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Overseas Contingency Operations Funding: Background and Status

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Summary

The Department of Defense (DOD) estimates that through FY2016 Congress has appropriated \$1.6 trillion for DOD war-related activities since the terror attacks of September 11, 2001. When combined with an estimated \$123.2 billion in related State Department and Foreign Operations appropriations, the DOD, Department of State (DOS), and U.S. Agency for International Development (USAID) have received an estimated \$1.7 trillion for activities and operations in support of the broad U.S. government response to the 9/11 attacks.

Funding for these activities has been largely provided through supplemental appropriation acts or has been designated as an “emergency” or “Overseas Contingency Operation/Global War on Terror” (OCO/GWOT) requirement in annual agency budget requests—or both. Funds designated as such are not subject to procedural limits on discretionary spending in congressional budget resolutions or to the statutory discretionary spending limits established by the Budget Control Act of 2011 (BCA). While there is no overall statutory limit on the amount of emergency or OCO/GWOT-designated spending, both Congress and the President have a fundamental role in determining how much OCO/GWOT and emergency spending is provided each fiscal year. Congress must designate any such funding as OCO/GWOT in statute on an account by account basis. The President is also required to designate it as such after it is appropriated in order for it to be available for expenditure.

Definitions of what constitutes emergency or OCO/GWOT activities and expenses have shifted over time, reflecting differing viewpoints about the extent, nature, and duration of the wars in Iraq and Afghanistan. Funding designated OCO/GWOT has also been recently used to fund base budget requirements of the DOD and DOS and to provide funding to prevent or respond to crises abroad, including armed conflict, as well as human-caused and natural disasters. The first use of an OCO/GWOT designation in budgetary law was in the 2011 BCA. Prior to the BCA, the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) only allowed “emergency” requirements to be excluded from budget control limits. The BCA added the designation “Overseas Contingency Operation/Global War on Terror” to the BBEDCA exemption, thereby providing Congress and the President with an alternate way to exclude funding from the BCA limits without using the “emergency” designation.

The FY2017 OCO Request

The Bipartisan Budget Act of 2015 (BBA) raised the BCA discretionary spending limits for fiscal year (FY) 2016 and FY2017 for both the defense and nondefense categories, and also specified an expected level for OCO spending for those years. The President’s February 2016 OCO budget request of \$58.8 billion for defense activities and \$14.9 billion for non-defense OCO matched BBA-directed levels for FY2017. However, the Administration submitted an amendment in November 2016, raising both the defense and non-defense requests by \$5.8 billion each to \$64.6 billion and \$20.7 billion, respectively. The Administration stated that the additional resources are needed to maintain approximately 8,400 troops in Afghanistan and to fund additional troops and requirements in Iraq/Syria.

The DOD Comptroller indicated that the majority of the original \$58.8 billion in FY2017 OCO request for DOD centers on supporting Operation Freedom’s Sentinel in Afghanistan, Operation Inherent Resolve in Iraq and Syria, and increased efforts to support European allies and deter Russian aggression—all while supporting what is referred to as a “partnership-focused approach to counterterrorism.” However, the President’s FY2017 DOD OCO request also includes \$5.1 billion for base budget activities—normal military operations and procurement that could not be funded in the DOD’s base budget due to the BCA statutory limits.

The original FY2017 OCO request for the State Department included funding needed to “provide support to, respond to, recover from, or prevent crises abroad, including armed conflict, as well as human-caused and natural disasters.” Specifically, the DOS request included funding to contribute to peacekeeping missions and special political missions, increase efforts to destroy the Islamic State, and sustain security programs and embassy construction at high risk posts. The November 2016 request seeks an additional \$5.8 billion for State and USAID to “support the Administration’s counter-ISIL and counterterrorism objectives ... and respond to relief and recovery needs, as well as provide additional humanitarian assistance for areas liberated from ISIL and other unforeseen needs.”

FY2017 Congressional Action

The House-passed National Defense Authorization Act (NDAA) for FY2017 provided for an additional \$18.0 billion in base budget requirements in the OCO authorization—funding that would be exempt from the spending caps set by the BCA. However, the House and Senate conference agreement on the FY2017 NDAA (P.L. 114-328) authorizes a total of \$8.3 billion in OCO funding for base budget requirements (\$5.1 billion requested by the Administration and \$3.2 billion added by Congress) without an equivalent increase in spending for nondefense programs. The Obama Administration and the minority leadership in both congressional chambers objected to allowing an increase in defense spending by raising the defense cap—or adding OCO spending for defense—without providing a comparable increase for nondefense spending in the overall federal budget.

Having not reached agreement on most FY2017 annual appropriations bill before the start of the fiscal year, Congress enacted two *continuing resolutions* to provide temporary funding for federal programs. The first, the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriation Act, 2017, and Zika Response and Preparedness Act (H.R. 5325/P.L. 114-223), provided budget authority through December 9, 2016, for programs and activities for which regular appropriations bills for FY2017 had not been enacted. The second, the Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028/P.L. 114-254) was enacted December 12, 2016. Division A of H.R. 2028 extends H.R. 5323 through April 28, 2017, and provides DOD and State/USAID OCO budget authority at a rate of operations equivalent to the FY2016 appropriated level. Division B of H.R. 2028 is a supplemental security assistance appropriations bill, providing an additional \$5.8 billion for DOD and \$4.3 billion for DOS, available through September 30, 2017, unless otherwise specified.

For additional information on related FY2017 budget issues see CRS Report R44428, *The Federal Budget: Overview and Issues for FY2017 and Beyond*, by (name redacted) , CRS Report R44454, *Defense: FY2017 Budget Request, Authorization, and Appropriations*, by (name redacted) and (name redacted) , CRS Report R44636, *FY2017 Defense Spending Under an Interim Continuing Resolution (CR): In Brief*, by (name redacted) and (name redacted) and CRS Report R44391, *State, Foreign Operations and Related Programs: FY2017 Budget and Appropriations*, by (name redacted), (name redacted), and (name redacted).

Contents

Introduction	1
Background	3
Use of Supplemental Appropriations for Contingency Operations	4
Designation of Funding as “Emergency” or for “OCO/GWOT”	5
Designation of an “Emergency” Requirement	5
Designation as an “OCO/GWOT” Requirement	6
Congressional Procedure Related to “Emergency” or “OCO/GWOT” Designations	7
Criteria Used by DOD in Determining “Emergency” or “OCO/GWOT” Requirements	7
Criteria Used by State/USAID in Determining “Emergency” or “OCO/GWOT” Requirements	8
Transfer Authorities and Other Special Purpose Accounts	9
“Emergency” and “OCO/GWOT” Appropriations since 9/11	12
DOD Base Funding vs. “Emergency” or “OCO/GWOT”	13
Operations Conducted Primarily in Iraq	15
Libya	16
Enhanced U.S. Security	16
Funding Obligations by Operation	16
U.S. Uniformed Military and Contractor Personnel Levels in Iraq and Afghanistan	18
Contingency Operations Funding in the DOD Base Budget	21
DOS Operations Funded as “Emergency” or “OCO/GWOT”	22
The Bipartisan Budget Act of 2015 and OCO Funding	23
FY2017 OCO Budget Request	24
FY2017 Department of Defense OCO Request	24
Budget Highlights by Geographic Mission	26
Budget Highlights by Activity	32
Contingency Operations in Base Budget	36
FY2017 Department of State/USAID OCO Request	36
The BBA and the State/Foreign Operations Budget Request for FY2017	36
Congressional Action on the FY2017 OCO Request	39
DOD OCO Request and the FY2017 NDAA	39
FY2017 Continuing Resolutions (CR)	41
DOD OCO Funding and the CR	41
SFOPS OCO Funding and the CR	43

Figures

Figure 1. Emergency and OCO/GWOT Funding for War-Related Activities	3
Figure 2. OCO/GWOT Amounts as Percentage of Total DOD Budget Authority	14
Figure 3. DOD OCO/GWOT Obligations by Operation: FY2001-FY2016	17
Figure 4. OCO/GWOT Budget Authority by Military Department	18
Figure 5. Boots on the Ground In-Country, FY2001-FY2016	19

Figure 6. U.S. Uniformed Military and Contractor Personnel in Afghanistan 20
Figure 7. U.S. Uniformed Military and Contractor Personnel in Iraq 21
Figure 8. DOS OCO Budget Authority by Year Appropriated 22
Figure 9. DOD and DOS OCO Funding: FY2012-FY2017 25
Figure 10. Funding for Department of State, Foreign Operations, and Related Programs:
Enduring vs. OCO 37
Figure 11. H.R.4909: FY2017 National Defense Authorization Act..... 40

Tables

Table 1. DOD General Cost Categories for Contingency Operations 8
Table 2. Emergency or OCO/GWOT Funding by Agency 13
Table 3. DOD Discretionary Budget Authority: FY2001-FY2017 Amended Request 14
Table 4. Department of Defense FY2017 OCO Request..... 26
Table 5. Assumed FY2017 Troop Levels for Overseas Contingency Operations 26
Table 6. Afghanistan Security Forces Fund (OFS Obligations) 27
Table 7. DOD OCO Budget Request..... 32
Table 8. OCO Construction Projects: Geographic Distribution 34
Table 9. DOD FY2017 Base and OCO Contingency Operations in Base Budget 36
Table 10. Department of State, Foreign Operations, and Related Programs, Enduring vs.
OCO Requests, FY2015, FY2016, and FY2017, Select Accounts 37
Table 11. FY2017 NDAA: DOD OCO and OCO for Base Requirements 41
Table 12. Security Assistance Appropriations Act, 2017: DOD 42
Table 13. Security Assistance Appropriations Act, 2017: SFOPS..... 43

Table A-1. OMB Criteria for War/Overseas Contingency Operations Funding Requests..... 52
Table A-2. General Cost Categories for Contingency Operations..... 55

Appendixes

Appendix A. Designation of Funds as Emergency or for Overseas Contingency
Operations 44
Appendix B. DOD Contingency Operations Funded in the Base Budget..... 56

Contacts

Author Contact Information 58

Introduction

The Department of Defense (DOD) estimates that through FY2016 Congress has appropriated \$1.6 trillion to DOD for war-related operational costs, support for deployed troops, and transportation of personnel and equipment since the terror attacks of September 11, 2001.¹ When combined with an estimated \$123.2 billion in amounts appropriated for war-related activities of the State Department, Foreign Operations, and Related Programs (SFOPS), these agencies have received an estimated \$1.7 trillion for activities and operations related to the broad U.S. response to the attacks, including extended operations in Afghanistan and Iraq (see **Figure 1**).²

Funding for war-related activities has been largely provided through supplemental appropriation acts or has been designated as an “emergency” or “overseas contingency operation/global war on terror” (OCO/GWOT) requirement—or both. Funds designated as “emergency” or “OCO/GWOT” are not subject to procedural limits on discretionary spending in congressional budget resolutions, or the statutory discretionary spending limits provided through the Budget Control Act of 2011 (BCA).³

Some DOD officials argue that this funding approach is essential to enable a timely military response to a dynamic enemy operating in a complex battlespace.⁴ Critics however, have described the DOD’s continued use of the OCO/GWOT account as creating a “slush fund” for military spending.⁵ These critics have suggested that the emergency or OCO/GWOT exception has inappropriately provided a “safety valve” to preserve base budget programs, helping federal agencies comply with statutory discretionary spending limits established by the BCA through designating funding intended to support base budget activities as OCO/GWOT requirements.⁶ Others have asserted that the spending limits—sometimes colloquially referred to as “caps”—established by the BCA have intensified the impetus for agencies to use OCO funding for activities not directly related to contingency operations. They warn that what was once generally restricted to a fund for replacing combat losses of equipment, resupply of expended munitions, and transporting troops to and through war zones has “ballooned into an ambiguous part of the

¹ Department of Defense National Defense Budget Estimates for FY2017, Table 2-1. Note: the Department of Defense monthly Cost of War Report, August 2016, estimates that \$1,621.0 billion has been appropriated for such purposes, however the report includes funding for hurricane relief (2005) and Base Realignment and Closure activities (2007). Accounting of recessions also varies between the two sources.

² Department of State, Foreign Operations and Related Programs Congressional Budget Justifications, FY2001-FY2017.

³ P.L. 112-25. Title I, Sec. 101, amends the Balanced Budget and Emergency Deficit Control Act of 1985 (2 USC 900-922). A designation of spending as an emergency requirement or for OCO/GWOT would effectively protect such spending from points of order raised under sections 302 and 311 of the Budget Act, as well as sections 401 and 404 of S.Con.Res. 13 (111th Congress). The enactment of spending with either designation would also result in an adjustment of the appropriate spending cap, as provided in section 251(b) of the Balanced Budget and Emergency Deficit Control Act, so that such spending would not cause a breach of that spending limit triggering a sequester.

⁴ U.S. Congress, House Committee on Armed Services, hearing on *Fiscal Year 2015 Overseas Contingency Operations Budget Request*, 113th Cong., 2nd sess., July 16, 2014 (Washington, DC: GPO, 2014).

⁵ Jacob, Marx, “The Pentagon’s Wartime Slush Fund”, March 26, 2015, <http://www.pogo.org/blog/2015/03/the-pentagons-wartime-slush-fund.html>; Eric Pianin, “Pentagon’s \$90 Billion ‘Slush Fund’ Comes Under Attack,” *The Fiscal Times*, May 8, 2015; Ryan Alexander, “A War Budget, Off-Budget,” *US News and World Report*, February 16, 2016, <http://www.usnews.com/opinion/economic-intelligence/2016/02/16/overseas-contingency-operations-serves-as-off-budget-pentagon-slush-fund>.

⁶ Marcus Weisgerber, “Magic Money’: DOD’s Overseas Contingency Budget Might Dry Up,” *Defense News*, June 29, 2014, <http://www.defensenews.com/story/defense/archives/2014/06/29/magic-money-dod-s-overseas-contingency-budget-might-dry-up/78531614/>.

budget to which government financiers increasingly turn to pay for other, at times unrelated, costs.”⁷

Exacerbating observers’ concerns is the two-year impact of the Bipartisan Budget Act of 2015 (BBA).⁸ The 2015 Act raised the overall discretionary spending limits set by the BCA in 2011, and also set expected OCO funding levels for defense and nondefense for fiscal years FY2016 and FY2017. The enactment of the BBA resulted in the appropriation of an additional \$7.7 billion for FY2016 defense OCO and \$7.8 billion for SFOPS OCO. The Administration included \$5.1 billion in base requirements in the FY2017 DOD OCO request using the BBA as justification.⁹ Similarly, with the BBA setting a \$14.9 billion nondefense OCO minimum—more than double the Administration’s FY2015 and FY2016 OCO requests—the Administration appears to have moved some base requirements into the OCO category for FY2017.

In marking-up the National Defense Authorization Act (NDAA) for Fiscal Year 2017 on April 27, 2016, the House Armed Services Committee (HASC) designated an additional \$18.0 billion in requirements from the President’s base budget request as OCO/GWOT. The House passed this measure on May 18, 2016, and the measure was reflected in the House-passed Defense Appropriations Act (H.R. 5293). Despite House efforts to greatly increase the use of OCO funding for base requirements the conference agreement on the NDAA (H.Rept. 114-840) provides a total of \$8.3 billion in OCO funding for base budget requirements (\$5.1 billion requested by the Administration and \$3.2 billion added by Congress).

Having not reached agreement on most FY2017 annual appropriations bill before the start of the fiscal year, Congress enacted two *continuing resolutions* to provide temporary funding for federal programs. The first, the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriation Act, 2017, and Zika Response and Preparedness Act (H.R. 5325/P.L. 114-223) provided budget authority through December 9, 2016, for programs and activities for which regular appropriations bills for FY2017 had not been enacted. The second, the Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028/P.L. 114-254) was enacted December 12, 2016. Division A of H.R. 2028 extends H.R. 5323 through April 28, 2017, and provides budget authority DOD and State/USAID OCO budget authority at a rate of operations equivalent to the FY2016 appropriated level. Division B of H.R. 2028 is a supplemental security assistance appropriations bill, providing an additional \$5.8 billion for DOD and \$4.3 billion for DOS, available through September 30, 2017, unless otherwise specified.

