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Dearly Belated: Congress Finally Completes FY 2024 Appropriations & Continues Status Quo on Global Family Planning Funding and Policy

At long last, Congress approved, and President Biden signed on March 23 the FY 2024 State Department and foreign operation appropriation bill, part of the second six-bill omnibus ([H.R. 2882](#))—formally known as a consolidated appropriations act—that will fund programs comprising 75 percent of the federal budget for the six months remaining in the fiscal year. Congress just barely avoided a government shutdown by enacting the spending package just under the wire of the expiration date of a [third continuing resolution](#) keeping those federal departments and agencies open. This delay in final approval of foreign assistance funds after the start of the fiscal year ties for the silver medal for the longest wait since 2000.

While one would not necessarily say it was worth the wait, global sexual and reproductive health and rights (SRHR) advocates will declare the omnibus a victory—or what counts as a victory these days—as the bill includes a continuation of the status quo for the 14th year in a row with no cuts to bilateral and multilateral family planning and reproductive health (FP/RH) funding and no new hostile anti-SRHR policy “riders” attached.

Total bilateral and multilateral FP/RH funding remains at \$607.5 million, including \$575 million earmarked for bilateral programs and \$32.5 million earmarked for a U.S. contribution to the United Nations Population Fund (UNFPA). This amount has remained flat since FY 2011, despite the need for increased investments to adequately address the unmet need for modern contraception and other reproductive health services, as well as to offset the effects of inflation and account for the growth of the population of reproductive age in low- and middle-income countries over those 14 years.

On policy, all of the hostile [anti-SRHR policy riders](#) included in the House version of the State-foreign operations bill ([H.R. 4665](#)) by the Republican majority were dropped in the end-game negotiations, including a legislative codification of the Trump expanded Global Gag Rule (GGR) and a prohibition on any funding for UNFPA. The only negative outcome is the retention by reference to language in the House report that mandates increased monitoring and reporting on compliance with longstanding abortion-related statutory restrictions.

The favorable outcome of the negotiation to reconcile the differences between the House and Senate, in which almost all of the hundreds of harmful “poison pill riders” attached by the House Republican majority to their 12 subcommittee bills were jettisoned, can largely be attributed to the strength and the consistent application of a “no new riders” agreement between Senate Appropriations Committee Chair Patty Murray (D-WA) and Vice Chair Susan Collins (R-ME)—supported by House Appropriations Ranking Member Rosa DeLauro (D-CT).

In the case of the negotiation on the international FP/RH provisions, the role of political inertia should probably not be overlooked. After arriving at the same destination for the prior 13 years, it may have been the case that the path of least resistance was a straight line.

Here is a rundown of the key funding and policy issues supported by SRHR advocates and their resolution.

Funding

On international FP/RH funding, the omnibus bill stipulates that “not less than” \$575 million “should” be provided to bilateral FP/RH programs, the bulk of which — \$524 million — is allocated within the Global Health Programs (GHP) account managed jointly by the U.S. Agency for International Development (USAID) Office of Population and Reproductive Health and USAID country missions in the field. The remainder is allocated from within the Economic Support Fund (ESF), which has been used in the past to finance FP/RH activities in a small number of strategically important countries, such as Afghanistan, Egypt, and Jordan.

The omnibus explanatory statement contains a line-item budget of \$51.05 million from ESF for FP/RH. Consistent with no deviation from the status quo, congressional appropriators continued to resort to the perennial past practice of using ESF to bolster the FP/RH level in the face of competing pressures for scarce resources available under the overall funding allocation for GHP programs.

In settling at flat funding, negotiators rejected both a House proposal to cut total bilateral and multilateral FP/RH funding by almost a quarter (\$146.5 million) to only \$461 million, including zeroing out all funding to UNFPA, and a modest Senate funding increase of \$27.6 million above the FY 2023 enacted level—\$25 million for bilateral programs and \$2.6 million for UNFPA—included as a result of the adoption of an [amendment](#) successfully offered in full committee by Senator Jeanne Shaheen (D-NH).

