WASHINGTON MEMO

PAI
pai.org

As the annual congressional appropriations process ramps up for the upcoming 2019 fiscal year (FY), an alarming trend has become increasingly evident since the beginning of the Trump administration—the inability of the executive branch to obligate and spend foreign assistance funds appropriated by Congress in a timely, responsible, programmatically sound and efficient way.

In FY 2017, perhaps for the first time ever, no foreign aid funds were obligated and spent during the fiscal year in which the funds were appropriated. Informed observers suspect this disturbing development may continue, and that for the second year in a row, no current-year funds may be obligated before the end of the 2018 fiscal year on September 30th.

Bad process has serious, real-life implications for women and families in low-income countries that depend on U.S.-supported family planning and reproductive health (FP/RH) programs for their health and survival—as well as beneficiaries of other U.S.-funded efforts to improve health, promote economic growth, improve livelihoods and enhance stability. Recently, George Ingram of the Brookings Institution **detailed** the disastrous toll exacted on the effectiveness of U.S. foreign assistance by a broken budget and funding process:

- Large amounts of time that U.S. government and recipient organization employees needlessly waste on planning and responding to funding contingencies that are never likely to materialize;
- Unnecessary inefficiencies in initiating new projects, such as difficulties with staff recruitment, training and retention, and in program planning and management created by delayed release or reduction of funding;
- Setbacks and disruptions to ongoing projects and programs if funding is delayed and if delivery of services and supplies like food and medicine to beneficiaries is interrupted; and
- "Reputational damage" to the United States caused by threats or rumors of funding cuts, resulting in a loss of the U.S. government's credibility as a reliable and consistent partner.

The causes of this increasing slowdown in obligating foreign aid funds since the beginning of the Trump administration are multiple: proposals for massive cuts to international affairs programs in the president's budget request and delay in sending the request to Congress; the continuing breakdown of the congressional appropriations process; White House proposals attempting to rescind or "claw-back" prior-year appropriated funds; and time-consuming legislative oversight and internal executive branch processes.

Much of the blame for this funding slowdown falls on the Trump administration, but not all of it, as some of these causal factors predate the administration's arrival. It remains unclear whether the poor performance of the Trump administration in getting foreign aid funds spent is the result of some combination of understaffing, inexperience and incompetence or whether it is calculated. Regardless of the intent, the administration's actions speak for themselves and have had significant negative consequences.

Budget Proposal with Massive Cuts Arriving Late

The release of Trump administration's first budget request was delayed an inordinate amount of time and did not arrive on Capitol Hill until fourth months after the inauguration. The final FY 2018 budget request at the end of May 2017 made good on a preliminary March **"skinny" budget's proposal** of a 31 percent cut to the diplomacy and development programs of the State Department and the U.S. Agency for International Development (USAID). In the case of international FP/RH, the request had the dubious distinction of **zeroing out** all bilateral and multilateral funding—the first such request by any president.

Although the Trump budget was "dead on arrival" in Congress and funding was eventually boosted back up to nearly current levels by congressional appropriators, the magnitude of the proposed cut initially sent shockwaves to the field. This paralyzed program planning because USAID missions could not reliably predict eventual country funding allocations. The simultaneous implementation of the expanded Global Gag Rule, with the issuance on May 15th of new standard provisions for grants and cooperative agreements of all U.S. government global health assistance recipient organizations, compounded the uncertainty in the health sector. With a lack of political appointees in place, the need to tip-toe around questions about what the administration's policy might be in other sectors also limited the ability of career employees to make what might otherwise be routine funding allocation decisions.

Then-Secretary of State Rex Tillerson was a full-throated advocate for the large proposed cut to his department's budget. **Media reports that he might not spend all the money Congress might provide** to the State Department and USAID sent another destructive and confusing signal to State and USAID staff both in Washington and overseas.

Dysfunctional Appropriations Process

The delay in approval of the **FY 2017 spending package** until the end of April 2017—five months before the end of the fiscal year, setting the all-time record for delay in final action—and the adoption of the FY 2018 omnibus deal the last week of March 2018—halfway through the fiscal year—are emblematic of the ongoing and growing **dysfunction** of the appropriations process as partisan acrimony in Congress has risen in recent years.

But even when a **bipartisan budget deal** is forged by the congressional leadership with input from White House lobbyists, as was the case with the massive $1.3 trillion omnibus spending bill for FY 2018, the erratic President Trump wants a do-over, potentially throwing the process of allocating the FY 2018 appropriated funds for foreign aid and other parts of the federal budget into further disarray. Unhappy with the size of the spending increase for domestic programs and, in his view, inadequate funding for a Mexican border wall, President Trump initially threatened to veto the omnibus before being persuaded to sign it in order to secure a $61 billion increase in defense spending contained therein.

Administration's Deal-Breaking "Rescissions" Packages

Not content to leave well enough alone, the president subsequently sent to Congress on May 8th a package of "rescissions" under a process by which funds previously appropriated by Congress, but not spent, are canceled (or rescinded). Created as part of the post-Watergate reforms to prevent presidents from defying Congress' "power of the purse" by refusing to spend (or impound) appropriated funds, the

Congressional Budget and Impoundment Control Act of 1974 allows the president to request a rescission of prior-year appropriated funds.