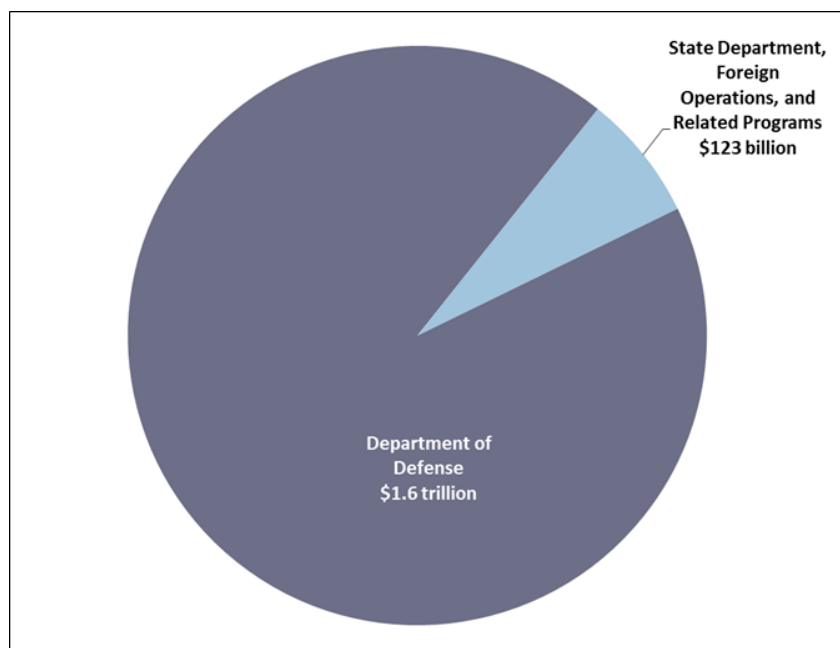
⁷ Paul D. Shinkman, “Inside the Pentagon’s ‘Slush Fund’,” *US News and World Report*, February 12, 2016, <http://www.usnews.com/news/articles/2016-02-12/inside-the-pentagons-slush-fund-the-secret-budget-that-just-wont-go-away>.

⁸ P.L. 114-74

⁹ Department of Defense Fiscal Year 2017 Budget Request Overview, February 9, 2016, Figure 7.1 footnote 2.

Figure I. Emergency and OCO/GWOT Funding for War-Related Activities

FY2001-FY2016



Source: Department of Defense National Defense Budget Estimates for FY2017 (Table 2-1) and Department of State, Foreign Operations and Related Programs Congressional Budget Justifications, FY2001-FY2017.

Note: Amounts are not adjusted for inflation. This figure does not include amounts provided by H.R. 5325 (P.L. 114-223), the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act or H.R. 2028 (P.L. 114-254) Further Continuing and Security Assistance Appropriations Act, 2017.

Background

Supplemental appropriations were used to provide funds for defense and foreign affairs activities related to operations in Iraq and Afghanistan following the attacks of September 11, 2001, and each subsequent fiscal year through FY2010. Understood as reflecting needs unanticipated during the regular appropriations cycle, supplemental appropriations were generally enacted as requested, and almost always designated as emergency funding.

In the FY2011 appropriations cycle, the Obama administration moved away from submitting supplemental appropriations requests to Congress for war-related activities, and has since used the annual budget and appropriation process to fund operations. In concert with this change in budgetary approach, the Obama administration began formally using the term “Overseas Contingency Operations” in place of the Bush administration’s “Global War on Terror.”¹⁰ Despite this change in label, the Obama administration has continued to request that OCO funding be designated in a manner that would effectively exempt such funding from the BCA limits on defense spending. Currently, there is no overall procedural or statutory limit on the amount of emergency or OCO-designated spending that may be appropriated on an annual basis. However, both Congress and the President have a role in determining how much OCO or emergency

¹⁰ Office of Management and Budget, *A New Era of Responsibility: Renewing America’s Promise*, Washington, DC, February 2009.

spending is provided each fiscal year to federal agencies. Such spending must be so designated as Congress considers the President's Budget request. The President must separately designate such spending after it is enacted in order for it to be available for expenditure.

Use of Supplemental Appropriations for Contingency Operations

Congress may consider one or more supplemental appropriations measures (sometimes colloquially referred to as supplementals) for a fiscal year to provide funding for unforeseen needs (such as funds to recover from a natural disaster), or to increase appropriations for other activities that have already been funded.¹¹ Beginning in FY2004, DOD received some of its war-related funding in Title IX of its regular annual appropriation act, but these funds were designated as "emergency." When funding needs for war and non-war-related activities were higher than anticipated, the Administration submitted supplemental requests. Over the years, Congress has also provided appropriations in a lump sum to special accounts to meet unanticipated wartime needs.¹²

¹¹ For more information on the appropriations process see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, coordinated by (name redacted) . For more information on FY2017 federal budget issues for Congress see CRS Report R44428, *The Federal Budget: Overview and Issues for FY2017 and Beyond*, by (name redacted) .

¹² For example, the Joint Improvised Explosive Device Defeat Fund was established in FY2006 with a \$2.0 billion appropriation to provide funds to develop, buy, and field devices to counter improvised explosive devices. In FY2008 Congress provided \$16.8 billion appropriation to establish a mine resistant ambush protected (MRAP) vehicle account to purchase, train, and transport MRAPs to operations areas in order to provide increased protection for troops.

What's a "Supplemental"?

The term "supplemental" is used by some as a colloquialism to describe the OCO budget request rather than a supplemental appropriation measure. While the OCO budget request is in addition, or **supplemental**, to an agency's base budget requirements, OCO funding may be provided through all three types of appropriations measures discussed below. The reader should not confuse a reference to a "supplemental appropriation measure" with a request for funds to supplement an agency's base budget requirements.

Congress annually considers several appropriations measures that provide discretionary funding for numerous activities—such as national defense, education, and homeland security—as well as general government operations. In general, these appropriations measures are of three different types: regular appropriations bills, continuing resolutions, and supplemental appropriations measures. During a calendar year, Congress may consider the following:

- 12 regular appropriations bills for the fiscal year that begins on October 1 (often referred to as the budget year) to provide the annual funding for the agencies, projects, and activities funded therein;
- one or more continuing resolutions for that same fiscal year; and
- one or more supplemental appropriations measures for the current fiscal year.

Supplemental appropriations measures (or supplementals) generally provide additional funding for selected activities over and above the amount provided through annual or continuing appropriations. In general, supplemental funding may be provided to address cases in which resources provided through the annual appropriations process are determined to be inadequate or not timely. Supplementals have been used to provide funding for unforeseen needs, such as response and recovery costs due to a disaster. One recent example is the supplemental appropriations bill enacted in the wake of Hurricane Sandy in 2013. Titles containing supplemental appropriations can also be included in regular bills and continuing resolutions, rather than in separate supplemental bills.

For further information, see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*.

Supplemental appropriations can provide important and necessary flexibility for policymakers to address needs that arise after funding has been appropriated. However, that flexibility has caused some to question whether supplementals are only used to respond to unforeseen events, or whether they also provide funding for activities that could reasonably be covered in regular appropriations acts.

Designation of Funding as "Emergency" or for "OCO/GWOT"

Designation of an "Emergency" Requirement

Through definitions statutorily established by the BBEDCA, "emergency" spending is defined as spending that is for "unanticipated" purposes, such as those that are "sudden ... urgent ... unforeseen ... and temporary."¹³ The BBEDCA does not further specify the types of activities that are eligible for that designation. Thus, any discretionary funding designated by Congress and the President to be for an emergency requirement is effectively exempted from certain statutory and procedural budget enforcement mechanisms, such as the BCA limits on discretionary spending.

The designation of certain war-related activities and expenses as "emergency" requirements has shifted over time, reflecting differing viewpoints about the extent, nature, and duration of the wars in Iraq and Afghanistan. Over the years, both Congress and the President have at times

¹³ The Balanced Budget and Emergency Deficit Control Act of 1985 (2 USC 900-922).

adopted more, and at times less, expansive definitions to support such a designation to accommodate the needs and pressures of the moment.¹⁴

Designation as an “OCO/GWOT” Requirement

Prior to February 2009, U.S. operations in response to the 9/11 attacks were collectively referred to as the “Global War on Terror,” or GWOT. Between September 2001 and February 2009, there was no separate budgetary designation for GWOT funds—instead, funding associated with those operations was designated as emergency.

The specific label “OCO” was not applied to the post-9/11 military operations in Iraq and Afghanistan until 2009. In February 2009, the Obama administration released “A New Era of Responsibility: Renewing America’s Promise,” a presidential fiscal policy document.¹⁵ That document did not mention or reference GWOT; instead it used the term OCO in discussing ongoing military operations in Iraq and Afghanistan. The first request for “emergency” funding for “OCO”—not “GWOT”—was delivered to Congress in April 2009.¹⁶

Congress likewise transitioned to the OCO label in the NDAA for FY2010, with Title XV of the annual bill now known as “Authorization of Additional Appropriations for Overseas Contingency Operations” instead of “Authorization of Additional Appropriations for Operation Iraqi Freedom and Operation Enduring Freedom.” The first use of an “overseas contingency operation” designation in budgetary law was in the 2011 BCA, which created an “Overseas Contingency Operations/Global War on Terrorism” designation by amending the 1985 BBEDCA (2 U.S.C 902). This was in addition to a BBEDCA designation for “emergency requirements.” Doing so provided Congress and the President with an alternate way to exempt funding from the BCA caps without using the “emergency” designation. These designations were first in effect for FY2012 appropriations.

The foreign affairs agencies began formally requesting OCO/GWOT funding in FY2012, distinguishing between what is referred to as enduring, ongoing or base costs versus any extraordinary, temporary costs of the State Department (DOS) and U.S. Agency for International Development (USAID) in supporting ongoing U.S. operations and policies in Iraq, Afghanistan, and Pakistan.¹⁷ Congress, having used OCO/GWOT exemption for DOD, adopted this approach for foreign affairs, although its uses for SFOPS activities have never been permanently defined in statute. For the first foreign affairs OCO/GWOT appropriation, funds were provided for a wide range of recipient countries, including Yemen, Somalia, Kenya, and the Philippines. In addition to

¹⁴ For more background on the changes to the definitions of war funding over time, see CRS Report RL33110, *The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11*, by (name redacted)

¹⁵ Office of Management and Budget, *A New Era of Responsibility: Renewing America’s Promise*, Washington, DC, February 2009.

¹⁶ The Obama Administration’s Department of Defense FY2009 Supplemental Request, April 2009, http://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2009/Supplemental/FY2009_Supplemental_Request/pdfs/FY_2009_Supplemental_Request_04-08-09.pdf augmented the Bush Administration’s Department of Defense Fiscal Year 2009 Global War on Terror Bridge Request, May 2008. http://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2009/Supplemental/FY2009_Global_War_On_Terror_Bridge_Request.pdf.

¹⁷ *Executive Budget Summary Function 150 & Other International Programs*, Fiscal Year 2012, p. 143, at <http://www.state.gov/documents/organization/183755.pdf>. State Department, “Fact Sheet, FY 2012 State and USAID - Overseas Contingency Operations,” February 14, 2011, at <http://www.state.gov/s/d/rm/rls/fs/2011/156555.htm>.

country-specific uses, OCO/GWOT-designated funds were also appropriated for the Global Security Contingency Fund.¹⁸

Congressional Procedure Related to “Emergency” or “OCO/GWOT” Designations

All budgetary legislation is subject to a set of enforcement procedures associated with the Congressional Budget Act of 1974, as well as other rules, such as those imposed by the BCA.¹⁹ Those rules provide mechanisms to enforce both procedural and statutory limits on discretionary spending. The procedural limits associated with congressional budget resolutions are enforced through points of order that can be made while discretionary spending legislation is under consideration.²⁰ If discretionary spending is enacted in excess of the statutory limits during any given budget cycle, enforcement primarily occurs through “sequestration,” which is the automatic cancellation of budget authority through largely across-the-board reductions of nonexempt programs and activities.²¹ Appropriations that have been designated as “emergency requirements” or in support of “OCO/GWOT,” however, are effectively exempted from those limits under current law.²²

Recently, Congress and the President have designated as “OCO/GWOT” funds for a variety of activities that had previously been contained in the base budget. This relabeling of funds was done, in part, as a response to the discretionary spending limits enacted by the BCA. By designating ongoing activities not directly related to contingency operations as “OCO,” Congress and the President can effectively continue to increase topline defense, foreign affairs, and other related discretionary spending, without triggering sequestration.

Criteria Used by DOD in Determining “Emergency” or “OCO/GWOT” Requirements

Section 101 of Title 10, United States Code, defines a “contingency operation” as any Secretary of Defense-designated military operation “in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.” Since the 1990s NATO intervention in the Balkans, DOD financial management regulations (FMR) have defined contingency operations costs as those expenses necessary to cover incremental costs “that would not have been incurred had the contingency operation not been supported (emphasis added).”²³ Such costs would not include, for example, base pay for troops or planned equipment modernization, as those expenditures are normal peacetime needs of the DOD. The Office of Management and Budget (OMB) issued

¹⁸ According to the DOS, the Global Security Contingency Fund (GSCF) is a pilot program, currently authorized through September 30, 2017, that permits the DOS and DoD to pool money and expertise to address emergent challenges and opportunities to a partner countries’ security and (in some instances) justice sectors important to U.S. national security and foreign policy. It is a bridging mechanism to provide assistance in the near- to mid-term.

¹⁹ For further information see CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, coordinated by (name redacted) .

²⁰ For further information, see *Ibid.*, pp. 17-20.

²¹ Procedures for discretionary spending sequestration are provided by the BBEDCA §251 and 256. Exempt programs and activities are listed in BBEDCA §255.

²² *Ibid.*

²³ DOD, “Financial Management Regulation,” *Contingency Operations*, vol. 12, ch. 23, pp. 23-6, September 2007, at http://comptroller.defense.gov/Portals/45/documents/fmr/current/12/12_23.pdf.

criteria to be used by the DOD in making war/overseas contingency operations funding requests in September 2010, and the DOD FMR was updated accordingly (see **Appendix A**).

The current DOD FMR states that only those *costs in addition to* DOD’s normal peacetime activities, such as those incurred because troops are deployed in support of a contingency operation, are to be considered OCO.²⁴ To aid in the identification of such activities, the DOD regulation requires the military services to show how additional contingency operation deployments and operations affect peacetime assumptions about troop levels and operational tempo. Long-term equipment procurement or similar investment costs are only to be included if “necessary to support a contingency operation” and are “not to be used to procure durable and expendable items in excess of what is required.”²⁵ **Table 1** includes the general cost categories DOD uses in accounting for costs of contingency operations.

Table 1. DOD General Cost Categories for Contingency Operations

Category	Activity
Personnel	Incremental pay and allowances of DOD military and civilians participating in or supporting a contingency operation.
Personnel Support	Materials and services required to support Active and Reserve Component personnel and DOD civilian personnel engaged in the contingency operation.
Operating Support	Incremental costs of material and services used to conduct or support an operation, including contract services.
Transportation	Transportation costs associated with supporting the contingency operation, including contract services, for all phases of the operation (i.e., deployment, sustainment and redeployment).
Working Capital Fund Support Costs	Costs associated with supporting the contingency operation accepted by Defense Working Capital Fund organizations for contingency operations.
Investment Costs	Costs associated with supporting the contingency operation, appropriately financed in the Procurement; Research Development, Test and Evaluation (RDT&E); and in the Military Construction appropriations for projects in support of contingency operations.
Other Support Costs	Includes various departmental programs designed to reimburse coalition countries for logistical and military support; to provide lift to and to sustain coalition partners during military operations; and to execute the Commander’s Emergency Response Program.

Source: DOD, “Financial Management Regulation,” Contingency Operations, Table 23-1 (September 2007); http://comptroller.defense.gov/Portals/45/documents/fmr/current/12/12_23.pdf.

Note: The current FMR also includes training and equipping the “Afghan National Army and the Armed Forces of Iraq” in the Other Support Costs category.

Criteria Used by State/USAID in Determining “Emergency” or “OCO/GWOT” Requirements

There is no detailed statutory or regulatory definition of “OCO” or “OCO/GWOT” in the nondefense context. The Obama administration’s FY2012 International Affairs budget request was the first of its kind to include separate OCO funds for “extraordinary and temporary costs of

²⁴ Ibid.

²⁵ Ibid.

operations in Iraq, Afghanistan, and Pakistan.”²⁶ At the time, the Administration indicated that the use of this designation was intended to provide a transparent, whole-of-government approach to the exceptional war-related costs incurred in those three countries, thus better aligning the associated military and civilian costs. This first foreign affairs OCO request identified the significant resource demands placed on the State Department as a result of the transitions from a military-led to a civilian-led mission in Iraq and Afghanistan, as well as the importance of a stable Pakistan for the U.S. effort in Afghanistan. The FY2012 foreign affairs OCO request included

- For Iraq, funding for the U.S. Embassy in Baghdad, consulates throughout Iraq, a civilian-led Police Development and Criminal Justice Program as well as military and development assistance in Iraq; and oversight of U.S. foreign assistance through the Special Inspector General for Iraq Reconstruction;
- For Afghanistan, funding to strengthen the Afghan government and build institution capacity; support DOS/USAID and other U.S. government agency civilians deployed in the Afghan provinces; provide short-term economic assistance to address counterinsurgency and stabilization efforts, and provide oversight of U.S. foreign assistance programs in Afghanistan through the Office of the Special Inspector General for Afghanistan Reconstruction;
- For Pakistan, funding to support U.S. diplomatic presence and diplomatic security in Pakistan, as well as providing Pakistan Counterinsurgency Capability Funds (PCCF) to train and equip Pakistani forces to eliminate insurgent sanctuaries and promote stability and security in neighboring Afghanistan and the region.