The U.S. contribution to UNFPA is earmarked at \$32.5 million from within the International Organizations and Programs (IO&P) account, which includes all the voluntary contributions made by the United States to United Nations programs and agencies.

(in millions of dollars)	FY 2023 Enacted (P.L. 117-328)	FY 2024 President's Budget Request	FY 2024 House-Passed Bill (H.R. 4665)	FY 2024 Senate Committee-Approved Bill (S. 2438)	FY 2024 Enacted (P.L. 118-47)
Global Health Programs (GHP) account	(523.95)	600.0	--	(548.95)	(523.95)
Economic Support Fund (ESF)	(51.05)	19.3	--	(51.05)	(51.05)
TOTAL, bilateral FP/RH	575.0	619.7	(461.0)	600.0	575.0
U.S. contribution to UNFPA (IO&P)	32.5	57.5	0.0	35.1	32.5
TOTAL, bilateral & multilateral FP/RH	607.5	677.2	461.0	(631.5)	607.5



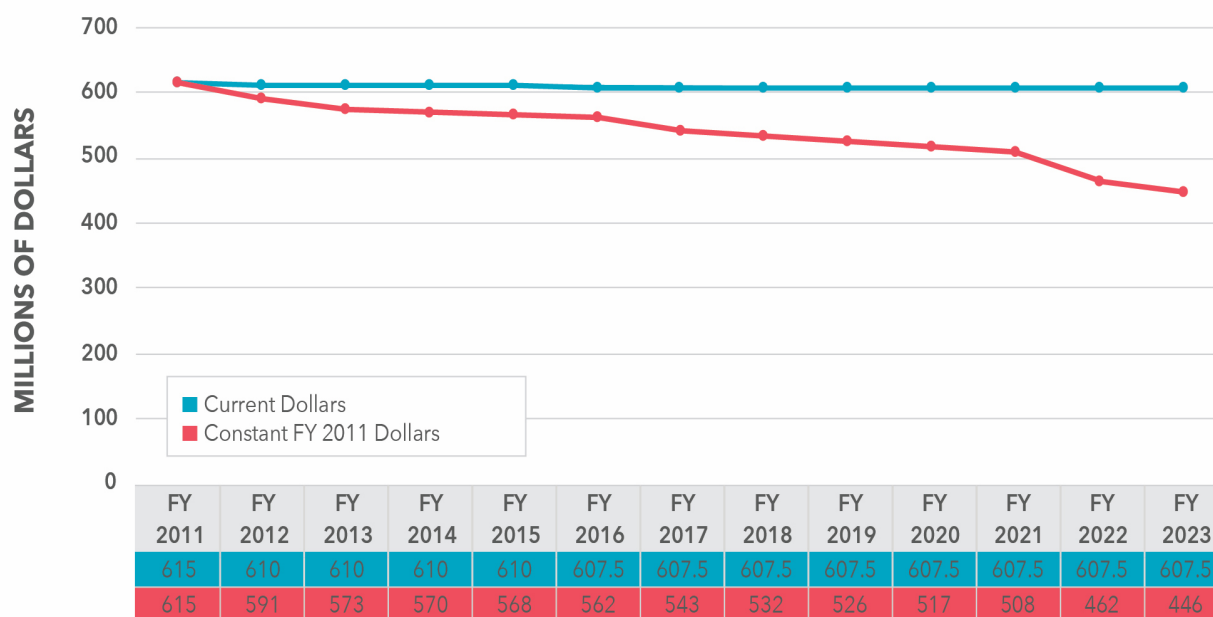
NOTE: FP/RH funding levels that were earmarked in the statute are indicated in **bold**, while funding levels that were specified in report language are denoted (in parentheses).

As the graph on the next page illustrates and with the continuation of flat funding in FY 2024, total U.S. bilateral and multilateral investment in international FP/RH programs has remained stagnant for the last 14 fiscal years at just over \$600 million annually. Over those years, adjusting for inflation, the purchasing power of the appropriated FP/RH funds has decreased by \$162 million—nearly 27%—in constant FY 2011 dollars. Conversely, the FY 2011 appropriated amount would have the purchasing power of \$843 million today.

