



## **One Tantrum Tempered as Trump Grudgingly Signs FY 2019 Omnibus Spending Bill—Another Already Underway**

After a disastrous and irresponsible 35-day shutdown that furloughed or forced 800,000 public servants to work without pay and shuttered one quarter of the federal government, President Trump finally capitulated on Friday and signed a bipartisan, bicameral compromise bill. The bill packages the seven unenacted appropriations bills for fiscal year (FY) 2019, averting a second shutdown. One of those remaining bills funds State Department operations and foreign assistance programs, including international family planning and reproductive health (FP/RH) activities. The congressional leadership in both parties, like beleaguered parents, just had to let Trump cry himself out over their refusal to give him the \$5.7 billion he had demanded for construction of a wall on the southern border with Mexico and to allow him to suffer the negative political fallout from precipitating the longest government shutdown in U.S. history. In the end, Trump, the self-proclaimed consummate dealmaker, secured \$1.375 billion for border “barriers,” an amount considerably less than what would have been attainable before the shutdown in December.

**Despite the exactly four-and-one-half month delay since the start of the fiscal year, the final agreement preserves the status quo on overseas FP/RH funding and policy for the ninth fiscal year in a row—the identical funding level for bilateral programs, an earmarked contribution for the United Nations Population Fund (UNFPA) and no legislative codification of the Trump-Pence administration’s expansion of the [Global Gag Rule](#) (GGR) restrictions to all U.S. global health assistance.**

Negotiations between House and Senate appropriators on the contents of the State Department and foreign operations portion of the omnibus spending package had reportedly been finalized in December. As expected, negotiators [split the difference](#) on international FP/RH funding and policy provisions between a Senate committee-passed bill providing slightly increased bilateral funding above the prior year level, an earmarked UNFPA contribution with most—but not all—current law restrictions and a legislative repeal of the expanded GGR versus a House counterpart version that capped funding at \$461 million (the level from 11 years ago), imposed a prohibition on any U.S. funds being provided to UNFPA and codified the Trump-Pence administration’s version of the GGR.

As outlined in the table below, the text of the [omnibus bill](#) earmarks “not less than” \$575 million for bilateral FP/RH programs run by the U.S. Agency for International Development (USAID). Of the \$575 million total, [report language](#) stipulates that \$524 million will be provided from the Global Health Programs account and \$51 million from the Economic Support Fund for FP/RH activities in a small number of strategically important countries. In addition, the bill designates a \$32.5 million contribution to UNFPA from the International Organizations and Programs (IO&P) account, which furnishes U.S. voluntary contributions to U.N. agencies. The total amount of bilateral and multilateral funding appropriated in the omnibus equals \$607.5 million—a \$277 million or 84 percent increase above the president’s budget request of \$330.5 million released last February.

(In millions of dollars)	FY 2018 Enacted (P.L. 115-141)	FY 2019 President's Budget Request	FY 2019 House Committee-Approved Bill	FY 2019 Senate Committee-Approved Bill	FY 2019 Omnibus
Global Health Programs account	(523.95)	302.0	—	(544.0)	(523.95)
Economic Support Fund (ESF)	(51.05)	28.5	—	(51.05)	(51.05)
TOTAL, bilateral FP/RH	<b>575.0</b>	<b>330.5</b>	<b>461.0</b>	<b>595.05</b>	<b>575.0</b>
U.S. contribution to UNFPA (IO&P)	<b>32.5</b>	0	0	<b>37.5</b>	<b>32.5</b>
TOTAL, bilateral & multilateral FP/RH	607.5	330.5	<b>461.0</b>	(632.55)	607.5

NOTE: FP/RH funding levels that were earmarked in the statute are indicated in bold, while funding levels that were specified in report language are denoted in (parentheses).

[International affairs programs](#), including global health accounts, received very slight funding increases over FY 2018 enacted levels.

On UNFPA, the \$32.5 million earmarked contribution is subject to all of the annually renewed boilerplate restrictions—requirements that UNFPA maintain U.S. funds in a segregated account, none of which may be spent in China, or for abortion and that a dollar-for-dollar withholding of the amount UNFPA plans to spend in China must occur. The omnibus does not modify the 1985 Kemp-Kasten Amendment, the ideologically predetermined interpretation of which has resulted in the complete [defunding of UNFPA](#) by the Trump-Pence administration for the last two years. Statutory language that directs that any funds withheld from UNFPA due to the “operation of any provision of law” be transferred to USAID for bilateral “family planning, maternal, and reproductive health activities” is reiterated.