In subsequent years, the Administration designated certain activities in Syria and other peacekeeping activities as OCO; in the FY2017 budget request, the Administration broadened its use of DOS OCO funds, including countering Russian aggression, counterterrorism, humanitarian assistance, and aid to Africa. In addition to OCO funds requested through the normal appropriations process, the Administration in FY2015 and FY2016 also requested emergency supplemental funding (designated as OCO) to support DOS/USAID efforts in countering the Islamic State, as well as responding to global health threats such as the Ebola and Zika viruses.

See **Appendix A** for more information on statutory authorities and regulatory guidance related to emergency requests and appropriations.

Transfer Authorities and Other Special Purpose Accounts

In addition to the supplemental appropriations and emergency or OCO/GWOT designation, DOD and DOS also have the authority to shift funds from one budget account to another in response to operational needs. For DOD, these transfers (sometimes colloquially called “reprogrammings”), are statutorily authorized by 10 U.S.C §2214 (“Transfer of funds: procedure and limitations”), which allows the Secretary of Defense to reallocate funds for higher priority items, based on unforeseen military requirements, after receiving written approval from the four congressional defense committees. DOD may also reprogram funds within an account from one activity to another, as long as the general purpose for the use of those funds remains unchanged.²⁷ Specific

²⁶ Department of State, Executive Budget Summary, Function 150 and Other International Programs, FY2012, p. 133.

²⁷ 10 U.S.C. §2214 and Department of Defense Financial Management Regulation 7000.14-R *Volume 3: “Budget Execution-Availability and Use of Budgetary Resources,”* September 2015—see Chapter 6, “Reprogramming of DOD Appropriated Funds.” This report will chiefly focus on the reprogramming of funds appropriated through unclassified DOD base and OCO accounts, as well as DOS/USAID appropriations—separate reprogramming authorities and (continued...)

authorities, or limits to transfer or reprogramming authorities, have also been added to these general authorities through provisions in annual defense authorization and appropriation acts.²⁸

Annual caps on transfers between DOD accounts for both base budget funds and emergency or OCO-designated funds are generally established through provisions in annual appropriation or authorization bills. In FY2016, the base budget transfer cap was \$4.5 billion, or less than 1% of the total enacted DOD base budget in that year.²⁹ In recent years, Congress has authorized the DOD, after meeting certain stipulations, to transfer base budget “funds made available...for military functions” to other base accounts, or to OCO-designated accounts, with military functions.³⁰ Recognizing the greater uncertainty in predicting overseas contingency operation spending, defense appropriations acts have typically set a higher transfer cap for such funds—in FY2016, the OCO budget transfer caps were \$4.5 billion, or about 7.7% of the total enacted DOD OCO budget.³¹ In recent years, Congress has also authorized the DOD to transfer OCO-designated funds to other OCO-designated accounts.³²

The Department of State’s OCO transfer authority has been provided in appropriations acts and has specifically authorized the Administration to transfer OCO funds only to other OCO funds within Title VIII SFOPS appropriations, not between OCO and base accounts. The transfer authority is capped, specified by account, and requires regular congressional notification procedures.

Overseas Contingency Operations Transfer Fund (OCOTF)

The OCOTF was established for DOD in FY1997 as a “no year” transfer account (meaning amounts are available until expended) in order to provide additional flexibility to meet operational requirements.³³ Transfers from the OCOTF are processed using existing reprogramming procedures. A quarterly report is submitted to the congressional oversight committees, documenting all transfers from the OCOTF to DOD components baseline accounts. Beginning in FY2002, funds to support Southwest Asia, Kosovo, and Bosnia contingency requirements were appropriated directly to DOD components’ Operation and Maintenance (O&M) and Military Personnel accounts, rather than allocation to the OCOTF for later disbursement. FY2014 was the last year a request was made by the Administration for a direct appropriation to the OCOTF.³⁴

(...continued)

processes are used for military construction and family housing appropriations; and for National Intelligence Program /Military Intelligence Program appropriations.

²⁸ See for example Sec. 8005, Title VIII, Division C, “Department of Defense Appropriations Act, 2016,” in, as well as Sec.1001 under Title X and Sec. 1522 under Title XV, Division A, “National Defense Authorization Act for Fiscal Year 2016.”

²⁹ In FY2016, the enacted DOD base budget was approximately \$521.7 billion.

³⁰ See for example Sec. 8005, Title VIII, Division C, “Department of Defense Appropriations Act, 2016,” in. Military construction funding is not covered by this transfer authority.

³¹ In FY2016, the enacted DOD OCO budget was approximately \$58.6 billion.

³² See for example Sec. 9002, Title IX, Division C, “Department of Defense Appropriations Act, 2016,” in. These transfer authorities are also subject to any relevant provisions set forth under Title VIII, Division C, “Department of Defense Appropriations Act, 2016,” in.

³³ Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund, Fiscal Year 2017 President’s Budget, February 2016. The term “no year appropriation” is defined in the U.S. Congress, House, *Statement of Disbursements*, Glossary of Terms, 114th Cong., 2nd sess.

³⁴ FY2014 President’s Budget, Department of Defense Contingency Operations (Base Budget), May 2013.

Congressionally-authorized Funds or Programs

Through the DOS and DOD OCO authorization and appropriation process, Congress has created numerous funds and programs that are designed to finance specific overseas contingency operations-related activities that do not fit into traditional budgetary accounts. Many of these funds and programs are supplied with amounts that are available until expended—however, authorization for the specified fund or program has an expiration date, thereby requiring further congressional action for reauthorization of affected funds or programs.³⁵ Congress has also provided increased transfer authority to provide greater flexibility for U.S. government activities in situations that are typically unpredictable.³⁶ For example, in order to facilitate assistance for multiple ongoing international migration and refugee crises, the FY2016 appropriations law authorized transfers between the International Disaster Assistance and Migration and Refugee Assistance accounts, subject to an annual limit of \$600 million.³⁷ Examples of these types of congressionally-authorized OCO programs or funds include

- ***Afghan Security Forces Fund*** and ***Iraq Train and Equip Fund***, which provide funding and support for the training, equipping, and expansion of selected military and security forces in support of U.S. objectives;³⁸
- ***Counterterrorism Partnership Fund***, which provides funding and support to partner nations engaged in counterterrorism and crisis response activities;³⁹
- ***Commander’s Emergency Response Program***, which generally supports infrastructure improvements such as road repair and construction and, according to DOD, enables military commanders on the ground to respond to urgent humanitarian relief and reconstruction needs by undertaking activities that will immediately aid local populations and assist U.S. forces in maintaining security gains;⁴⁰
- ***Joint Improvised Explosive Device (IEDs) Defeat Fund***, which was established to coordinate and focus all counter-IED efforts, including ongoing research and development, throughout DOD. Due to the enduring nature of the threat, DOD began moving associated funding to the base budget in FY2010;⁴¹
- ***Mine Resistant Ambush Protected Vehicle (MRAP) Fund***, which was intended to expedite the procurement and deployment of MRAPs to Iraq and Afghanistan;⁴²

³⁵ See Title VIII of Division K and Title IX of Division C in, Consolidated Appropriations Act, 2016 and Title XII of, National Defense Authorization Act for Fiscal Year 2016.

³⁶ These functions include bilateral economic assistance (“Transition Initiatives,” “Complex Crises Fund,” “Economic Support Fund,” and “Assistance for Europe, Eurasia and Central Asia”) and international security assistance (“International Narcotics Control and Law Enforcement,” “Nonproliferation, Anti-terrorism, Demining and Related Programs,” “Peacekeeping Operations,” and “Foreign Military Financing Program”).

³⁷ Consolidated Appropriations Act, 2016, (, Division K, Title VIII, Sec. 8003(a)(3).

³⁸ Department of Defense Fiscal Year 2017 Budget Request Overview, February 9, 2016.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Joint Improvised Explosive Device Defeat Organization, Joint Improvised Explosive Defense Defeat Fund Budget Justification Document for FY2010.

⁴² CRS Report RS22707, *Mine-Resistant, Ambush-Protected (MRAP) Vehicles: Background and Issues for Congress*, by (name redacted) .

- **European Reassurance Initiative**, which provides funding and support to NATO allies and partners through a U.S. campaign to “reassure allies of the U.S. commitment to their security and territorial integrity as members of the NATO Alliance, provide near-term flexibility and responsiveness to the evolving concerns of our allies and partners in Europe, especially Central and Eastern Europe, and help increase the capability and readiness of U.S. allies and partners;”⁴³
- **Global Security Contingency Fund**, which provides funding for DOS and DOD “to pool money and expertise to address emergent challenges [as well as opportunities] to a partner country’s security and . . . justice sectors;”⁴⁴
- **Complex Crisis Fund**, which provides funding through the State Department and USAID to “to help prevent crises and promote recovery in post-conflict situations during unforeseen political, social, or economic challenges that threaten regional security;”⁴⁵
- **Migration and Refugee Assistance Fund**, which provides funding to respond to refugee crises in Africa, the Near East, South and Central Asia, and Europe and Eurasia;⁴⁶ and
- **Ukraine Security Assistance Initiative**, which provides assistance, including training, equipment, lethal weapons of a defensive nature, logistics support, supplies and services, sustainment, and intelligence support to the military and national security forces of Ukraine.⁴⁷

“Emergency” and “OCO/GWOT” Appropriations since 9/11

CRS estimates a total of \$1.7 trillion has been provided to the DOD and DOS through FY2016 for combat operations, certain diplomatic operations, and related foreign assistance since the attacks on September 11, 2001. DOD activities account for \$1.6 trillion—or 93%—of the total enacted funding designated for these purposes. Diplomatic operations and foreign aid programs of the DOS account for another \$123.2 billion, or 7.0% of the total.⁴⁸

For FY2017, the Administration initially requested \$73.7 billion be designated as OCO/GWOT funding (\$58.8 billion for DOD and \$14.9 billion for DOS). In November 2016, the Administration amended its OCO request, increasing the total to \$85.3 billion (\$64.6 billion for DOD and \$20.7 billion for State/USAID) (see **Table 2**).

⁴³ Office of the Under Secretary of Defense (Comptroller). Department of Defense Budget Fiscal Year (FY) 2016: European Reassurance Initiative, February 2015, p. 1.

⁴⁴ U.S. Department of State, “The Global Security Contingency Fund,” at <http://www.state.gov/t/pm/sa/gscf/>.

⁴⁵ USAID Office of Program, Policy, and Management. “Our Work: Complex Crises Fund,” at <https://www.usaid.gov/who-we-are/organization/bureaus/bureau-democracy-conflict-and-humanitarian-assistance/office-program>.

⁴⁶ See Division K, Title VIII, “Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016,” in.

⁴⁷ See Title VIII of Division K and Title IX of Division C in, Consolidated Appropriations Act, 2016, Title XII of, National Defense Authorization Act for Fiscal Year 2016, and Department of Defense Fiscal Year 2017 Budget Request Overview, February 9, 2016.

⁴⁸ DOD National Defense Budget Estimates for FY2017, and Department of State, Foreign Operations and Related Programs Congressional Budget Justifications, FY2001-FY2017.

Table 2. Emergency or OCO/GWOT Funding by Agency

	dollars in billions		percentage of total	
	FY2001-FY2016 Enacted	FY2017 Amended Request ^a	FY2001-FY2016 Enacted	FY2017 Amended Request
DOD	\$1,618.2	\$64.6	93%	76%
State/USAID	\$123.2	\$20.7	7%	24%
Total^b	\$1,741.4	\$85.3	100%	100%

Source: DOD National Defense Budget Estimates for FY 2017 (Table 2-1), Department of State, Foreign Operations and Related Programs Congressional Budget Justifications, FY2001-FY2017 and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017.

- The FY2017 OCO request was amended on November 10, 2016, and included an additional \$11.6 billion (\$5.8 billion for DOD and \$5.8 billion for State/USAID).
- This figure does not include amounts provided by H.R. 5325 (P.L. 114-223), the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act or H.R. 2028 (P.L. 114-254) Further Continuing and Security Assistance Appropriations Act, 2017.

Terms Commonly Used in Discussing the Budget Process

Appropriation means a provision of law providing legal authority for the obligation of funds for a given purpose. In most cases this is provided in the form of budget authority.

Budget authority means the authority provided by law to incur financial obligations that will result in outlays.

Discretionary spending means budgetary resources (except those provided to finance obligations for mandatory spending programs) provided in appropriations acts.

Mandatory spending means spending controlled by laws other than appropriations acts (including spending for entitlement programs) and spending for the food stamp program.

Obligation means a binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally.

Outlay means a payment to liquidate an obligation.

Source: OMB Circular No. A-11 (2015). Section 20, Terms and Concepts.

DOD Base Funding vs. “Emergency” or “OCO/GWOT”⁴⁹

The majority of the \$9.4 trillion in total DOD spending since the terrorist attacks of September 11, 2001 has been for base budget funding (82%), with approximately 18% of the budget allocated for war funding. Less than 1% of that cumulative total has been authorized for emergency relief (such as hurricane response) and a variety of unrelated programs detailed in **Table 3**.

⁴⁹ Contributed by Christopher Mann, Research Assistant.

Table 3. DOD Discretionary Budget Authority: FY2001-FY2017 Amended Request

dollars in billions

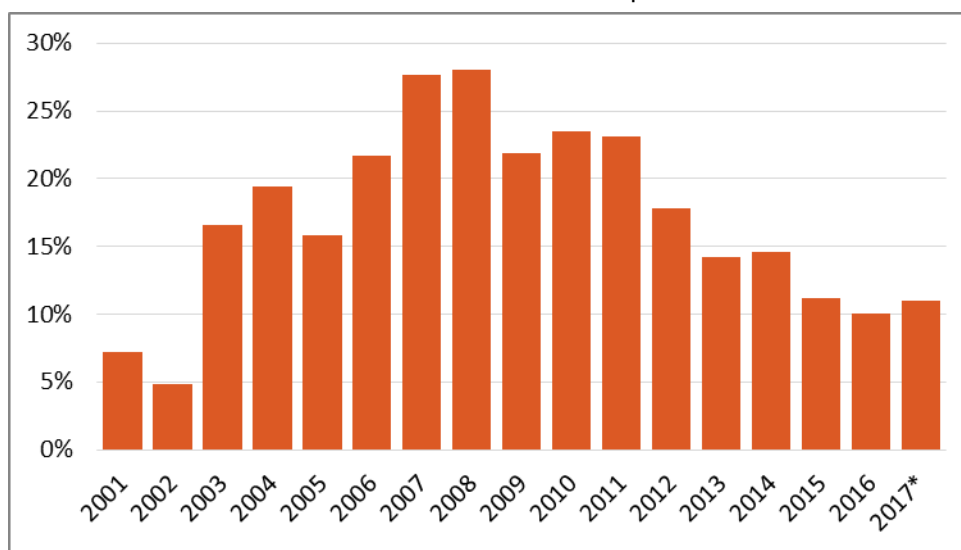
Type of Spending	Amount	Percentage of Spending
Base	\$7,712.6	81.8%
OCO/GWOT	\$1,682.8	17.9%
Emergency Relief & Other ^a	\$29.2	0.3%
Total^b	\$9,424.7	100%

Source: DOD National Defense Budget Estimates for FY2017 (Table 2-1) and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017.

- This category includes funding for hurricane relief, avian flu and Ebola assistance, Iron Dome, and several accounts related to personnel readiness and medical care. FY2017 amounts reflect the Administration request.
- This figure does not include amounts provided by H.R. 5325(P.L. 114-223), the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act or H.R. 2028 (P.L. 114-254) Further Continuing and Security Assistance Appropriations Act, 2017.

War-related funding for DOD peaked at \$187 billion during the FY2008 Iraq troop surge, and rose from a subsequent decline as cost reductions in Iraq were offset by a second surge in Afghanistan, beginning in FY2010 (see **Figure 2**). The Administration's FY2015 request began stabilization in OCO/GWOT funding following the drawdown in Iraq and Afghanistan, with FY2015-FY2017 levels averaging \$61 billion.

Figure 2. OCO/GWOT Amounts as Percentage of Total DOD Budget Authority
FY2001-FY2017 Amended Request



Source: DOD Defense Budget Overview, FY2017, Table 1-2 and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017.

Note: * Estimate based on the FY2017 President's budget request, as amended.