Looking at it from another perspective, the high-water mark for international FP/RH funding (\$595 million in FY 1995), enacted by Congress just prior to the landmark 1994 International Conference on Population and Development in Cairo—celebrating its 30th anniversary this year—would have the equivalent purchasing power today of \$1.232 billion.

BILATERAL AND MULTILATERAL FP/RH FUNDING

APPROPRIATED LEVELS ADJUSTED FOR INFLATION (FY 2011 - FY 2023)



NOTE: Inflation-adjusted appropriated levels on the fiscal year date of enactment, derived using the Bureau for Labor Statistics inflation calculator, compared to the Consumer Price Index in October 2010 when the FY 2011 appropriations bill was enacted.

But flat funding for international FP/RH programs looks pretty good right now, particularly relative to the treatment of the overall international affairs budget. According to the [U.S. Global Leadership Coalition](#) (USGLC), the State Department–foreign operations division of the bill receives an overall total of \$60.0 billion in discretionary funding—a \$3.7 billion (or 6%) cut compared to the FY 2023 enacted level.

The omnibus includes approximately \$10 billion for global health programs, a reduction of \$530.5 million from the FY 2023 enacted level, which amounts to about a 5% cut. But most of the cut reflects a readjustment of the amount provided by the United States to meet its pledge to the Global Fund to Fight AIDS, Tuberculosis, and Malaria in compliance with a statutory cap and a reduction of funding for global health security. With the exception of maternal and child health, nutrition, and vulnerable children programs, which received minuscule token increases, funding for all other global health sectors, including FP/RH, is absolutely flat.

Global Gag Rule

The omnibus contains no language on the [GGR](#)—neither negative (imposing) nor positive (codifying its repeal). The House–passed bill contained a provision to legislatively impose the expanded version of the GGR in place during the Trump administration, known as Protecting Life in Global Health Assistance (PLGHA), by prohibiting appropriated funds “for global health assistance ... to any foreign nongovernmental organization that promotes or performs abortion, except in cases of rape or incest or when the life of the mother would be endangered if the fetus were carried to term.” The provision would enshrine in statute what has previously otherwise only been an executive branch policy under Republican presidents. Because the eligibility condition applies to all global health assistance, funding to non–U.S. nongovernmental organizations (NGOs) delivering services to improve maternal and child health and nutrition and combat HIV/AIDS, tuberculosis, malaria, and other infectious diseases would be implicated. The Senate committee–passed bill was silent this year, a consequence of the strict adherence to the Murray–Collins “no new riders” agreement and their telegraphing their opposition to the inclusion of a GGR repeal language in the perennial comprehensive pro–SRHR Shaheen amendment successfully offered in full committee each year. Fortunately, not having a strong Senate position on the GGR to counter the House provision in the negotiation did not matter in the end.

Longstanding Abortion-Related Restrictions

Language restricting abortion-related activities is incorporated as it is year after year, including: the inclusion of the 1973 Helms amendment restricting the use of U.S. foreign assistance funds to provide “abortion as a method of family planning;” restrictions on abortion coverage for Peace Corps Volunteers; and prohibitions on the use of foreign aid funds for biomedical research on abortion and involuntary sterilization (Biden amendment) or to lobby for or against abortion (Siljander amendment). These [boilerplate restrictions](#) have been included in the foreign aid appropriations bill for decades and were reiterated verbatim in both the House and Senate versions of the bill.

UNFPA

The omnibus earmarks a U.S. voluntary contribution to UNFPA of \$32.5 million out of the IO&P account, an amount identical to the contribution level enacted for the last eight fiscal years and just slightly less than the amounts appropriated for the preceding four years, when Republicans, in an arbitrary and punitive move, slashed \$2.5 million from UNFPA’s funding. The House bill zeroed out a UNFPA contribution, while the Senate version included a slight increase to \$35.1 million.