On the GGR, the omnibus package is silent with neither of the conflicting “riders” contained in the two chambers’ respective bills incorporated in the final deal. Both the Senate bill’s provision rescinding the GGR and the legislative codification contained in the House committee’s base bill were dropped during the negotiation.

In the midst of the omnibus negotiations, legislative activity around the GGR proceeded with both opponents and proponents introducing bills to advance their position on the administration's dramatically expanded policy. On February 7, Representative Nita Lowey (D-NY) and Senator Jeanne Shaheen (D-NH), joined by 150 cosponsors in the House and 46 in the Senate, reintroduced the Global Health Empowerment and Rights (Global HER) Act to permanently repeal the GGR. While the House version ([H.R.1055](#)) was sponsored exclusively by Democrats, 45 Senate Democrats—all but Sens. Manchin (D-WV) and Jones (D-AL)—combined with two supportive Republican appropriators, Sens. Susan Collins (R-ME) and Lisa Murkowski (R-AK), signed on to the bill ([S. 368](#)). Rep. Lowey and Sen. Shaheen also co-authored an [op-ed](#) discussing the dangers of GGR and the importance of their bill. Additionally, a diverse group of [114 organizations](#)—drawn from the health, development, and human rights sectors—endorsed the legislation.

Not to be outdone, Senator Mike Lee (R-UT) introduced a non-binding resolution ([S. Res. 20](#)) in support of the GGR and a bill ([S. 190](#)) to codify the expanded version with 31 cosponsors. Rep. Virginia Foxx (R-NC) introduced companion House legislation ([H.R. 661](#)) with a list of just 18 cosponsors.

In the legislative maneuvering to reopen the government during the shutdown, the GGR and UNFPA played a starring role in a little-reported episode of the drama. On the first day of the new Democratic majority in the House, Appropriations Committee Chair Lowey brought to the floor a package of six Senate bills ([H.R. 21](#)) approved during the last Congress in an attempt to break through Senate Majority Mitch McConnell's refusal to have the Senate even debate and vote on any legislation to reopen the government unless the president would agree in advance to sign it. Included in the package was the State Department and foreign operations bill adopted in the Senate Appropriations Committee which contained a Shaheen amendment that rescinded the GGR and earmarked a UNFPA contribution. While focused on its opposition to the Senate committee-approved provisions on immigration and border security, the White House "[statement of administration policy](#)" highlighted the inclusion of the anti-GGR and UNFPA funding restoration language among the items that would cause the president's advisors to recommend that he veto the bill if presented to him.

When the bill was debated on the House floor on January 3, Appropriations Committee Ranking Member Kay Granger (R-TX) and the Republican leadership chose to use their "motion to recommit with instructions" to strike the section of the State-foreign operations bill in the package that reverses the GGR and mandates funds for UNFPA. The motion to recommit is a last-ditch parliamentary tool available to the party in the minority to amend the majority party's bill prior to final passage, usually resulting in a straight party-line vote. During an abbreviated debate, newly installed Appropriations Chair Lowey argued in opposition, and Ranking Member Granger and the House's anti-choice leader Chris Smith (R-NJ) spoke in favor. The Granger motion to recommit failed on a vote of 199 to 232 with all Republicans voting in favor, all Democrats—except Reps. Collin Peterson (D-MN) and Dan Lipinski (D-IL)—casting no votes, and one GOP absentee. The vote was significant in that it is the first international FP/RH-related vote on the House floor in a dozen years. In addition, all of the newly elected

Representatives are now on record and confirms the post-election analysis that forecast that international FP/RH issues would enjoy a working margin of victory in the House for the next two years.

After the usual last-minute drama that Washington policymakers and advocates have come to expect from this president, Trump did sign the omnibus spending package that will fund overseas family planning and reproductive health programs and other critical global health and development programs for the remainder of FY 2019 during a Rose Garden ceremony. But not without continuing to act out in declaring a national emergency in order to try to pry loose and repurpose military construction funding for his vision of a border wall. On this occasion, the federal courts may be the branch of government left to dispense the punishment of the president for his latest unjustifiable and likely unconstitutional act.