Since 9/11, the U.S. Armed Forces, under guidance from the DOD, have conducted the following named military operations:

Operations Conducted Primarily in Afghanistan

Operation Enduring Freedom (OEF) began immediately after the 9/11 attacks and included operations in Afghanistan and other small GWOT operations. OEF formally concluded in December 2014 and was succeeded by Operation Freedom’s Sentinel (OFS). OEF was comprised of several related missions:

- OEF-Horn of Africa (continues under OFS);⁵⁰
- OEF-Trans Sahara (continues under OFS);⁵¹
- OEF-Philippines (concluded in the summer of 2014);⁵²
- Operation Spartan Shield (continues under OFS);⁵³ and
- Other classified worldwide counterterrorism missions.

Operation Freedom’s Sentinel (OFS) began in January 2015 and continues today. It is the successor to OEF and is the U.S. contribution to the NATO-led Resolute Support mission in Afghanistan.⁵⁴ OFS also includes related missions previously covered under OEF:

- Combined Joint Task Force–Horn of Africa;
- Operation Spartan Shield;
- Other classified worldwide counterterrorism missions.

Operations Conducted Primarily in Iraq

Operation Iraqi Freedom (OIF) began in the fall of 2002 with the buildup of troops for the March 2003 invasion of Iraq and continued under counterinsurgency and stability operations in Iraq until September 2010.

Operation New Dawn (OND) began in September 2010 and concluded in December 2011. OND was the immediate successor to OIF; under OND U.S. troops conducted stability operations and focused on advising, assisting and training Iraqi Security Forces (ISF).

Operation Inherent Resolve (OIR) was authorized by the President on August 7, 2014 and was the beginning of U.S. air strikes in Iraq and Syria to “degrade and ultimately defeat” the Islamic State (IS) without deploying U.S. ground troops. OIR

⁵⁰ OEF-Horn of Africa supports the U.S. Navy’s Combat Command Support Activity at Camp Lemonnier, Djibouti and provides special operations forces to conduct operations, civil affairs, and military information support operations in the Horn of Africa.

⁵¹ OEF-Trans Sahara supports the Commander, U.S. Africa Command in the execution of the National Military Strategy for U.S. military operations in ten partner nations (Algeria, Burkina Faso, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, and Tunisia).

⁵² The mission of OEF-Philippines was to advise and assist the Armed Forces of the Philippines in combatting terrorism, and specifically the activities of the terrorist group Abu Sayaf, in the Philippines.

⁵³ Operation Spartan Shield contributes to the U.S. Central Command mission to counter, protect, defend and prepare while simultaneously building partner capacity in the Middle East.

⁵⁴ The NATO-led Resolute Support mission began January 1, 2015 and is the successor to the International Security Assistance Force (ISAF) mission. Unlike the combat mission of ISAF, Resolute Support focuses on training, advising and assisting Afghan National Security Forces. For more on the Resolute Support mission and security operations in Afghanistan see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by (name redacted) .

operations continue, including some OND-related activities, such as the Office of Security Cooperation–Iraq.⁵⁵

Libya

Operation Odyssey Lightning (OOL) began August 1, 2016, in support of the Libyan government’s (Government of National Accord) counter-ISIL operations. The Administration’s November 2016 amendment to the OCO budget includes \$20 million in funding to support U.S. counter-ISIL efforts and to finance the incremental Navy and Air Force cost of operations, flying hours, and deployments in Libya.⁵⁶

Enhanced U.S. Security

Operation Noble Eagle (ONE) was initiated as an immediate response to defend the U.S. homeland in the wake of the attacks of 9/11 and it continues today. ONE provides enhanced security for U.S. military bases, and conducts other homeland defense activities.⁵⁷

Funding Obligations by Operation

Figure 3 depicts amounts obligated by DOD in Afghanistan and Iraq, and for ONE from FY2001-FY2016. As of July 2016, DOD had obligated a total of \$1.4 trillion for emergency or OCO/GWOT requirements for these named operations.

Afghanistan

- OEF - \$592.8 billion
- OFS - \$60.9 billion

Iraq

- OIF/OND - \$732.1 billion
- OIR - \$10.7 billion

Enhanced U.S. Security/Noble Eagle

- ONE - \$27.5 billion⁵⁸

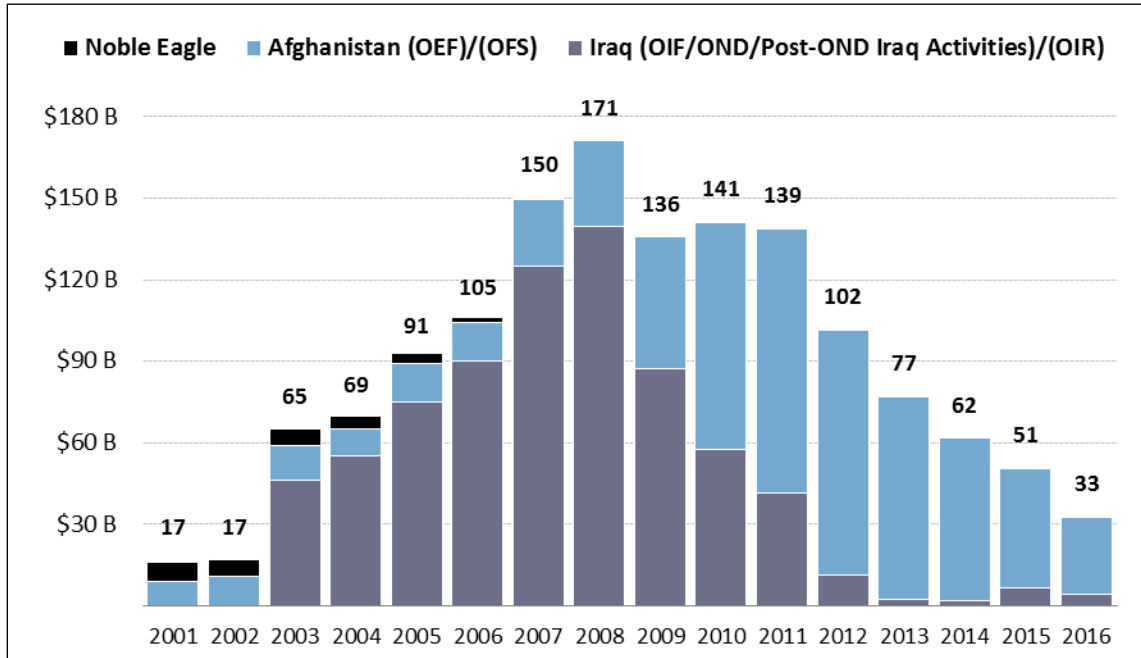
⁵⁵ For more information on U.S. policy response to the Islamic State see CRS Report RS21968, *Iraq: Politics and Governance*, by (name redacted) and (name redacted) .

⁵⁶ DOD Overview: Overseas Contingency Operations Budget Amendment FY2017, Figure 1 footnote.

⁵⁷ Initially funded with supplemental appropriations, ONE was transferred to the base budget in 2005.

⁵⁸ Department of Defense Cost of War Report, July 2016. Note: FY2015 and FY2016 ONE base budget funding totaled \$205.8 million; see Department of Defense Budget Fiscal Year FY2017: Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund (OCOTF), February 2016.

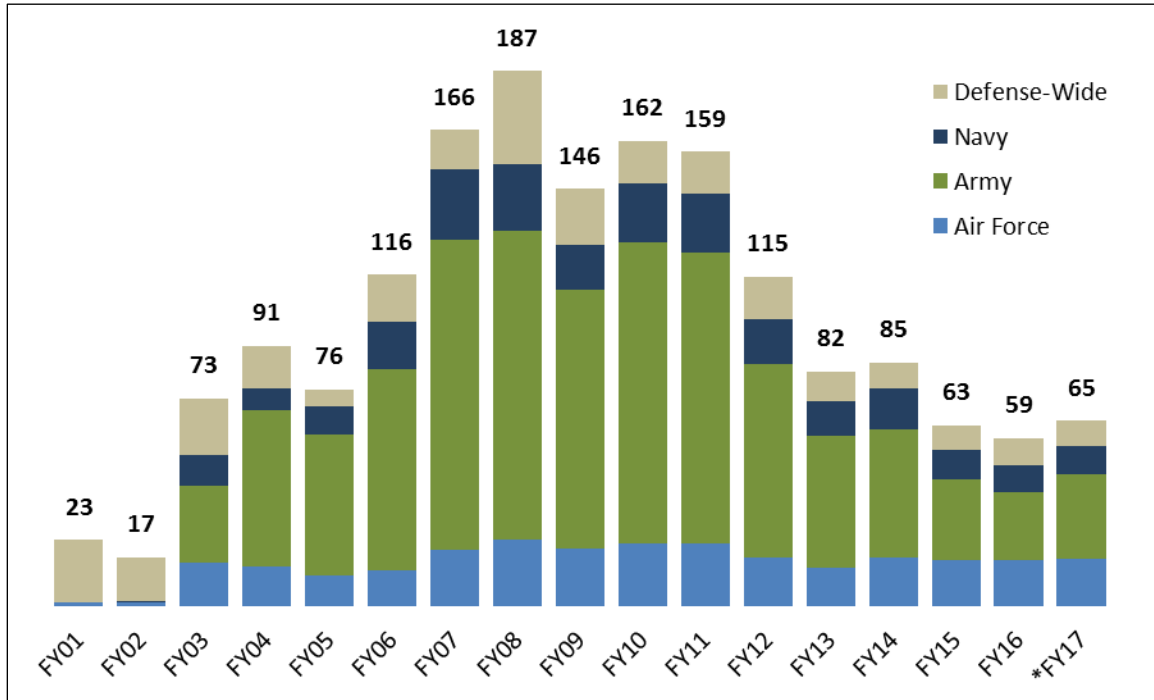
Figure 3. DOD OCO/GWOT Obligations by Operation: FY2001-FY2016
dollars in billions



Source: Department of Defense Cost of War Report, July 2016.

Figure 4 depicts the allocation of GWOT/OCO funding by military service. Emergency appropriations were initially provided as general “defense-wide” appropriations. Beginning in FY2003, as operations evolved and planning improved, allocations increased and were provided more specifically. While heavily weighted toward ground forces through FY2013, the percent of total funding allocated for the Air Force and Navy has increased, reflecting the Administration’s policies in Iraq and Afghanistan.

Figure 4. OCO/GWOT Budget Authority by Military Department
dollars in billions



Source: DOD National Defense Budget Estimates for FY2017 (table 2-1) and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017.

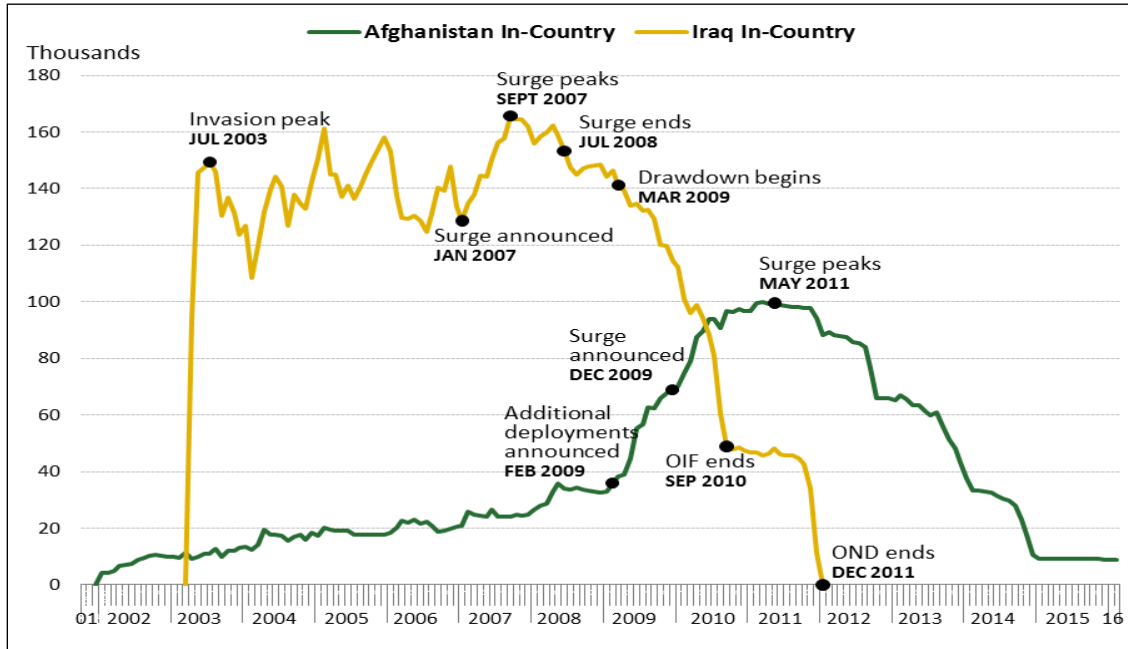
Note: * Estimate based on the FY2017 President’s budget request, as amended.

U.S. Uniformed Military and Contractor Personnel Levels in Iraq and Afghanistan⁵⁹

Although other significant variables affecting overall contingency operation costs, a major factor in determining OCO costs for DOD since September 11, 2001 has been the number of U.S. uniformed military personnel deployed to the Afghanistan and Iraq theaters of operation at different points in time. Between 2001 and 2016, uniformed military personnel levels in Iraq and in Afghanistan changed dramatically. See **Figure 5** for more information on deployed uniformed military personnel levels over time.

⁵⁹ Contributed by Heidi Peters, Research Librarian.

Figure 5. Boots on the Ground In-Country, FY2001-FY2016
in thousands of U.S. uniformed military personnel



Source: DOD, Monthly Boots-on-the Ground reports provided to CRS and congressional defense committees, 2001-2016.

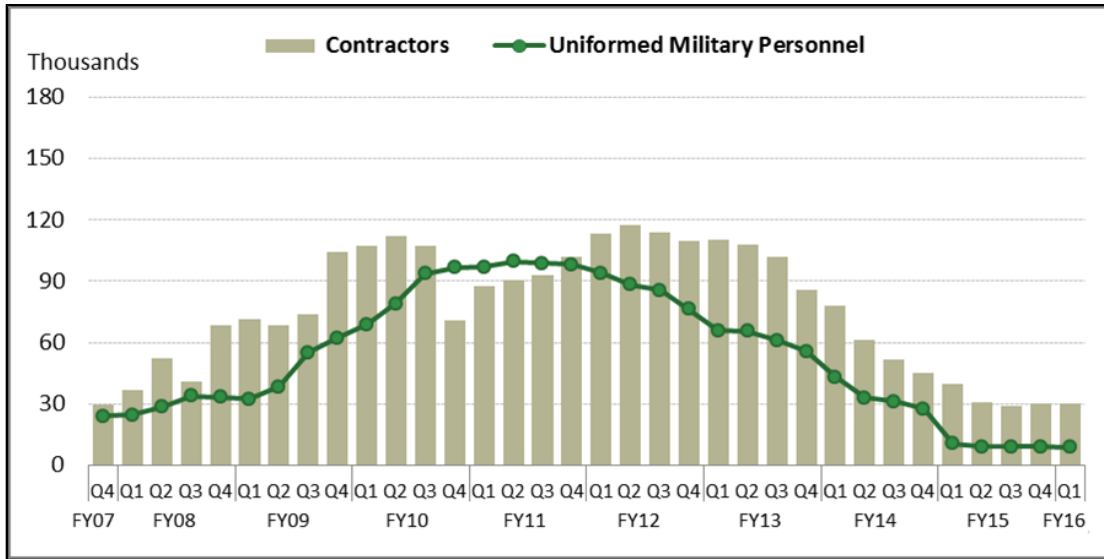
Notes: Reflects all active and reserve component U.S. uniformed military personnel in-country; excludes uniformed military personnel and civilians providing in-theater support or conducting counter-terror operations outside the region. Following the conclusion of the U.S. combat mission in Iraq, the “Boots on the Ground” monthly reports ceased providing separate force levels for Iraq. However, a residual U.S. force remained in country to provide embassy security and security cooperation assistance. Beginning in June 2014, in response to the military operations of the Islamic State, additional U.S. military personnel were deployed to Iraq through Operation Inherent Resolve (OIR) to advise and train Iraqi forces, serve as observers, and secure U.S. personnel and facilities.