Much more significantly, the final spending agreement drops the House-passed bill’s statutory prohibition on funding for UNFPA from any account. (“None of the funds appropriated or otherwise made available by the Act...”) As written, the funding prohibition would apply not just to the voluntary contribution provided through the IO&P account but to funding provided to UNFPA through other accounts.

The omnibus reiterates all the long-standing boilerplate restrictions requiring UNFPA to maintain U.S. funds in a segregated account — none of which may be spent in China nor fund abortions. In addition, the omnibus retains the dollar-for-dollar reduction in the U.S. contribution provided to UNFPA by the amount UNFPA spends in China each year, which usually amounts to a reduction of between \$1 and \$2 million in recent years. The omnibus also restates the requirement that any funding withheld from UNFPA due to the “operation of any provision of law” is to be reprogrammed to USAID for family planning, maternal and reproductive health programs.

In addition, the omnibus makes no modification in the Kemp-Kasten amendment, which prohibits furnishing U.S. foreign assistance to any organization that “supports or participates in the management of a program of coercive abortion or involuntary sterilization.” This is the legal provision improperly invoked by all Republican presidents since 1985 to bar funding to UNFPA.

The Fate of Two Pro-Contraception Technical Fixes

Advocates have been working for the last many years to revise two boilerplate provisions in the annual appropriations bill to expand their application to funding for bilateral FP/RH programs and contraceptive commodities, specifically to allow FP/RH programs to continue in countries in which U.S. foreign aid has been cut off for various misdeeds by their governments (i.e., coups) and to allow for contraceptive procurement using the HIV/AIDS Working Capital Fund. Unfortunately, neither the House nor the Senate versions of the FY 2024 bill included these two technical fixes, the latter because of the no new policy “riders” agreement between Sens. Murray and Collins. On the other side of Capitol Hill, House Republican appropriators had no interest in making any changes in the statute that would put FP/RH programs on an equal footing with every global health sector and allow them to enjoy the same exemptions and flexibility that would result in more effective delivery of contraceptive and other FP/RH services.

Potentially Harmful Report Language Included

The only negative outcome of the endgame negotiation on the omnibus is the retention of hostile [House report language](#) that mandates increased monitoring and reporting on compliance with the abortion-related statutory restrictions. While it is technically non-binding legally, report language serves as an important expression of congressional intent that the executive branch ignores at their peril.

Since some have asked the question—why would House report language—in the absence of similar language in the Senate report or specific mention in the explanatory statement accompanying the omnibus—be something that the Biden administration needs to heed in interpreting how to implement the final FY 2024 spending deal

agreed to by the House and Senate negotiators? The preamble of the [explanatory statement](#) begins with the following instructions:

In implementing this agreement, Federal agencies, commissions, and other entities are directed to comply with the directives, reporting requirements, and instructions contained in [the House report] accompanying [the House bill] and [the Senate report] accompanying [the Senate bill] as though stated in this explanatory statement, unless specifically directed to the contrary.

This explanatory statement, while repeating some House report and Senate report language for emphasis or clarification, does not negate language in such reports unless expressly provided herein. Language expressing an opinion or making an observation in the House report or Senate report represents the view of the respective Committee unless specifically endorsed in this explanatory statement. [emphasis added]

The House report includes a requirement that the Secretary of State and USAID Administrator submit a report to the congressional committees with jurisdiction over their funding within 180 days of the bill's enactment listing all prime and sub-partners that have received global health assistance since fiscal year 2020 "disaggregated by global health program and include, for each partner, the amount of funding received, the activity description and purpose and the country or region for such activity."

Why is this exercise potentially nefarious? The burden of compiling such an explicitly detailed report on over \$10 billion worth of global health programs is a completely pointless use of staff time and resources, detracting from the efficient administration of funding for critical health services in the countries that receive U.S. global health assistance. Presumably, the motivation of its authors in forcing the compilation of such a voluminous list of recipients of U.S. global health assistance is to identify potential targets for SRHR opponents, inside and outside Congress, to subject to increased scrutiny and harassment regarding their lawful, non-U.S. government funded abortion-related activities, particularly in the unfortunate event of a reimposition of the GGR in a future Republican administration.

