal and specific provisions of the bill raise a number of issues, some of which are summarized below.<sup>17</sup>

## **The State Department's Ability and Capacity to Lead the GSCF**

The GSCF puts the State Department, in the person of the Secretary of State, in the lead for all but the transitional authorities for the Horn of Africa and Yemen. Some who have viewed Congress's approval of many new DOD security assistance authorities since 9/11 as a gradual erosion of the traditional State Department lead on security assistance<sup>18</sup> may see the GSCF as a welcome reversal of that trend.

Nevertheless, some may wonder about the extent to which the Secretary of State may actually exercise control if DOD provides most GSCF funding. This may be especially true as the Secretary of Defense will be providing funds through an authority that permits the transfer of funds from one activity to another but stipulates that the funds may only be transferred to a higher priority activity. Activities that may be high priority for State are not necessarily high priority for DOD.

Advocates of greater State Department control would prefer that Congress dispense with the GSCF "pooled" fund and appropriate substantially more security assistance and related DOD funding (particularly "Section 1206" building partnership capacity funding<sup>19</sup>) directly to the international affairs budget, just as FMF, INCLE, and PCCF are currently appropriated. Some fear that the decision to pool DOD and State Department funds rather than to appropriate funds directly to the State Department budget will perpetuate the State Department's lack of capacity to handle security assistance rather than resolve it.<sup>20</sup> On the other hand, others are concerned that including all GSCF funding in the international affairs budget would leave GSCF activities vulnerable to possible cuts by Congress or by the State Department itself as part of overall State Department budget reductions.

Many analysts are concerned that the State Department lacks the capacity to plan and direct an increased number of security assistance and related governance and rule of laws programs<sup>21</sup> without increasing the size of its staff. Some also view the State Department as lacking the institutional interest and will necessary to plan and oversee<sup>22</sup> a large security assistance portfolio. But others may point to the State Department's creation of new programs under the Security Assistance peacekeeping account (PKO) as evidence of State's interest in this program area.

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<sup>17</sup> For more background on security assistance and a fuller exploration of associated issues, see CRS Report RS22855, *Security Assistance Reform: "Section 1206" Background and Issues for Congress*, by Nina M. Serafino, and CRS Report R41817, *Building the Capacity of Partner States Through Security Force Assistance*, by Thomas K. Livingston.

<sup>18</sup> See footnote 7.

<sup>19</sup> First authorized by Section 1206 (Authority to Build Partnership Capacity of Foreign Military Forces) of the FY2006 NDAA, P.L. 109-163, and subsequently extended and amended.

<sup>20</sup> Gordon Adams and Rebecca Williams, *A New Way Forward: Rebalancing Security Assistance Programs and Authorities*, The Henry L. Stimson Center, Washington, DC, March 2011, pp. 25,30.

<sup>21</sup> For more on this topic, see CRS Report R42155, pp. 57-60.

<sup>22</sup> As with other security assistance programs under both State Department and DOD leads, it is anticipated that GSCF programs will be implemented and managed by the Defense Security Cooperation Agency, a DOD agency jointly funded by State and DOD.

## **Possible Drawbacks for DOD**

For DOD, the GSCF may be perceived as entailing disadvantages as well. While some perceive the GSCF's ability to tap DOD funds for State Department programs of mutual interest as beneficial, others see this effort as a problematic and unwarranted diversion of DOD funds, particularly in an increasingly constrained budget environment. In addition, some analysts believe that DOD at times needs to ensure the integrity of its own missions by the use of security and stabilization assistance. Because GSCF purposes overlap those of DOD's "Section 1206" train and equip authority, where the Secretary of Defense is in the lead, some analysts view a successful GSCF effort as someday leading to the elimination of Section 1206 and similar authorities. For some analysts, such a move would mean sacrificing some of the control and flexibility of programs provided through a DOD authority.

## **DOD Authority to Train Foreign Security Forces**

The GSCF proposals also raise the continuing concern about DOD's role in training security forces with law enforcement functions. The GSCF legislation provides DOD with authority to train and otherwise assist a wider range of foreign security forces than previously permitted. Since FY2006, in conjunction with DOD requests for an expansion of Section 1206 authority, Congress has repeatedly rejected providing DOD with authority to train and assist police and other non-military forces, except for foreign maritime security forces. (Congress has, however, specifically provided DOD with authority to train police in Afghanistan and Iraq.) The GSCF provides authority for assistance to "security forces responsible for conducting border and maritime security, internal security, and counterterrorism operations, as well as the government agencies responsible for such forces," without any limitation on the agency that could provide such assistance. Opponents of this extension have argued that training security forces that perform law enforcement functions is a civilian, not a DOD, function because military skills and culture are distinct from those of civilian law enforcement. Proponents see sufficient overlap, particularly for security forces that operate in lawless border areas and those that exercise counterterrorism functions, to validate this expansion. Some analysts state that the GSCF joint State-DOD program development provisions reduce the risks of the "militarization" of law enforcement efforts.

## **Strategic Framework**

Some analysts express concern that the Administration has requested a new security assistance funding mechanism without first establishing a strategic framework that would set priorities and clarify department and agency roles in security assistance. Early on, the Obama Administration undertook a National Security Council-led review of security assistance to establish such a framework, but that effort has not yet concluded. Some analysts state that it stalled over the issue of an appropriate division of responsibilities between DOD and the State Department.

Some now look to the GSCF process as the crucible for competing concepts of responsibilities—whether to reinvigorate the traditional State Department lead on all security assistance, placing all security assistance resources under the State Department budget, or to develop a new paradigm of shared responsibilities—and new arrangements. Given the Administration's characterization of the GSCF as an experiment intended to identify issues in interagency collaboration, the GSCF may contribute to the goals of the review. Or, if DOD and the State Department are unable to agree decisively upon a division of labor, Congress may opt to consider further legislation.

## **Looking Ahead: FY2013 Funding and Beyond**

Even though the GSCF has been authorized for four years, through FY2015, Congress may monitor its use closely and consider in-course changes. For instance, one necessary change may be in the source of GSCF funding. For FY2012, Congress, in its appropriations action, provided for the GSCF to be funded through transfers from specified State Department and DOD accounts, not through new appropriations. The FY2012 NDAA transfer authority for funds from specified DOD accounts to the GSCF extends through FY2015, but there is no corresponding State Department long-term transfer authority. (The House-passed FY2013 Foreign Relations Authorization Act, H.R. 6018, has no GSCF provision.) Without a new State Department transfer authority, FY2012-FY2015 GSCF activities will depend on either a sizable FY2012 State Department transfer from specified accounts as permitted by the FY2012 omnibus appropriations act or on future annual appropriations. As mentioned above, the Senate version of the FY2013 Department of State, Foreign Operations and Related Appropriations Act (S. 3241) would appropriate \$25 million to the GSCF, as requested by the Administration, but there is no corresponding provision in the House version of the bill (H.R. 5857).

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