DOD, DOS, and USAID have also relied extensively on individual service contractors and subcontractors to support a wide range of activities in Iraq and Afghanistan. Recent contingency operations have highlighted the critical role that service contractors play in supporting U.S. uniformed military personnel—both in terms of the number of contractors and the type of work being performed. During recent U.S. military operations in Iraq and Afghanistan, contractors frequently averaged 50% or more of the total DOD presence in-country.⁶⁰ See **Figure 6** and **Figure 7** for more information on DOD-funded contractors and uniformed military personnel levels in Afghanistan and Iraq over time. Analysts and observers, including the U.S. Government Accountability Office (GAO), have raised questions about the reliability of data documenting contractors employed in support of contingency operations gathered by DOD, DOS, and USAID. They have also recently called attention to “systemic challenges” at the DOS and USAID that

⁶⁰ See CRS Report R43074, *Department of Defense’s Use of Contractors to Support Military Operations: Background, Analysis, and Issues for Congress*, by (name redacted); CRS Report R40764, *Department of Defense Contractors in Afghanistan and Iraq: Background and Analysis*, by (name redacted) and (name redacted); and CRS Report R44116, *Department of Defense Contractor and Troop Levels in Iraq and Afghanistan: 2007-2016*, coordinated by (name redacted) for more information.

may continue to limit agency management and oversight of contracts in contingency environments.⁶¹

Figure 6. U.S. Uniformed Military and Contractor Personnel in Afghanistan
Q4 FY2007-Q1 FY2016

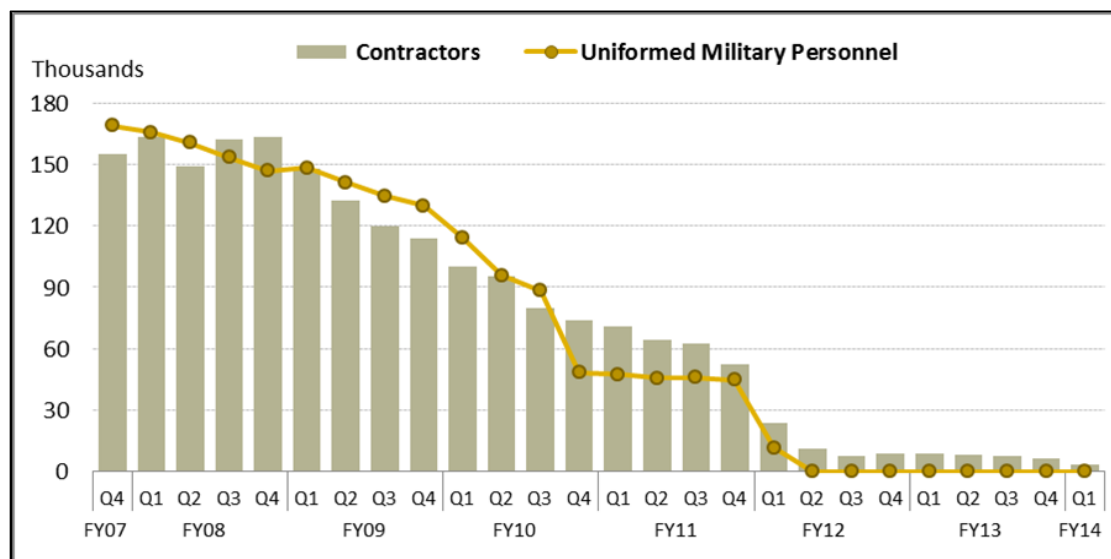


Sources: Contractor levels drawn from U.S. Central Command (CENTCOM) Quarterly Contractor Census Reports; DOD, Monthly Boots-on-the Ground reports provided to CRS and congressional defense committees.

Notes: DOD did not begin releasing data on contractors in CENTCOM until Q4 FY2007. U.S. uniformed military figures include all active and reserve component personnel.

⁶¹ See U.S. Government Accountability Office, *Contingency Contracting: State and USAID Made Progress Assessing and Implementing Changes, but Further Actions Needed*, GAO-14-229, February 14, 2014, p. 3, <http://www.gao.gov/products/GAO-14-229>. See also related GAO reports such as GAO-09-19; GAO-09-538T; GAO-10-1; GAO-10-187; and GAO-15-250.

Figure 7. U.S. Uniformed Military and Contractor Personnel in Iraq
Q4 FY2007-Q4 FY2013



Source: Contractor levels drawn from CENTCOM Quarterly Contractor Census Reports; DOD, Monthly Boots-on-the Ground reports provided to CRS and congressional defense committees.

Notes: U.S. uniformed military figures include all active and reserve component personnel. DOD did not begin releasing data on contractors in CENTCOM. Following the conclusion of the OIF/OND U.S. mission in Iraq in 2014, the “Boots on the Ground” monthly reports ceased providing separate force levels for Iraq.

Contingency Operations Funding in the DOD Base Budget⁶²

As discussed above, 10 U.S.C §101 defines a *contingency operation* as any Secretary of Defense-designated military operation “in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.” Most contingency operations are designated as “emergency” or “OCO/GWOT” per the BBEDCA exemption and many have historically been funded through supplemental appropriations. However, funding for certain DOD contingency operations has been moved to the base budget request, and is no longer designated as emergency or OCO/GWOT requirements. This movement of funding from the OCO request to the base budget request typically occurs as the operational activities of an enduring contingency operation evolve over time, and DOD determines that certain elements of the associated military operations have become stable enough to be planned, financed, and executed within the DOD’s base budget. For example, funding for Operation Noble Eagle, which provides fighter aircraft on 24/7 alert at several U.S. military bases, was moved from the GWOT request to the base request in 2005.

As first mandated by section 8091 of P.L. 110-116, Congress has required DOD to provide separate annual budget justification documents detailing the costs of U.S. Armed Forces participation in all named contingency operations where the total cost of the operation exceeds \$100 million, or is staffed by more than a thousand U.S. military personnel.⁶³

⁶² Contributed by Heidi Peters, Research Librarian.

⁶³ U.S. Congress, House Committee on Appropriations, *Making Appropriations for the Department of Defense for the Fiscal Year Ending September 30, 2008, and for Other Purposes*, Conference report to accompany H.R. 3222, 110th Cong., 2nd sess., November 6, 2007, H.Rept. 110-434 (Washington: GPO, 2007), Joint Explanatory Statement, p. 87.

Funding requests in the base budget for overseas contingency operations *are not* designated as emergency or OCO/GWOT in accordance with the BCA exception and are therefore counted against the DOD’s total discretionary spending limit. For information on contingency operations funded wholly or in part through the DOD’s base budget funding request, and therefore subject to the BCA caps, see **Appendix B**.

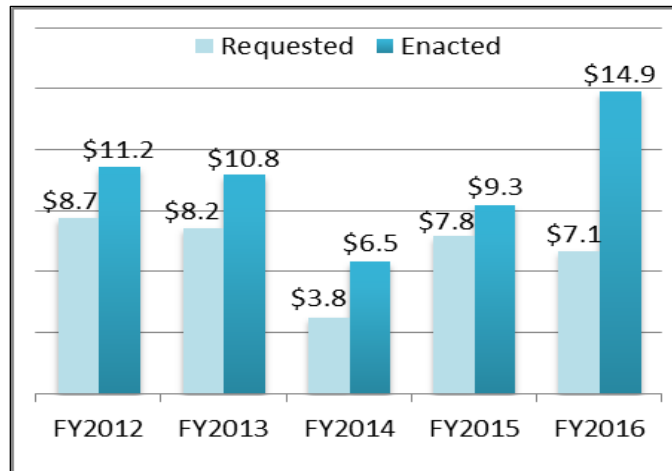
DOS Operations Funded as “Emergency” or “OCO/GWOT”

The estimated \$123.2 billion in emergency or OCO/GWOT appropriations enacted to date for the State Department/USAID funds diplomatic operations (e.g., paying staff, providing security, and building and maintaining embassies) and funds a variety of foreign aid programs in Afghanistan, Pakistan, and Iraq, which range from the Economic Support Fund to counter-narcotics activities.

With the exception of a one-time appropriation of \$20.0 billion for Iraq reconstruction made in FY2004, supplemental annual foreign aid and diplomatic operations funding hovered between \$4 billion and \$5 billion each year until FY2011 with one exception in FY2010. When the State Department began to designate related spending as OCO, associated funding levels rose to \$11 billion in FY2012 and \$9 billion in FY2013, partly as a result of DOS leveraging the budgetary advantage of the OCO designation. Enacted State/USAID OCO funding fell to \$6.5 billion in FY2014.

Figure 8 depicts the emergency or OCO appropriations for foreign affairs activities. Since 2012, more OCO funds have been appropriated than were requested each year, and those have also been authorized to be used in additional countries.

Figure 8. DOS OCO Budget Authority by Year Appropriated
dollars in billions



Source: Department of State Congressional Budget Justifications and the Consolidated Appropriations Act, 2016 (P.L. 114-113).

Note: Totals include rescissions.

The Bipartisan Budget Act of 2015 and OCO Funding

President Obama submitted his FY2016 federal budget request to Congress on February 2, 2015. The \$4.1 trillion request exceeded the BCA discretionary budget caps by \$74.0 billion, which left Congress with the option of triggering sequestration, or cutting the President's request to eliminate funds for agencies and programs they would otherwise support. In his letter to Congress accompanying the FY2016 budget request, the President justified his request for an increase in spending by saying:

With a growing economy, shrinking deficits, bustling industry, and booming energy production, we have risen from recession freer to write our own future than any other Nation on Earth Fifteen years into this new century, and six years after the darkest days of the financial crisis, we have picked ourselves up, dusted ourselves off, and begun again the work of remaking America.⁶⁴

The national defense portion of the request was \$611.9 billion, which exceeded the associated BCA caps by \$37.9 billion. In an effort to avoid sequestration and still provide the requested funding for national defense, Congress moved \$38.3 billion from the base defense budget to the OCO allocation in their bicameral agreement on the NDAA for FY2016 (H.R. 1735). Even though the authorization fully funded the President's request, he vetoed H.R. 1735 on October 22, 2015, stating:

This bill fails to authorize funding for our national defense in a fiscally responsible manner. It underfunds our military in the base budget, and instead relies on an irresponsible budget gimmick that has been criticized by members of both parties. Specifically, the bill's use of \$38 billion in [OCO] funding—which was meant to fund wars and is not subject to budget caps—does not provide the stable, multi-year budget upon which sound defense planning depends. Because this bill authorizes base budget funding at sequestration levels, it threatens the readiness and capabilities of our military and fails to provide the support our men and women in uniform deserve. The decision reflected in this bill to circumvent rather than reverse sequestration further harms our national security by locking in unacceptable funding cuts for crucial national security activities carried out by non-defense agencies.⁶⁵

The veto of the FY2016 NDAA added pressure to ongoing negotiations related to the budget caps. By the end of October 2015, Congress and the President had negotiated a deal that raised both the defense and nondefense discretionary spending caps by \$25 billion each in FY2016 and \$15 billion each in FY2017. As a result, the Bipartisan Budget Act of 2015 (P.L. 114-74) was enacted November 2, 2015. In addition to raising the BCA caps, it also specified an expected level for defense OCO funding of \$58.8 billion, and \$14.9 billion for nondefense OCO, for both FY2016 and FY2017.⁶⁶

Immediately following passage of the BBA, Congress authorized and appropriated \$58.6 billion for defense OCO in FY2016—\$7.7 billion above the President's budget request for OCO—noting

⁶⁴ U.S. President (Barack Obama), "The Budget Message of the President," 114th Cong., 1st sess., February 2, 2015, at <https://www.gpo.gov/fdsys/pkg/BUDGET-2016-BUD/pdf/BUDGET-2016-BUD-1.pdf>.

⁶⁵ U.S. President (Barack Obama), "Veto Message—H.R. 1735," 114th Cong., 1st sess., October 22, 2015, at <https://www.whitehouse.gov/the-press-office/2015/10/22/veto-message-hr-1735>.

⁶⁶ P.L. 114-74. See also CRS Report R42506, *The Budget Control Act of 2011 as Amended: Budgetary Effects*, by (name redacted) and (name redacted).

that the funds were provided “in support of base budget requirements as requested by the President for fiscal year 2016.”⁶⁷

FY2017 OCO Budget Request

With the BBA of 2015 as a backdrop, President Obama submitted his FY2017 federal budget request to Congress on February 9, 2016. The \$4.1 trillion request complied with the newly-adjusted BCA discretionary budget caps, and also met the OCO targets set forth in the BBA—\$58.8 billion for DOD and \$14.9 billion for SFOPS.

In November 2016, President Obama amended his FY2017 request, requesting an additional \$11.8 billion in OCO funding – \$5.8 billion for DOD and \$5.8 billion for SFOPS. Between FY2012 and FY2016, overall OCO spending declined by approximately 42%. In conjunction with this decline, the DOS share as a percentage of total OCO spending has increased. From FY2001 to FY2016 the DOS share of total OCO spending was approximately 7%. The original FY2017 request would have raised the DOS share of total OCO spending to 20%, and the revised request for FY2017 would have increased it to 24%. This change generally reflects the Administration’s policies and military drawdowns in Iraq and Afghanistan (see **Figure 9**), along with a desire by many congressional Democrats for parity between increases in defense and nondefense spending.⁶⁸

FY2017 Department of Defense OCO Request

The President’s original FY2017 OCO budget request of \$58.8 billion for defense activities matched the nonbinding level included in the BCA. The request included \$5.1 billion for base budget activities that were not funded in the base budget due to the caps.⁶⁹ As amended in November 2016, the budget request exceeds the BCA level by \$5.8 billion, but does not seek additional funding for base requirements.⁷⁰

According to the DOD Comptroller, the FY2017 OCO request focused on Operation Freedom’s Sentinel in Afghanistan, Operation Inherent Resolve in Iraq and Syria, and increased efforts to support European allies and deter Russian aggression—all while supporting what is referred to as a “partnership-focused approach to counterterrorism.”⁷¹ The FY2017 OCO request reflected the President’s plan to extend the presence of U.S. forces in Afghanistan, intensify operations to

⁶⁷ Some congressional defense committee members have maintained that the bipartisan negotiations from which the BBA emerged contemplated a FY2017 defense budget higher than the \$551.1 billion cap, with additional funds to be provided through funding in OCO appropriations. As originally drafted in late October 2015, the BBA would have provided for “not less than” \$58.8 billion for defense-related OCO funding in FY2017. However, the House Rules Committee adopted an amendment to modify the bill by eliminating the “not less than” language so that, as enacted, the BBA states, “... Overseas Contingency Operations/Global War on Terrorism appropriations will be as follows ... For budget function 050 ... for fiscal year 2017, \$58,798,000,000.” See “House Amendment to the Senate amendment to H.R. 1314 [Text of the Bipartisan Budget Agreement of 2015],” in the record of the House Rules Committee’s action on that Senate amendment, October 27, 2015. See also “Amendment to the House Amendment offered by Mr. Boehner (Amendment #2),” in the record of the House Rules Committee’s action on “Senate Amendment to H.R. 1314,” October 27, 2015.

⁶⁸ Joe Gould, “Top Appropriator Draws A Line on DoD Spending,” *Defense News*, April 8, 2016.

⁶⁹ Defense Budget Overview of the FY2017 DOD Budget Request, Figure 7, attributes \$5.2 billion of the FY2017 OCO request as “Bipartisan Budget Act (BBA) of 2015 Compliance.”

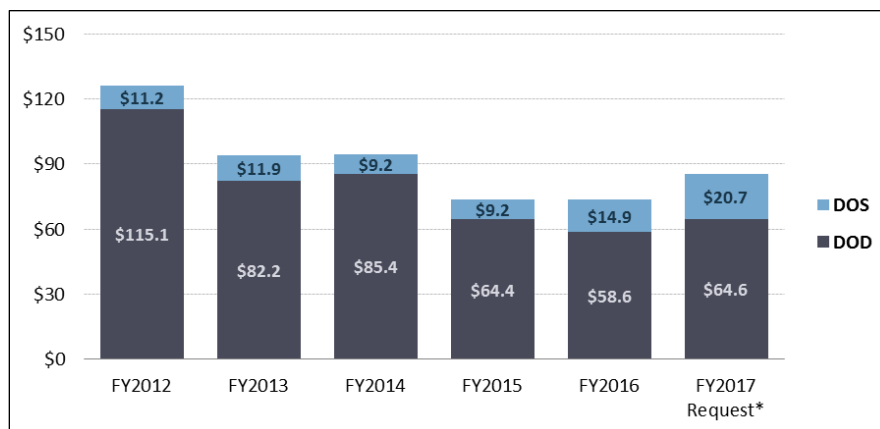
⁷⁰ Department of Defense and Overview: Overseas Contingency Operations Budget Amendment FY2017.

⁷¹ Department of Defense Fiscal Year 2017 Budget Request, Overseas Contingency Operations.

counter the Islamic State, and expand the U.S. presence in Europe, while complying with the BBA funding caps.⁷²

Figure 9. DOD and DOS OCO Funding: FY2012-FY2017

dollars in billions



Source: Department of Defense National Defense Budget Estimates for FY2017 (Table 2-1); Department of State, Foreign Operations and Related Programs Congressional Budget Justifications, FY2001-FY2017 and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017.

Notes: * Includes FY2017 OCO Budget Amendment. This figure does not include amounts provided by H.R. 5325 (P.L. 114-223), the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act or H.R. 2028 (P.L. 114-254) Further Continuing and Security Assistance Appropriations Act, 2017.