House report language on women's empowerment activities asserts that "any funds made available to protect the rights of women and girls worldwide shall not be construed to include a right to abortion" and directs the Secretary of State and the USAID Administrator to "review guidance for the Department of State and USAID personnel, as well as for implementing partners, with respect to the application of requirements under Global Health Programs and [prohibitions on funding for abortions and involuntary sterilization under Section 7018] of this Act to ensure full compliance with such requirements." The report also expresses the expectation that "guidance and training associated with such requirements will ensure full awareness by implementing partners that funds made available by this Act are prohibited from being used to lobby for or against abortion."

Why is this unnecessary? NGO recipients of U.S. foreign assistance take compliance with laws, rules, and regulations extremely seriously, with strict procedures for administering government funds in place, compulsory staff training, and the employment of diligent procurement and contracts personnel and in-house and outside legal counsel to monitor. Organizations that implement programs funded by U.S. foreign assistance know that any violations could impose significant financial consequences and potential debarment from eligibility to receive U.S. government funding in the future. On the government side, USAID spends a considerable amount of time and effort in the development and dissemination of policy guidance, on monitoring and evaluation of its grants and contracts, and on compliance training of its own staff and that of its NGO implementing partners, including annual certification of completion of an online [e-learning course](#) on U.S. family planning and abortion legal restrictions.

Under the terms of the explanatory statement copied above, the House report language on both "oversight of implementing partners" in the Global Health Programs section and the "women's equality and empowerment" section in the general provisions fit under the criteria establishing how the explanatory statement is to be understood in implementing language contained in the respective House and Senate reports because there is no explicit direction in the explanatory statement not to comply with these specific sections of the House report. In addition, the report language "directs" the Secretary of State and the USAID Administrator to "submit a report" and "review guidance." Neither directive can be considered "language expressing an opinion or making an observation," in which case, it only "represents the view of the respective Committee."

The only House or Senate language on any subject specifically rejected under the provisions of the explanatory statement is language in the Senate report regarding USAID's LGBTQI+ non-discrimination policies by the inclusion of this statement: "The agreement does not endorse the directive under Senate report heading Non-

Discrimination Policies (under Operating Expenses).” Unfortunately, such explicit exclusion language did not make its way into the explanatory statement for the House report language on increased oversight of compliance with anti-abortion restrictions. Probably not the result of a lack of trying. Democratic appropriations champions undoubtedly tried hard to exclude the odious House provisions. Rejection of the House language was highlighted in the executive branch’s “conference notes” as a priority, as well. The fact that there was only one exclusion included in the explanatory statement suggests it must have been a very challenging negotiation.

Although it is difficult for those of us who were not privy to the behind-the-scenes negotiations to speculate, one cannot help but think that this increased compliance monitoring and reporting requirement was a consolation prize insisted upon by House Republican appropriators, who got maneuvered into a position in which all of the anti-abortion “poison pills” attached to the State-foreign operations bill were dropped. In the Republican majority’s [summary](#) of the bill, of the positive “pro-life protections” in the bill, all that are mentioned are the boilerplate provisions that were added to the foreign aid authorization and appropriations bills decades ago (Helms, Kemp-Kasten, Tiahrt, and Siljander) and all that they could point to as progress is adding “new reporting requirements for further unprecedented transparency on funding and partners.” The new report language requirements might also be linked to the inclusion in the omnibus of a one-year, “clean” reauthorization of the President’s Emergency Plan for AIDS Relief (PEPFAR) through March 25, 2025 after a months-long, hardball campaign by anti-abortion zealots inside and outside Congress to leverage the bipartisan desire to [reauthorize PEPFAR](#) to force the reimposition of the GGR on U.S.-funded HIV/AIDS programs, just as it was during the Trump administration.

