



Updated January 9, 2015

DOD Train and Equip Authorities to Counter the Islamic State

Background

Department of Defense (DOD) programs to train and arm foreign military and security forces, as well as irregular forces such as vetted Syrian oppositionists, are a key pillar of the U.S. campaign to combat the spread of the Islamic State (IS) in Iraq and Syria. The fight against IS has drawn congressional attention to the laws enabling DOD to conduct “train and equip” (T&E) programs. (T&E generally means providing foreign forces with the skills and matériel to conduct broad counterterrorism [CT] and combat missions.) This “In Focus” provides a synopsis of five authorities that may be used to train and equip foreign forces, groups, and individuals to counter IS activities in Iraq and Syria. (Two authorities are dedicated to counter-IS missions; three may be used for other purposes as well.) It does not cover related authorities to assist partner nations.

The 114th Congress may consider proposals to authorize U.S. military action against the Islamic State. Such proposals may build on current laws authorizing and funding DOD to train, equip, and otherwise support foreign government military and security forces, as well as other foreign individuals and groups, for counterterrorism missions.

Laws that provide DOD with authority to assist foreign military and security forces are dubbed “Title 10” authorities, referring to the body of permanent law in the U.S. Code (U.S.C.) governing the armed services. The term Title 10 includes DOD assistance statutes that are temporary authorities—which unlike permanent law have expiration dates—provided through an annual National Defense Authorization Act (NDAA) and often cited by their original section numbers. Most DOD assistance statutes are temporary authorities that are reauthorized periodically.

The U.S. government may also assist foreign forces under other U.S.C. titles. These include Title 22 (Foreign Relations), which authorizes most U.S. global T&E efforts under the State Department budget. (Prior to 2001, U.S. train and equip assistance to foreign military and other security forces was primarily a State Department responsibility conducted under the State Department budgets with DOD support.) In addition, U.S. assistance to foreign non-governmental forces usually has been provided under Title 50 (War and National Defense), encompassing the intelligence community and its missions.

DOD T&E and certain other aid to foreign military and government security forces are subject to the “Leahy Law” human rights conditions of the FY2015 NDAA, Section 1204, codified as 10 U.S.C. 2249e. With certain exceptions,

this law prohibits “any training, equipment, or other assistance for the members of a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.” (The law may be waived under “extraordinary circumstances.”) It does not apply to irregular forces, including vetted Syrians who are subject to less stringent human rights vetting under the T&E legislation.

In the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act, 2015 (P.L. 113-291), the 113th Congress provided DOD with three new core T&E authorities to counter IS: (1) the global *Counterterrorism Partnerships Fund (CTPF)*; (2) *Iraq T&E authority*; and (3) *Vetted Syrians T&E authority*. DOD may also use two existing global T&E authorities for such aid: (1) the *Build Partner Capacity (BPC)* authority, and (2) the *Global Security Contingency Fund (GSCF)*. Congress provided related funding in the FY2015 omnibus appropriations act (Consolidated and Continuing Appropriations Act, 2015, P.L. 113-235). These five key authorities are outlined below. All require the Administration to notify specified congressional committees before transferring or obligating most or all funds.

Counterterrorism Partnerships Fund (CTPF)

Section 1510 of the FY2015 NDAA authorizes \$1.3 billion in Overseas Contingency Operations (OCO) funds for the CTPF (newly established by the FY2015 omnibus appropriations, P.L. 113-235); **Section 1534** stipulates that funds may be transferred to other accounts for use under an existing DOD authority established “by any other provision of law.” DOD may conduct CTPF activities only in areas of responsibility of the U.S. Central Command and the U.S. Africa Command, unless the Secretary of Defense determines that activities are needed elsewhere to counter an increased risk to U.S. national security. Specified purposes (which are broader than T&E) are to

- provide support and assistance to foreign security forces or other groups or individuals to conduct, support, or facilitate CT and crisis response activities, and
- improve the capacity of U.S. armed forces to enable foreign security forces or other groups or individuals to undertake CT and crisis response activities.

Iraq T&E Authority and Funding

Section 1236 of the FY2015 NDAA authorizes the Secretary of Defense, in coordination with the Secretary of State, to assist through December 31, 2016, the military and other security forces of or associated with the Government of Iraq, including Kurdish and tribal security forces or other local security forces with a national security mission. For FY2015, **Section 1236** authorizes \$1.6 billion in assistance.