DOD estimates the extended U.S. presence in Afghanistan would consume the largest share of its amended FY2017 OCO request (70%), while intensifying operations in Syria and Iraq (Operation Inherent Resolve) represented roughly 15% of the request.⁷³ The November 2016 amendment to the FY2017 OCO request added \$5.8 billion to the original DOD request. According to the Comptroller, these additional resources are needed to:

- maintain approximately 8,400 troops in Afghanistan to support OSF;
- fund additional troops and other requirements needed for OIR;
- address emerging force protection issues for U.S. and coalition personnel;
- support U.S. counter-ISIL efforts in Libya; and
- provide funds to “... begin recapitalizing the air capability of the Afghan Air Force....”⁷⁴

The Administration’s February 2016 request also included \$3.4 billion—roughly 5% of OCO spending—for the European Reassurance Initiative (ERI), a sharp increase in funding for the program designed to signal the U.S. commitment to the security of NATO allies and partners through an expanded U.S. presence. The November 2016 amendment to the OCO request did not increase the ERI request for FY2017.

⁷² Ibid, p. 7-2.

⁷³ Department of Defense Overview: Overseas Contingency Operations Budget Amendment FY2017 (figure 1).

⁷⁴ Department of Defense and Overview: Overseas Contingency Operations Budget Amendment FY2017.

Table 4. Department of Defense FY2017 OCO Request

as of November 10, 2016; amounts in millions

	FY2016 Enacted	FY2017 Request	Nov 2016 Change	FY2017 Amended Request
Military Personnel	\$3,222.7	\$3,562.3	+\$144.9	\$3,707.1
Operation and Maintenance	\$46,966.2	\$45,034.1	+\$5,100.2	\$50,134.3
Procurement	\$8,128.9	\$9,514.4	+\$387.7	\$9,902.1
RDT&E	\$231.4	\$374.2	+\$142.2	\$516.4
Revolving and Management Funds	\$88.9	\$140.6	—	\$140.6
Military Construction	\$0.0	\$172.4	—	\$172.4
Total OCO	\$58,638.0	\$58,798.0	+\$5,775.0	\$64,573.0

Source: Department of Defense Fiscal Year 2017 Budget Request Overview, Overseas Contingency Operations Budget Amendment, Table 1.

Note: Totals may not add due to rounding.

The amended OCO request was based on the force level projections (average annual troop strength) in **Table 5**.

Table 5. Assumed FY2017 Troop Levels for Overseas Contingency Operations

average annual number of military personnel

Force	FY2015 Actual	FY2016 Actual	FY2017 Projected (Original Request)	FY2017 Projected (Amended Request)
Afghanistan (OFS)	10,012	9,737	6,217	8,674
Iraq (OIR)	3,180	3,550	3,550	5,562
In-theater Support	55,958	55,831	58,593	58,593
U.S. and other locations	16,020	15,991	13,085	13,085

Source: Department of Defense Fiscal Year 2017 Budget Request, Overseas Contingency Operations and DOD Overview: Overseas Contingency Operations Budget Amendment FY2017 (figure 2).

Notes: In-theater support includes Afghanistan, Iraq, Horn of Africa, and the European Reassurance Initiative (including approximately 10,500 afloat forces).

Budget Highlights by Geographic Mission

Operation Freedom's Sentinel and the Afghanistan Security Forces Fund (ASFF)

In his February 2013 State of the Union address, the President outlined a schedule for the withdrawal of U.S. troops from Afghanistan and announced that by the end of 2014, “our war in Afghanistan will be over.”⁷⁵ OEF formally ended on December 31, 2014, signaling the end of the 13-year U.S. combat role in Afghanistan. On the following day, January 1, 2015, OEF was succeeded in Afghanistan by “Operation Freedom’s Sentinel (OFS),” a new contingency operation with a narrower mission and more limited geographic scope. OFS authorizes

- continuing counterterrorism efforts against Al Qaeda and its affiliates, and

⁷⁵ White House, Remarks by the President in the State of the Union Address,” February 12, 2013.

- support for “Resolute Support,” the NATO-led, “Train, Advise and Assist” mission for the Afghan National Defense and Security Forces (ANDSF).⁷⁶

The President’s FY2017 OCO budget request, as amended, included \$45.1 billion associated with OFS and overall theater posture (activities supporting related contingency and counter-terrorism operations). DOD has obligated roughly \$66.9 billion in OFS funds, according to data provided in ongoing DOD cost of war estimates.⁷⁷ Roughly three quarters of this amount has funded Army depot-level maintenance, service contracts, C4I (command, control communications, computers and intelligence), and the procurement of fuel.⁷⁸ The Army has obligated the greatest portion of OFS funds (62%), followed by the Air Force (17%) and the Navy (14%).⁷⁹

Afghanistan Security Forces Fund (ASFF)

The ASFF represents the third largest obligation account (14%) within Operation Freedom’s Sentinel, following O&M for the U.S. Army and Air Force. The Fund was established as a means of sustaining and improving the professionalization of the Afghan security forces, which have relied on external funding for most security costs.⁸⁰ As part of Operation Freedom’s Sentinel, the ASFF has obligated \$9.4 billion.⁸¹ See **Table 6**.

Table 6. Afghanistan Security Forces Fund (OFS Obligations)

dollars in billions

Cost Breakdown Structure	Defense Forces	Interior Forces	Total	Percentage
Equipment and Transportation	\$1.7	\$0.7	\$2.3	25%
Infrastructure	\$0.2	\$0.1	\$0.3	3%
Sustainment	\$4.0	\$1.9	\$6.0	64%
Training and Operations	\$0.7	\$0.1	\$0.8	9%
Total*	\$6.5	\$2.9	\$9.4	100%

Source: CRS Analysis of DOD Cost of War data, July 2016, sum of obligations (inception to date) for FY2017,

Notes: * Includes \$20.3 million in detainee operations sustainment. Totals may not add due to rounding.

The President’s FY2017 OCO request, as amended, would provide \$4.3 billion to the ASFF for supporting the sustainment, operations, training, and equipping of 382,000 Afghan National Defense and Security Forces (ANDSF). This amount would comprise approximately 75% of the total required to fully fund the ANDSF for FY2017.⁸² DOD anticipates the remainder will be funded through contributions from the Afghan government (\$544 million), and international donors (\$915 million). According to the DOD budget justification materials, the request fully

⁷⁶ Testimony of Christine Abizaid, Deputy Assistant Secretary of Defense for Afghanistan, Pakistan, and Central Asia before the House Committee on Oversight and Government Reform, March 16, 2016. <https://oversight.house.gov/wp-content/uploads/2016/03/2016-03-16-DOD-Abizaid-Written-Testimony.pdf>

⁷⁷ CRS Analysis, Department of Defense Cost of War Report, July 2016.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ DOD, Enhancing Security and Stability in Afghanistan, December 2015, page 26. http://www.defense.gov/Portals/1/Documents/pubs/1225_Report_Dec_2015_-_Final_20151210.pdf

⁸¹ CRS Analysis of DOD Cost of War data, July 2016.

⁸² Justification for FY2017 Overseas Contingency Operations Afghanistan Security Forces Fund, November 2016.

funds the ANDSF at the force structure levels established in the FY2015 manning and equipment document, or *tashkil*:

- Afghan National Army: 195,000 personnel
- Afghan National Police: 157,000 personnel
- Afghan Local Police: 30,000 personnel⁸³

Despite assertions by U.S. commanders that the ANDSF have performed well under difficult combat conditions, U.S. military concerns were raised in 2015, when the Taliban inflicted heavy casualties on Afghan forces and made important—though temporary—territorial gains in northern Helmand and Kunduz.⁸⁴ In written testimony before the Senate Armed Services Committee in October 2015, General John Campbell, Commander of U.S. Forces in Afghanistan, described persistent performance shortfalls among Afghan forces and a 70% noncombat personnel attrition rate.⁸⁵ In the same month, President Obama announced a revision to the planned withdrawal of American forces from Afghanistan, noting recent gains by the Taliban.

The Administration again revised the planned drawdown in July 2016, by raising the number of U.S. troops devoted to non-combatant and counter-terrorism missions in Afghanistan to 8,400, beginning January 1, 2017. Though the number represents a small percentage of the 40,000 troops in country when President Obama first took office, it represents a significant adjustment of the administration's prior plans, which called for 2,900 fewer troops by 2017.⁸⁶

U.S. commanders assert that, after 2014, their rules of engagement have allowed for operations against Al Qaeda and associated groups, and against the Taliban and other insurgent groups if they pose an imminent threat to U.S. forces or the ANDSF and the Afghan government. As of December 2015, U.S. commanders also have authority to engage members of the Islamic State affiliate in Afghanistan.⁸⁷

Operation Inherent Resolve (Operations in Iraq and Syria against the Islamic State)

DOD estimates that \$10 billion has been spent in operations against the Islamic State since air strikes began in August 2014, amounting to an average of \$12 million per day.⁸⁸ Initially, U.S. operations primarily used OCO funds previously appropriated for FY2014. DOD also used OCO-designated FY2015 Navy O&M and Air Force O&M funds to conduct air strikes in Iraq and Syria.⁸⁹ On November 10, 2014, DOD submitted to Congress an amendment to its FY2015 OCO

⁸³ Ibid.

⁸⁴ CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by (name redacted) .

⁸⁵ Statement of General John F. Campbell, U.S. Forces Afghanistan, Before the Senate Armed Services Committee on the Situation in Afghanistan, October 6, 2015. http://www.armed-services.senate.gov/imo/media/doc/Campbell_10-06-15.pdf.

⁸⁶ White House, Statement by the President on Afghanistan, October 15, 2015. <https://www.whitehouse.gov/the-press-office/2015/10/15/statement-president-afghanistan>.

⁸⁷ CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by (name redacted) .

⁸⁸ See summary and posted “Cost of Operations” reports at Department of Defense Operation Inherent Resolve website, http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve.

⁸⁹ CRS Report RL33110, *The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11*, by (name redacted)

request for an additional \$5 billion to cover emerging requirements.⁹⁰ The FY2016 OIR operations funding level was also approximately \$5 billion.

*Iraq Train and Equip Program/Fund (ITEF)*⁹¹

DOD's continuing efforts to respond to the evolving nature of the IS threat prompted a request for \$919.5 million in FY2017. The request includes \$630 million—slightly more than the amount requested in FY2016—for the ITEF to enhance the Iraqi Security Forces' ability to liberate and secure lost territory, secure borders, protect the Iraqi population, and improve the quality of provincial and national defenses.⁹² The Administration's November 2016 amendment to the FY2017 OCO budget request added \$289.5 million to the ITEF for support to the Kurdish *peshmerga*.

Congress authorized and appropriated \$715 million for the ITEF in FY2016. Section 1223 of the FY2016 NDAA required DOD and the DOS to report on Iraqi government efforts to engage with and support all national groups in the campaign against the Islamic State.⁹³ Section 1223 also granted the President new authorities to facilitate U.S. assistance to the *peshmerga* and certain Sunni and other local security forces with an Iraqi national security mission. The section authorizes the Secretary of Defense, in coordination with the Secretary of State and “in coordination to the extent practicable with the Government of Iraq,” to provide support directly to these groups. Such support is contingent on the President determining—and notifying Congress—that the Government of Iraq has failed to

- take substantial action to increase political inclusiveness;
- address the grievances of ethnic and sectarian minorities; and
- enhance minority integration in the political and military structures in Iraq.”

The authorities in Section 1223 would allow the President to waive provisions of U.S. law that require that certain types of U.S. security assistance be provided to central government authorities rather than to subnational entities. In March 2016, DOD and DOS reported to Congress that the Government of Iraq had taken meaningful steps toward integrating minorities into military and political structures and is governing more inclusively.

In April 2016, Secretary of Defense Ashton Carter announced the Administration's intent to provide more than \$400 million in financial and in-kind assistance to the *peshmerga* in coordination with the Baghdad government. Iraqi Prime Minister Haider al Abadi, other leading Iraqi public figures, and some armed Iraqi Shia groups criticized other proposals considered in the first session of the 114th Congress because they would have authorized more broadly the provision of U.S. assistance directly to security forces other than the ISF.

The FY2017 NDAA (S. 2943/P.L. 114-328) enacted in late 2016 extended the authorization to provide funding to *peshmerga* and other forces with a “national mission” through December 31, 2018. It also extended the authorization to use Foreign Military Financing (FMF)-Overseas Contingency Operations (OCO) funds for loans usable by Iraq for U.S. arms purchases, while adding the requirement that any loan notification submitted to Congress shall include “a detailed summary of the terms and conditions of such loan and an assessment of the extent to which use of

⁹⁰ Department of Defense FY2015 Overseas Contingency Operations Budget Amendment Overview, November 2014.

⁹¹ Contributed by Christopher Blanchard and (name redacted), Specialists in Middle Eastern Affairs.

⁹² Department of Defense Justification for FY2017 Overseas Contingency Operations Iraq Train and Equip Fund.

⁹³ P.L. 114-92 and P.L. 114-113.

the proposed loan proceeds would place special emphasis on the Kurdish Peshmerga, Sunni tribal security forces, or other local security forces, with a national security mission.”

The 2017 NDAA conference report (H.Rept. 114-840) explicitly identified \$50 million of the \$969.5 million authorized for ITEF as allocated for peshmerga and Sunni tribal security forces in Iraq “for operations in Mosul.” The Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028/P.L. 114-254), enacted in December 2016, appropriated \$289.5 million to ITEF as part of OCO funding to “support counter-terrorism operations.”⁹⁴ This appropriation followed a November 2016 Administration request for the same amount in ITEF/OCO funding for “conditions-based sustainment assistance to the Kurdish Peshmerga through the Government of Iraq, including stipends and other sustainment, training, and equipment.”⁹⁵ According to the request:

This assistance is not only helping the Kurdish Peshmerga to continue the fight, but it is also responding to economic pressures faced by the Kurdistan Regional Government (KRG). Support to KRG and Peshmerga helps enable and assure their cooperation in, and contributions to, the continuing campaign against ISIL.⁹⁶

If used for the peshmerga, this \$289.5 million would presumably supplement the more than \$400 million subject to the July 2016 MOU mentioned above.

*Syria Train and Equip (STE) Program/Fund*⁹⁷

The STE program is also part of the U.S. Government’s strategy to degrade, dismantle, and ultimately defeat IS. The Administration’s request includes \$250 million to train, equip, and/or sustain appropriately-vetted Syrian forces engaged in the counter-IS fight.⁹⁸

The Obama Administration’s FY2017 request for \$250 million in defense funding for the Syria Train and Equip Fund described training, equipping, and sustaining select vetted Syrian forces as “one of the keys to successfully countering” the Islamic State.⁹⁹ Of the amount requested, \$210.8 million would support the procurement and provision of weapons, ammunition, and equipment; \$18.6 million would support lift and transportation costs; and \$20.6 million would support trainee stipends and operational sustainment. The Administration requested FY2016 funding for the program in a stand-alone account, but Congress did not appropriate specific funds to such an

⁹⁴ Division A of the Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028/P.L. 114-254) provides funding through April 28, 2017, for programs and activities which regular appropriations bills for FY2017 have not been enacted. Overseas Contingency Operations funding for the Department of Defense (DOD) and the Department of State (DOS) are provided in Division A at a rate of operations equivalent to the FY2016 appropriated level. Division B of H.R. 2028 serves as a stand-alone security assistance appropriations bill, providing \$5.8 billion for DOD and \$4.3 billion for DOS available through September 30, 2018, unless otherwise specified. Of the additional amounts provided in Division B, \$289.5 million is appropriated for the Iraq Train and Equip Fund, \$50.2 million is appropriated for the DOS Transition Initiatives, and \$1,030.5 billion is appropriated for the DOS Economic Support Fund.

⁹⁵ http://comptroller.defense.gov/Portals/45/Documents/defbudget/fy2017/amendment/FY17_OCO_Amendment_Overview_Book.pdf.

⁹⁶ Ibid.

⁹⁷ Contributed by Christopher Blanchard and (name redacted), Specialists in Middle Eastern Affairs.

⁹⁸ Department of Defense FY2017 Budget Request for Overseas Contingency Operations Syria Train and Equip Fund, February 2016.

⁹⁹ Ibid.

account and directed the department to submit reprogramming requests for FY2016 Counterterrorism Partnership Fund (CTPF) monies in order to continue the program.¹⁰⁰

In March 2016, the Obama Administration requested congressional approval to reprogram \$300 million in FY2016 CTPF funding to support the continuation of the program. The congressional defense committees approved the reprogramming action after a period of review and debate.¹⁰¹ In total, Congress has reviewed and approved Defense Department requests to reprogram more than \$1.03 billion in monies from other accounts for the program since 2014.