National Security Supplemental Funding Bill Approved

On Wednesday, President Biden signed the \$95 billion emergency supplemental funding bill for military aid to Ukraine and Israel, urgently needed humanitarian assistance (including for Gaza), and countering Chinese influence in the Indo-Pacific, which he originally requested from Congress way back on October 20. Funding for enhanced security at the southern U.S.-Mexican border initially included in the supplemental request was removed after Donald Trump objected to a bipartisan border spending deal reached in the Senate and agreed to by the White House, wanting to keep immigration alive as a campaign issue. The House Republican leadership dutifully acquiesced to Trump’s wishes.

While House Speaker Mike Johnson (R-LA) wrestled with the majority of members in his caucus who oppose assistance to Ukraine and MAGA demands for policy concessions to reduce border crossings, emergency supplemental funding to help counter Russia and China, respond to the wars in the Middle East and Ukraine, and meet global humanitarian and hunger needs languished in legislative limbo for six months. The failure to enact this national security supplemental could have had significant financial implications for global health and humanitarian assistance as the Biden administration would have otherwise been forced to find elsewhere the \$9 billion in emergency funds included in the supplemental—\$5.6 billion for USAID humanitarian assistance and \$3.5 billion to the State Department’s Bureau for Population, Refugees, and Migration—by reallocating funds contained in the regular annual appropriations bill. For SRHR advocates, that could have had significant negative implications for the funds available to support reproductive and maternal health programs in ongoing humanitarian crises and refugee settings.

On a perhaps humorous note, a couple of extreme rightwing ideologues in the House Republican caucus sought to inject the abortion issue into the national security supplemental by introducing amendments and seeking permission from the Rule Committee to offer them during the floor debate. The most ridiculous was one proposed by Trump apparatchik Rep. Majorie Taylor-Greene (R-GA), an ardent opponent of aid to Ukraine, that would prohibit any assistance to the country “until the Government of Ukraine ceases funding abortion services.” The second set offered by Reps. Mary Miller (R-IL) and Andy Biggs (R-AZ) were identical amendments to the separate House bills for Israel, Ukraine, and the Indo-Pacific, which had been split apart three ways and then rejoined before sending back to the Senate. The amendments would prohibit the use of funds made available “(directly or through other entities) for abortion services.” A solution in search of a problem. The Helms Amendment restrictions on funding for abortion services in the permanent authorizing statute apply to all U.S. foreign assistance, not to mention the supplemental legislation’s designation of funding levels for specific programs, recipients, and activities. None of the four amendments were ruled in order and offered during last Saturday afternoon’s floor debate, dying the death in committee they deserved.

What's Next

If you are a congressional appropriator, there is no rest for the weary. With the FY 2024 appropriations process finally complete, both regular and supplemental, the process relaunches for FY 2025, the start of which is fast approaching. Appropriators are significantly behind schedule due to the delay in enacting funding for the current fiscal year, along with the attendant delay in the president's FY 2025 budget request being sent to Capitol Hill.

Progress in the House has also been knocked off course by the sudden resignation of House Appropriations Committee Chair Kay Granger (R-TX) from the chairmanship and the delay in selecting her successor, Rep. Tom Cole (R-OK). New Chair Cole is a seasoned appropriator and an institutionalist who will strive to promote "regular order" on the committee by marking up in committee and taking to the House floor all 12 subcommittee bills, but he is facing a compressed timeline and a fractious GOP caucus.

Further complicating matters besides the late start is the fact that it is an election year, and members will want to get back home to their states and districts to campaign early in the fall. The congressional leadership is also likely to struggle again this year in agreeing on top-line budget allocations for defense and non-defense discretionary spending and how to comply with the tight funding caps for FY 2025 set in the Fiscal Responsibility Act that raised the debt ceiling last year.

The conventional wisdom is that as the end of the fiscal year on September 30 approaches, Congress will resort to a continuing resolution to keep the federal government up and running and defer final action on FY 2025 appropriations until after the November election—if not longer. Combine the election with the high level of partisan rancor, narrow majorities in both chambers, and dysfunction in the House Republican caucus, most observers expect things to get even messier in Washington in the coming months. Stay tuned.