Initial reports circulating suggested that the size of the proposed package to be sent to Congress would be larger, with international affairs programs targeted for a disproportionate share of the cut. In the final message, requested rescissions totaled $15.4 billion, of which $334 million was proposed to come out of FY 2017 international affairs programs—specifically out of the Complex Crisis Fund, the Millennium Challenge Corporation and an FY 2015 Ebola-response fund. In a June 5th revision of the package, the administration removed the $252 million for Ebola response, reconsidering its myopic decision in the wake of a new outbreak of the deadly disease in the Democratic Republic of the Congo.

This is relevant to the understanding of the slow flow of foreign aid funds because under the rescissions process, funding for the programs listed in the president's message to Congress are frozen for up to 45 legislative days. If Congress does not act to approve within that time period, the proposal fails and the funds are available to be spent. Because of cuts to other popular programs like the Child Health Insurance Program, the prospects for the rescissions package being approved by Congress has always been a bit in doubt. Nevertheless, last Thursday, the revised package narrowly squeaked through the House on vote of 210 to 206. With their slim majority in the Senate, Republicans cannot afford any defections if Democrats stay together in opposing.

Regardless of the outcome, a White House official has publicly mused that, having discovered this tactic to put on hold spending the administration does not like, the Trump-Pence administration may propose future rescissions packages, some of which may target foreign assistance programs. In fact, the administration is preparing to send to Congress a second rescissions package—perhaps as early as this week—directed at unobligated funds from the FY 2018 omnibus. The second package could reportedly target international affairs programs for cuts reflecting the funding levels the administration asked for in its FY 2018 and FY 2019 budget requests. In the case of international FP/RH programs, that would mean an elimination of all funding (FY 2018) or slashing the current appropriated level in half (FY 2019).

Complicated and Time-Consuming Bureaucratic Processes

But even after Congress appropriates funds for the State Department and foreign assistance programs, those funds have to be maneuvered through a byzantine process before being obligated and spent on overseas development and health programs. Foreign aid has had its share of misuse, corruption and scandals over the years. As a result, foreign assistance is subjected to some of the strictest legislative oversight of any federal program, which directly impacts the speed at which money can go out the door. Following the passage of annual appropriations legislation, the executive branch must notify the appropriations committees—within 30 days of the bill's enactment—the amount of funds USAID intends to provide to each "program, project, and activity" at the central, country, regional and program level, organized by the appropriations bill account structure and reflecting any funding earmarks, ceilings and limitations contained in the final bill. This is the so-called "653(a)" process, named for the section of the Foreign Assistance Act of 1961—the permanent statute authorizing foreign aid programs, added in 1971.

Despite the statutory requirement of submission within 30 days of enactment, the State Department's Office of U.S. Assistance Resources (F Bureau), founded in 2007 to oversee budgetary functions for the department and USAID, is typically not able to provide the report to appropriators until 75 to 100 days after the bill's passage. The report must reconcile the amounts appropriated by Congress for each country and sector with the funding allocations presented by the State Department in its Congressional Budget Justification (CBJ) at the start of the budget and appropriations process as part the president's budget request. This can be a daunting task. In the case of FP/RH, for example, the F Bureau and USAID budget managers for FY 2018 will have to figure out a way to accommodate the $575 million that was earmarked in the bill for FP/RH programs by reallocating some of the funding that had earlier been proposed in the CBJ for other countries and sectors since the president's budget requested zero funds for FP/RH.

Once the report is delivered, a negotiation between State and USAID representatives and congressional appropriations staff commences to reach agreement on the proposed allocation of funds. Those negotiations can be protracted. For example, State and USAID reportedly did not get final approval from Senate subcommittee staff until late November 2017 and from their House counterparts until mid to late December—in other words, a full eight months after the enactment of the FY 2017 appropriations bill. For FY 2018, conclusion of the 653(a) negotiation is not expected to occur until sometime in July.

But wait… at the conclusion of the 653(a) process, funds are still not ready to be obligated to global health and development programs and projects. There is an internal executive branch process that must play out first. Operating plans must be prepared by USAID's budget and programmatic managers and receive final approval by State's F Bureau. Constructing the operating plans requires preparation of detailed control levels by sectors and activities as well as extensive consultation with bureaus and country missions. One participant in the process describes the complexity of the budget planning exercise as akin to trying to solve a Rubik's cube. And it is time-consuming. As of early March 2018, more than 90 percent of the operating plans for FY 2017 were reported to have been finally approved—more than five months after the end of the fiscal year for which they were appropriated.

The only reason that foreign assistance programs have been able to limp along so far in the new administration is because of the way in which foreign aid is appropriated, enabling obligation over a two-fiscal-year period; the allowance in federal procurement law to "forward fund" some programs for up to 18 months; and the existence of "pipelines," of obligated but unexpended funds, in some development and health programs.

Clearly, an increasingly dire situation is emerging where excessive delays in the obligation of the foreign assistance funds appropriated by Congress is endangering sound programming. The later and later passage by Congress of final appropriations legislation combined with the inability of the Trump administration to spend the funds provided has stressed the government processes and mechanisms for funding global health and development programs to the breaking point. Regardless of who bears the blame for the political and process gridlock that is resulting in interminable delays in the release of vital, lifesaving foreign assistance funding, this dysfunction cannot and should not be allowed to become acceptable.