The FY2017 NDAA (S. 2943) extends the authorization for the program through December 31, 2018, and authorized the appropriation of funds for the program in a new \$1.16 billion “Counter-ISIL” fund to support Iraq and Syria training activities. Funding transfers for the Syria train and equip program will remain subject to the prior approval of congressional defense and appropriations committees. These requests would need to be accompanied by certifications that the Administration had developed a plan to take and hold Raqqa, Syria and to deploy numbers and types of U.S. personnel necessary to enable trained and equipped Syrian forces to defend themselves against the Islamic State and the Syrian government.¹⁰²

*European Reassurance Initiative*¹⁰³

The Obama Administration first launched the ERI in June 2014, as part of a broader U.S. response to Russia’s annexation of Ukrainian territory in March 2014.¹⁰⁴ As originally conceived, the ERI sought to “reassure” NATO allies and partners in Europe of the United States’ commitment to their “security and territorial integrity” through funding activities along lines of effort that “increase the capability, readiness, and responsiveness of NATO forces to address any threat and that aid in deterring further destabilizing activities.”¹⁰⁵ Congress provided the DOD with \$985 million in ERI funding in FY2015 and \$789.3 million in funding in FY2016.¹⁰⁶

The FY2017 OCO request included \$3.4 billion—four times the amount provided for FY2016—for the ERI. The FY2017 ERI request divided its funding between two broad funding

¹⁰⁰ Specifically, the FY2016 NDAA (P.L. 114-92) authorized \$406.45 million in funding for the fund/program, which was less than the Obama Administration’s original request for \$600 million. FY2016 defense appropriations legislation approved by the appropriations committees (H.R. 2685/ S. 1558) would have provided \$600 million for the program on different terms. The omnibus appropriations act for FY2016 (P.L. 114-113) did not appropriate funding for the Syria Train and Equip Fund, but it allows the Secretary of Defense to use funds from the Counterterrorism Partnership Fund for efforts to assist appropriately vetted elements of the Syrian opposition, if the Secretary outlines a detailed and clear plan for the use of such funds and provides such justification to the congressional defense committees in a reprogramming request. Source: Explanatory statement” accompanying the enrolled version of P.L. 114-113/H.R. 2029, as published by the House Rules Committee.

¹⁰¹ Department of Defense, Prior Approval Reprogramming Action FY16-11PA, March 17, 2016.

¹⁰² An amendment offered to the House version of the NDAA would have removed the authorization for the program and fund was considered and rejected by committee members during the markup of the bill and was not made in order for reconsideration on the House floor.

¹⁰³ Contributed by Heidi Peters, Research Librarian.

¹⁰⁴ See White House Office of the Press Secretary, “FACT SHEET: European Reassurance Initiative and Other U.S. Efforts in Support of NATO Allies and Partners,” June 3, 2014, at <https://www.whitehouse.gov/the-press-office/2014/06/03/fact-sheet-european-reassurance-initiative-and-other-us-efforts-support->

¹⁰⁵ Ibid. Lines of effort in FY2017 include increasing U.S. military force presence in Central and Eastern Europe; conducting additional bilateral and multilateral exercises and training with regional NATO allies and partners; prepositioning of combat vehicles and supplies within the territory of regional NATO allies and partners; improving regional military installation infrastructure; and building the military capacity of regional NATO allies and partners.

¹⁰⁶ Department of Defense FY2017 Budget Request, European Reassurance Initiative, February 9, 2016, p. 1.

categories—“assurance” funding intended to provide ongoing support to NATO partners and allies, and “deterrence” funding intended to fund measures intended to dissuade regional “aggressive actors,” such as Russia, from further regional destabilization or military activity.¹⁰⁷ About two-thirds of the FY2017 ERI request would be used to increase the presence in Europe of U.S. Army armored brigade combat teams (ABCTs), including

- \$507.2 million to ensure that ABCT deployments to Europe would be made on a continuous rotation schedule that would have one ABCT in the Baltic States and Poland at all times;
- \$1.8 billion to preposition in Europe the equipment of a second ABCT which could be manned by troops flown in from U.S. bases.¹⁰⁸

Other components of the FY2017 ERI request included \$163.0 million for additional training exercises with NATO allies and \$217 million for improvements to airfields and other facilities for U.S. forces deployed in Europe.

Budget Highlights by Activity

With the exception of noticeable increases in funding for the ERI and in-theater support activities, there is little change in the FY2017 budget request from the FY2016 enacted budget for OCO. See **Table 7** for a breakdown of activities funded. For FY2017, the President’s Budget requested no additional funding for the OCOTF.¹⁰⁹

Table 7. DOD OCO Budget Request

billions of dollars

Activity	FY2016 Enacted	FY2017 Request	FY2017 Amended Request	Change from FY2016 to FY2017 Amended Request
Operations/Force Protection	\$8.8	\$8.6	\$11.4	\$2.6
In-theater Support	\$14.8	\$17.0	\$18.3	\$3.5
Joint Improvised-Threat Defeat Fund	\$0.4	\$0.4	\$0.5	\$0.1
Afghanistan Security Forces Fund	\$3.6	\$3.4	\$4.2	\$0.6
Support for Coalition Forces	\$1.4	\$1.4	\$1.4	\$0.0
Iraq Train and Equip Fund	\$0.7	\$0.6	\$0.9	\$0.2
Syria Train and Equip Fund	\$0.0	\$0.3	\$0.3	\$0.3
Equipment Reset and Readiness	\$10.1	\$9.4	\$9.5	-\$0.6
Classified Programs	\$8.1	\$8.1	\$8.5	\$0.4
Counterterrorism Partnership Fund	\$1.1	\$1.0	\$1.0	-\$0.1
European Reassurance Initiative	\$0.8	\$3.4	\$3.4	\$2.6
National Guard and Reserve Equipment/Military Readiness	\$1.5	\$0.0	\$0.0	-\$1.5

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Department of Defense Budget Fiscal Year FY2017: Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund, February 2016, p. 1.

Activity	FY2016 Enacted	FY2017 Request	FY2017 Amended Request	Change from FY2016 to FY2017 Amended Request
Prior-Year Rescissions ^a	-\$0.4	—	—	n/a
Bipartisan Budget Act of 2015 Compliance ^b	\$7.7	\$5.2	\$5.1	-\$2.6
Total	\$58.6	\$58.8	\$64.6	\$6.0

Source: Department of Defense Fiscal Year 2017 Budget Request Overview, Office of the Under Secretary of Defense (Comptroller)/CFO, Figure 7.3, February 9, 2016, and Department of Defense Fiscal Year 2017 Budget Request Overview, Overseas Contingency Operations Budget Amendment, Office of the Under Secretary of Defense (Comptroller)/CFO, Figure 4, November 10, 2016.

Notes: Totals may not add due to rounding

- a. From FY2015 Afghanistan Security Assistance Fund.
- b. Additional funding provided in accordance with non-binding level set by BBA.

Operations/Force Protection

The amended request for FY2017 included \$11.4 billion in OCO for the incremental cost of U.S. operations and force protection associated with OFS and OIR. These funds would cover expenses such as

- subsistence and life support for deployed forces;
- pay for reserve and guard personnel who have been mobilized;
- deployment-related special payments to personnel, such as imminent danger pay;
- operating expenses, such as fuel and maintenance for equipment, vehicles and aircraft;
- pre-deployment training focused on an OCO-funded mission;
- transportation cost to sustain and support the forces, to include the return of U.S. equipment from Afghanistan; and
- additional personal protective equipment, such as body armor.

In-Theater Support

The amended request included \$18.3 billion for In-Theater Support: the incremental cost of U.S. forces located outside Afghanistan and Iraq—including air and naval forces—that contribute to the missions of forces in those countries.¹¹⁰ It also included funding for some supporting activities operating from the United States (such as remotely piloted aircraft and reach-back intelligence, surveillance, and reconnaissance (ISR) capabilities).¹¹¹ In addition, the original In-Theater Support request included \$5.0 million for Commander’s Emergency Response Program.

This category includes \$85.0 million for the Office of Security Cooperation-Iraq (OSC-I) whose long-term goal is to build partnership capacity in the Iraqi Security Forces. OSC-I conducts traditional security cooperation activities such as joint exercise planning and combined arms

¹¹⁰ Department of Defense Fiscal Year 2017 Budget Request Overview, February 9, 2016, p. 7-4.

¹¹¹ Ibid.

training. It also conducts counterterrorism training, logistic capacity building, and intelligence integration in support of the Iraqi Security Forces.¹¹²

Counterterrorism Partnerships Fund

The FY2017 request of \$1.0 billion for the Counterterrorism Partnership Fund would continue the President’s initiative to support counterterrorism efforts by other governments in Africa and the Middle East. Of that total, \$450 million would go to U.S. Africa Command and \$550 million would go to U.S. Central Command.¹¹³

*Military Construction*¹¹⁴

Over the past decade, the Administration has submitted appropriations requests for OCO military construction funding ranging from a high of more than \$2.4 billion for FY2008 to under \$200 million in the past few years. The FY2017 OCO request included \$172.4 million for military construction, of which \$38.4 million was for the planning and design of a medical/dental clinic in Camp Lemmonier, Djibouti. This funding was identified as a base requirement that was moved to OCO by the Department (for more information, see “Contingency Operations Funding in the DOD Base Budget”).¹¹⁵

Over the past six years, the emphasis in OCO military construction has swung from the U.S. Central Command (CENTCOM) area of responsibility (primarily Afghanistan, Iraq, and the Persian Gulf region) to Africa Command (AFRICOM, Djibouti and nearby states) and European Command (EUCOM, principally eastern Europe and the Baltic States). This shift reflects the end of ground combat in CENTCOM’s area of responsibility and tensions have risen along Russia’s western border. While construction early in the shift to EUCOM was devoted to the creation of missile defense facilities in Romania and Poland, construction since 2015 and funding for FY2016 and FY2017 have been devoted to the European Reassurance Initiative. **Table 8** illustrates this shift in emphasis.

Table 8. OCO Construction Projects: Geographic Distribution

percentage of OCO Construction Appropriation, selected years

	FY2011	FY2013	FY2017
CENTCOM	100%	15%	0%
AFRICOM	0%	28%	35%
EUCOM	0%	57%	65%

Source: CRS analysis of Department of Defense budget justification documentation, various years.

*Classified Activities*¹¹⁶

The \$8.5 billion amended request for “Classified Programs,” included a number of defense-related activities such as the research and development of weapons systems, special operations,

¹¹² Ibid.

¹¹³ Ibid, p.7-6.

¹¹⁴ Contributed by Daniel Else, Specialist in National Defense.

¹¹⁵ DOD response to CRS Request for Information, April 13, 2016. Available from author.

¹¹⁶ Contributed by Anne D. Miles, Analyst in Intelligence and National Security Policy.

and intelligence. Those appropriated for intelligence-related activities may be related to either the National Intelligence Program (NIP), which covers the programs, projects, and activities of the Intelligence Community (IC) oriented towards the strategic needs of decision makers, or the (2) the Military Intelligence Program (MIP), which funds defense intelligence activities intended to support tactical military operations and priorities.

The NIP is an aggregation of 14 capabilities-based programs that span the entire IC, such as cryptology, reconnaissance, and signals collection that include several IC components. The NIP funds the Central Intelligence Agency and the strategic-level intelligence activities associated with the National Security Agency, Defense Intelligence Agency and National Geospatial-Intelligence Agency. It also funds Secure Compartmented Intelligence Communications throughout the IC.

MIP spending is confined to those IC components that fall within the DOD. A program is primarily MIP if it funds an activity that addresses a unique DOD requirement. Additionally, MIP funds may be used to “sustain, enhance, or increase capacity/capability of NIP systems.” The Director of National Intelligence (DNI) and the Under Secretary of Defense for Intelligence [USD(I)] work to facilitate the “seamless integration” of NIP and MIP intelligence efforts. Mutually beneficial programs may receive both NIP and MIP resources.

Only the NIP and MIP aggregate (or “topline”) figures are disclosed annually. For FY2017, the DNI’s NIP request was \$53.5 billion and the USD(I)’s MIP request was \$16.8 billion. These aggregate numbers are reported to include OCO dollars; however, the base and OCO distribution percentage of NIP and MIP funds is classified.¹¹⁷

Bipartisan Budget Act of 2015 Compliance

The FY2017 DOD OCO request includes \$5.1 billion in funding labeled as “Bipartisan Budget Act of 2015 Compliance.” According to the DOD Comptroller, the amount specified for FY2017 OCO in the BBA was \$5.1 billion more than anticipated for operations.¹¹⁸ DOD would use the additional funding to cover requirements that are not directly related to on-going contingency operations such as:

- O&M for training, depot maintenance, base operating support, and drug interdiction/counter-drug activities;
- Procurement of
 - Munitions such as Hellfire air-to-surface missiles, Small Diameter Bombs, Joint Direct Attack Munitions, and Maverick air-to-ground tactical missiles;
 - Explosive ordnance disposal equipment;
 - Aircraft modifications/upgrades for SH-60 and H-1 helicopters, as well as remanufacture of AH-64 helicopters; and
- Planning and design of a medical/dental facility at Camp Lemmonier, Djibouti.

¹¹⁷ For NIP and MIP aggregate numbers from 2007-2017, see yearly press releases available at dni.gov and defense.gov and CRS Report R44381, *Intelligence Community Spending: Trends and Issues*, by (name redacted).

¹¹⁸ Under Secretary of Defense (Comptroller) briefing to Congressional staff, February 9, 2016.

Contingency Operations in Base Budget

The President's FY2107 budget request included \$1.6 billion for contingency operations funded in the base budget.¹¹⁹ These activities are not designated as emergency or OCO/GWOT and are subject to the BCA limits.

Table 9. DOD FY2017 Base and OCO Contingency Operations in Base Budget
dollars in millions

Activity	Base Enacted FY2016	OCO Enacted FY2016	Total Enacted FY2016	Base Request FY2017	OCO Request FY2017	Total Request FY2017
NATO Support in Bosnia	\$7.3	—	\$7.3	\$7.0	—	\$7.0
NATO Support in Kosovo	\$112.0	—	\$112.0	\$87.2	—	\$87.2
Joint Task Force Bravo	\$33.0	—	\$33.0	\$30.0	—	\$30.0
OEF-Trans Sahara	\$90.0	\$7.0	\$97.0	\$76.1	\$7.0	\$83.2
OEF-Horn of Africa	\$302.4	\$791.2	\$1,093.4	\$59.0	\$1,154.3	\$1,213.1
Operation Noble Eagle	\$104.0	—	\$104.0	\$110.0	—	\$110.0
Operation Observant Compass	\$22.3	—	\$22.3	\$23.0	—	\$23.0
Total	\$671.0	\$798.2	\$1,469.2	\$392.3	\$1,166.7	\$1,553.6

Source: Department of Defense Budget Fiscal Year 2017: Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund, February 2016

FY2017 Department of State/USAID OCO Request

The FY2017 SFOPs appropriations request was significantly higher (\$14.9 billion) than SFOPs OCO spending in prior years. The Administration request and House and Senate SFOPs bills all called for \$14.9 billion in OCO funds for FY2017, which was level with the FY2016 OCO funding but represented an increase of 59% from the FY2015 funding.

In addition to the \$14.89 billion, on November 10, 2016, the Administration submitted to Congress an amended request that included an additional \$5.8 billion for the DOS OCO accounts, primarily to counter IS and fund various related expenses. They included additional funds for diplomatic engagement to support the strategy to counter ISIS, security assistance, and emergency humanitarian needs.

The BBA and the State/Foreign Operations Budget Request for FY2017

When comparing the FY2015 SFOPS request with the FY2017 amended request, the foreign affairs base budget decreased by 11%, and the foreign affairs OCO budget increased by 165%—thereby meeting the budgetary caps without reducing overall foreign affairs funding.¹²⁰ Because of the two-year budget agreement in the BBA, a shifting of foreign affairs appropriations from regular to OCO accounts seems to be occurring again in FY2017.

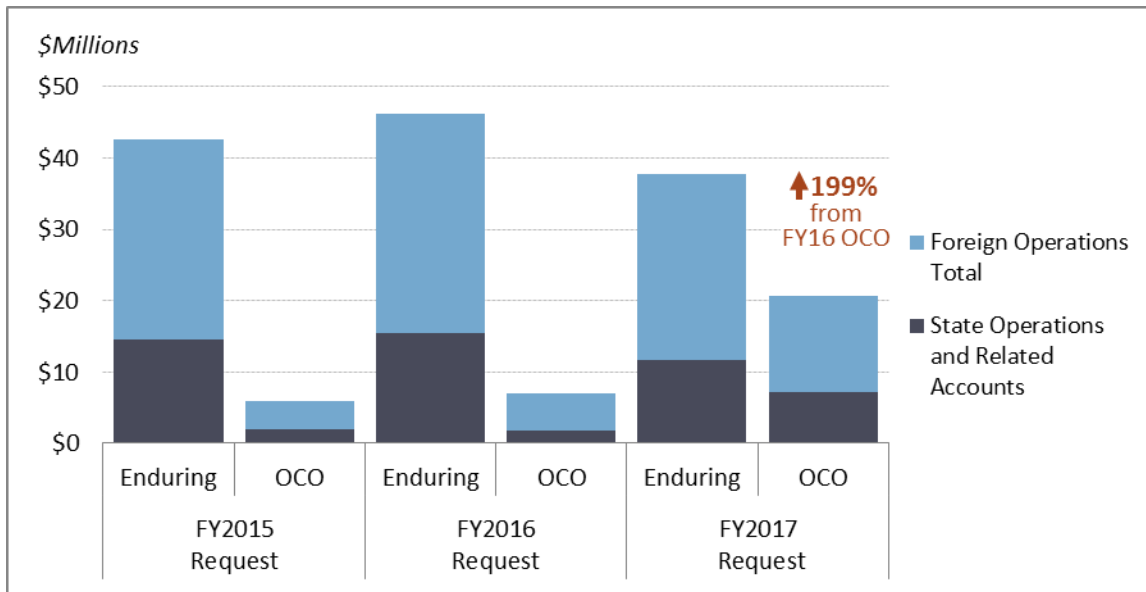
¹¹⁹ Department of Defense Budget Fiscal Year 017: Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund, February 2016.