No amount is specified for the remainder of the authorized period (i.e., FY2016 and first quarter of FY2017). Under Section 1236,

- Authorized types of assistance are training, equipment, logistics support, supplies, and services, stipends, facility and infrastructure repair and renovation, and sustainment.
- Authorized purposes are to (1) defend Iraq, its people, allies, and partner nations from the threat from IS and associated groups; and (2) secure Iraq's territory.

Recipients must be vetted for associations with terrorist groups or with groups associated with the Iranian government, and must commit to promoting respect for human rights and the rule of law. The statute contains authority to waive applicable conditions elsewhere in law.

The FY2015 omnibus appropriations act appropriates \$1.6 billion (the NDAA-authorized amount) to an Iraq Train and Equip Fund. Terms of the appropriation reflect those set forth in Section 1236 of the FY2015 NDAA.

Vetted Syrians T&E Authority and Funding

Section 1209 of the FY2015 NDAA authorizes the Secretary of Defense, in coordination with the Secretary of State, to provide assistance through December 31, 2016, “to appropriately vetted elements of the Syrian opposition and other appropriately vetted Syrian groups or individuals....” Funds for such assistance are to be reprogrammed or transferred from OCO accounts. Under Section 1209,

- Authorized types of assistance are training, equipment, supplies, stipends, construction of training and associated facilities, and sustainment.
- Authorized purposes are to (1) defend the Syrian people from attacks by IS and secure territory controlled by the Syrian opposition; (2) protect the United States, its friends and allies, and the Syrian people from threats posed by terrorists in Syria; and (3) promote conditions for a negotiated settlement to end the conflict in Syria.

The Act states that “appropriately vetted” requires “at a minimum” that potential recipients be screened for associations with terrorist groups, Shia militias, and groups associated with Iran’s government, and that they commit to promoting respect for human rights and the rule of law.

The FY2015 omnibus appropriations act, Section 9016, provides that up to \$500 million of CTPF monies may be used in FY2015 to assist vetted elements of the Syrian opposition, and vetted groups and individuals. (Note the NDAA authority to draw on other OCO accounts.)

Global T&E Authority and Funding

“Section 1206,” 10 U.S.C. 2282, Authority to Build Partner Capacity (BPC) and Funding. Congress established “Section 1206” in the FY2006 NDAA (Click here to enter text.) as DOD’s global T&E authority and codified an amended version as 10 U.S.C. 2282, in the FY2015 NDAA, Section 1205. This authority enables DOD, with the Secretary of State’s concurrence, to train

and equip foreign military and security forces for two purposes:

- to enable a foreign country’s national military forces, national maritime or border security forces, and other national-level security forces with CT responsibilities to conduct CT operations; and
- to enable a country’s national military forces to participate in or support on-going allied or coalition military or stability operations that benefit U.S. national security interests.

Assistance may include equipment, supplies, training, defense services, and small-scale military construction. The law sets a cap of \$350 million on FY2015 dedicated appropriations, but also permits the transfer of other appropriated funds (such as CTPF monies) to conduct programs under 10 U.S.C. 2282 authority.

Global Security Contingency Fund (GSCF) Authority and Funding. In the FY2012 NDAA (P.L. 112-81, Section 1207), Congress established a joint Department of State-DOD T&E authority with similar purposes to “Section 1206,” but giving the Secretary of State the lead role. As amended, this hybrid authority may be used to provide foreign military and other specified security forces and government agencies with equipment, supplies, small-scale construction, and training for security and CT purposes, as well as to participate in or support military, stability, or peace support operations and to conduct rule of law programs. This authority expires at the end of FY2017.

The FY2015 omnibus appropriations act permits the State Department to transfer up to \$25 million to the fund and DOD up to \$200 million, both from specified accounts.

Table 1. Funding for Counter-IS and Global T&E Authorities

Authority	Amounts available to DOD in FY2015
CTPF	\$1.3 billion for transfer to other accounts
Iraq T&E	\$1.6 billion
Vetted Syrians T&E	[\$500 million from the CTPF]
BPC 10 U.S.C. 2282	\$350 million
GSCF	\$200 million

Sources: P.L. 113-235 and P.L. 113-291.

Notes: These figures may not be totaled. Funding for the CTPF, BPC, and GSCF authorities is not dedicated to counter-IS purposes. Additional funds may be reprogrammed/transferred from the CTPF (or other accounts) for use under the four other listed authorities.

For additional reading, see CRS Report R43612, *The “Islamic State” Crisis and U.S. Policy*, and CRS Report RL33110, *The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11*.

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