¹²⁰ The FY2015 request was submitted before the BBA was enacted and the FY2017 request reflects the agreed-to funding levels within the BBA in order to meet the adjusted BCA caps.

With the BBA setting a \$14.9 billion nondefense OCO minimum—more than double the Administration’s FY2015 and FY2016 OCO requests—the Administration appears to have labelled some previously considered “enduring” requirements in the FY2015 and FY2016 requests as OCO for FY2017 (see **Figure 10**). For example, the FY2017 request for State Department Operations and Related Accounts enduring funds declined by \$3-4 billion compared to the FY2015 and FY2016 requests, while the FY2017 OCO request increased by a comparable amount.

Figure 10. Funding for Department of State, Foreign Operations, and Related Programs: Enduring vs. OCO

dollars in billions



Source: Congressional Budget Justification, Foreign Operations Summary Tables, FY2015-FY2017.

Note: Includes November 2016 amendment to FY2017 OCO budget request.

Funding requests for International Organizations showed a similar transfer of funds in the FY2017 request, as did Foreign Operations funding overall, and more specifically Bilateral Economic Assistance and International Security Assistance. See **Table 10** below.

Table 10. Department of State, Foreign Operations, and Related Programs, Enduring vs. OCO Requests, FY2015, FY2016, and FY2017, Select Accounts

dollars in millions

	FY2015 Request		FY2016 Request		FY2017 Request	
	Enduring	OCO	Enduring	OCO	Enduring	OCO
State Operations and Related Accounts	\$14.6	\$2.0	\$15.5	\$1.8	\$11.6	\$5.3
Administration of Foreign Affairs	\$9.6	\$1.9	\$10.0	\$1.7	\$8.5	\$3.4
International Organizations	\$4.0	\$0.2	\$4.5	\$0.2	\$2.1	\$1.8

	FY2015 Request		FY2016 Request		FY2017 Request	
Foreign Operations Total	\$27.9	\$3.9	\$30.6	\$5.2	\$26.1	\$9.6
Bilateral Economic Assistance	\$16.5	\$2.8	\$17.9	\$3.8	\$15.0	\$7.5
International Security Assistance	\$6.8	\$1.0	\$7.3	\$1.3	\$6.2	\$1.9

Source: Congressional Budget Justification, Foreign Operations Summary Tables (see Table I in each of FY2015, FY2016, and FY2017 documents).

Note: In FY2016 and FY2017 Summary Tables, “State Operations and Related Accounts” are referred to as “Diplomatic Engagement and Related Accounts.”

The \$20.7 billion in the amended FY2017 OCO request are to “provide support to, respond to, recover from, or prevent crises abroad, including armed conflict, as well as human-caused and natural disasters.”¹²¹ Specifically, the Department of State (DOS) request included funding to

- contribute to peacekeeping and special political missions;
- shield allies and partners from potential threats;
- aid Afghanistan and Pakistan;
- increase efforts to destroy the Islamic State and confront and recover from other crises in the Middle East and Africa;
- support the U.S. strategy to counter ISIS;
- provide aid for populations affected by ISIS and for refugees; and
- sustain security programs and embassy construction at high risk posts.¹²²

In its FY2017 budget justification documents, DOS included a request that the BCA caps be further increased:

While the Department welcomes the revised budget levels set by the Bipartisan Budget Act, shifts in funding for FY2016 and FY2017 result in OCO funding covering greater than 50 percent of select ongoing programs. The FY2017 President’s Budget assumes that further adjustments to the Budget Control Act’s discretionary spending limits will be needed to sustain these activities in FY2018. To mitigate perceptions that some of our core programs, including ongoing assistance to key partners such as Iraq and Afghanistan, our UN treaty commitments, and security and humanitarian responsibilities, are ‘temporary’ contingencies, the Department’s enduring funding for ongoing operations must remain at a sustainable level as we move into FY2018.¹²³

As Congress considered the FY2017 federal budget, the authorization and appropriation of OCO funding for FY2017 was central to the policy debate. Matters considered by Congress included

- the potential risk to national security if the full funding requirements to adequately support and sustain the force are masked by the use of OCO funding for such purposes;

¹²¹ Congressional Budget Justification: Department of State, Foreign Operations and Related Programs, Fiscal Year 2017; <http://www.state.gov/documents/organization/252179.pdf>

¹²² Ibid.

¹²³ Ibid.

- the effectiveness of deficit reduction measures if the increased use of OCO funding for a widening variety of purposes is allowed to continue;
- the budget instability for essential programs across all federal agencies caused by the potential for a precipitous reduction or elimination of OCO appropriations.

Congressional Action on the FY2017 OCO Request

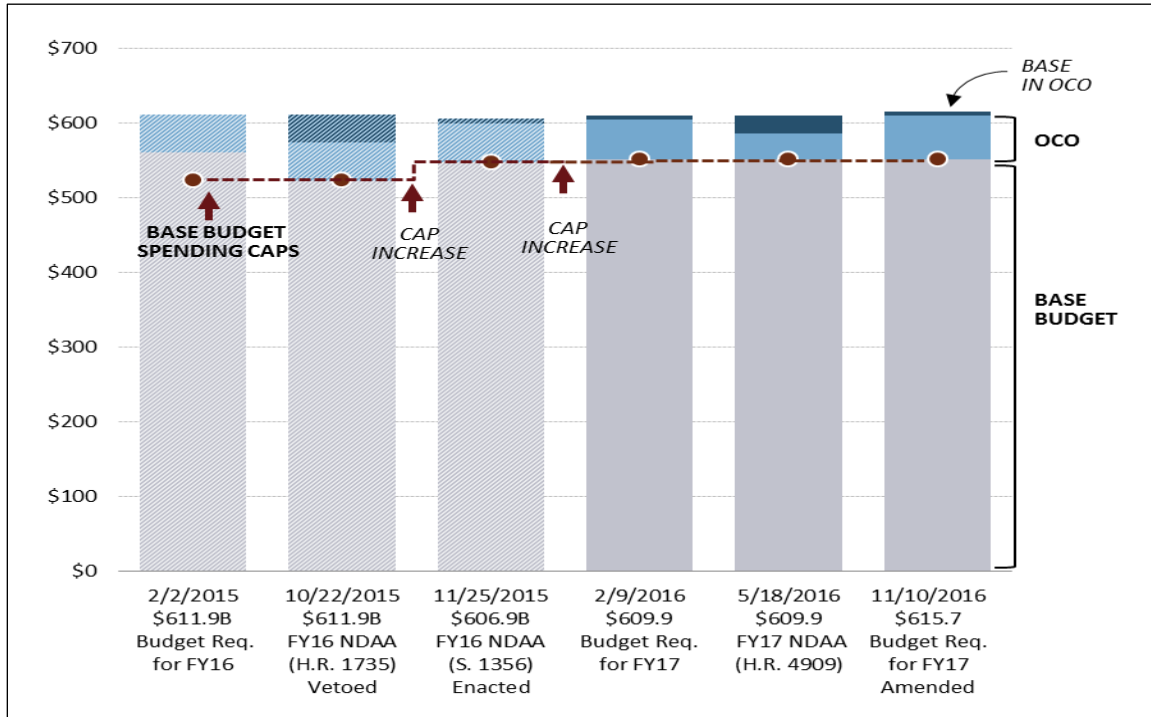
On March 23, 2016, the House Budget Committee reported the 2017 House Budget Resolution (H.Con.Res. 125), which assumes \$551.1 billion in discretionary authority in compliance with the BBA and designates \$73.7 billion for OCO, with the stated assumption that \$23.0 billion in OCO funding would be dedicated to base defense requirements (H.Rept. 114-470). If the House Budget Committee's proposals were to be adopted without further amendment by Congress, the resolution would provide a discretionary base budget at the level of the \$574.0 billion marker set by the 2015 negotiations.

DOD OCO Request and the FY2017 NDAA

On April 27, 2016, the HASC favorably reported H.R. 4909, the NDAA for FY2017. The measure designated \$18.0 billion in funding requested by the President Obama for DOD base budget requirements as OCO (see **Figure 11**). Such designation effectively exempts funding from being counted against the BCA spending caps. Section 1501 of H.R. 4909, as agreed to in the House, designated these amounts for OCO and also directed apportionment of the funds without application of existing OCO criteria. This addition of base requirements to the OCO authorization was offset by a corresponding reduction of authorized funding for contingency operations, and provided no increase to the total amount of OCO. Furthermore, the amounts authorized for certain accounts – such as operation and maintenance (O&M) and military personnel – would only be available through April 30, 2017, under the provisions of the House bill.

The House adopted the NDAA (H.R. 4909) by a vote of 277-147 on May 18, 2016, without amendment to the HASC OCO recommendations. The House appropriators generally followed the HASC in H.R. 5293, which was agreed to by the House on June 16, 2016, by a vote of 282-138. The Senate, however, held closely to the President's budget request for OCO and did not increase the amount of OCO funding designated for base budget requirements in either the Senate-passed NDAA (S. 2943) or the Senate committee-passed defense appropriations bill (S. 3000).

Figure 11. H.R.4909: FY2017 National Defense Authorization Act
as agreed to in the House, May 18, 2016; dollars in billions



Source: P.L. 114-74, H.R. 1735, National Defense Budget Estimates for FY2016, “Green Book”, Table I-9, National Defense Budget Estimates for FY2017, “Green Book”, Table I-9, and H.R. 4909, as agreed to by the House, May 18, 2016, and the FY2017 Overseas Contingency Operations Budget Amendment.

On November 10, 2016, the Administration provided Congress an amendment to the FY2017 OCO budget request, increasing the request by \$11.6 billion (\$5.8 billion for DOD and \$5.8 billion for DOS/USAID). This boosted the total FY2017 OCO request from an original request of \$73.7 billion to an amended request of \$85.3 billion. The budget amendment did not make any changes to the base budget request, nor did it request any additional funding in the OCO accounts for base budget purposes.

The House and Senate NDAA conference committee concluded its work on S. 2943 in early December 2016. The enacted FY2017 NDAA (P.L. 114-328) includes funding requested in the November 2016 amendment to the FY2017 OCO budget request, authorizing a total of \$67.8 billion in OCO funding for DOD. However, the House position regarding the use of OCO for base budget purposes was largely rejected. Instead of providing \$23.1 billion in OCO for base budget purposes, S. 2943 allocates \$8.3 billion in OCO-designated funding for base requirements—\$5.2 billion stemming from the Administration’s request and \$3.2 billion added by Congress during the conference negotiations on S. 2943.¹²⁴

¹²⁴ For more information on the FY2017 NDAA conference outcome see CRS Report R44497, *Fact Sheet: Selected Highlights of the FY2017 National Defense Authorization Act (H.R. 4909, S. 2943)*, by (name redacted) and (name redacted)

Table 11. FY2017 NDAA: DOD OCO and OCO for Base Requirements

dollars in millions

	February 2016 Budget Request		H.R. 4909			November 2016 OCO Amendment		NDAA Conference Agreement	
	OCO	OCO for Base	OCO	OCO for Base	OCO	OCO	OCO for Base	OCO	OCO for Base
Procurement	\$8,226.5	\$1,287.9	\$7,043.1	\$10,782.2	\$9,504.1	\$8,614.2	\$1,287.9	\$8,704.9	\$1,918.6
RDT&E	\$336.1	\$38.0	\$336.1	\$452.1	\$374.2	\$478.3	\$38.0	\$478.3	\$38.0
O&M	\$39,860.2	\$3,604.7	\$24,629.2	\$9,186.9	\$43,097.8	\$44,957.9	\$3,604.7	\$45,516.4	\$4,881.1
MILPERS	\$3,499.3	\$62.9	\$2,199.6	\$2,622.6	\$3,562.3	\$3,644.2	\$62.9	\$3,644.2	\$1,350.5
Other ^b	\$1,399.9	\$23.8	\$1,399.9	\$23.8	\$2,179.8	\$1,688.5	\$23.8	\$1,038.5	\$23.8
Military Construction	\$134.0	\$38.4	\$133.6	\$38.4	—	\$134.0	—	\$133.6	—
Total	\$53,742.2	\$5,055.8	\$35,741.5	\$23,052.0	\$58,890.6	\$59,517.2	\$5,055.8	\$59,516.0	\$8,250.4
Grand Total		\$58,798.0		\$58,793.5	\$58,890.6		\$64,573.0		\$67,766.4

Sources: H.Rept. 114-537 to accompany H.R. 4909, S.Rept. 114-255 to accompany S. 2943, and the FY2017 NDAA Conference Report (H.Rept. 114-840).

Notes: Numbers may not add due to rounding.

- a. S.Rept. 114-255 does not distinguish between OCO and OCO for base requirements.
- b. Includes funding associated with accounts such as the Defense Health Program; the Joint IED Defeat Fund; and the Defense Working Capital Fund.

FY2017 Continuing Resolutions (CR)

Congress passed and the President signed H.R. 5325 (P.L. 114-223), the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act, in absence of an agreement on most FY2017 appropriations measures before the start of the fiscal year. Division C of H.R. 5325 is termed *continuing resolution* (CR) which provided funding through December 9, 2016, for programs and activities typically covered by regular appropriations bills—including the Department of Defense (DOD). H.R. 5325 provided for OCO funding at the rate at which it was funded in FY2016.

On December 12, 2016, the Further Continuing and Security Assistance Appropriations Act, 2017 (H.R. 2028/P.L. 114-254) was enacted, extending the CR to April 28, 2017. Division B of H.R. 2028 also provided supplemental appropriations for DOD and DOS/USAID security assistance activities. Title I of Division B of H.R. 2028 provides \$5.8 billion in additional OCO budget authority for DOD and Title II provides \$4.3 billion for State, Foreign Operations and Related programs

DOD OCO Funding and the CR

The \$5.8 billion provided for DOD OCO generally aligns with the President's November 2016 budget amendment. However, H.R. 2028 (P.L. 114-254) provides \$652.3 million for activities related to the European Reassurance Initiative (approximately one-half of the amounts requested for O&M and military personnel) and a similar portion – approximately one-half – of procurement funding requested for certain missiles and ammunition. See **Table 12**.

Table 12. Security Assistance Appropriations Act, 2017: DOD

H.R. 2028, Division B, Title I (dollars in millions)

Account	Nov 2016 Budget Amendment Increase	H.R. 2028 Counter-terrorism Operations	H.R. 2028 European Reassurance Initiative	H.R. 2028 Total
Military Personnel				
Army	\$94.0	\$94.0	\$102.9	\$197.0
Navy	\$7.4	\$7.4	\$3.1	\$10.5
Air Force	\$37.6	\$37.6	\$14.2	\$51.8
Marine Corps	\$5.8	\$5.8	—	\$5.8
Operation and Maintenance				
Army	\$2,934.3	\$2,735.0	\$438.7	\$3,173.7
Navy	\$95.5	\$95.5	\$2.4	\$97.9
Air Force	\$382.5	\$382.5	\$45.6	\$428.0
Marine Corps	\$168.4	\$168.4	\$12.1	\$180.5
Defense-wide	\$413.0	\$413.0	\$33.3	\$446.3
Procurement				
Missile Procurement, Army	\$46.5	\$229.1	—	\$229.1
Other Procurement, Army	\$98.5	\$72.0	—	\$72.0
Procurement of Ammunition, Air Force		\$201.6	—	\$201.6
Missile Procurement, Air Force		\$83.9	—	\$83.9
Other Procurement, Air Force	\$137.9	\$137.9	—	\$137.9
RDT&E				
RDT&E, Army	\$139.2	\$78.7	—	\$78.7
RDT&E, Defense-Wide	\$3.0	\$3.0	—	\$3.0
Other				
Joint Improvised Explosive Device Defeat Fund	\$99.8	\$87.8	—	\$87.8
Iraq Train and Equip Fund	\$289.5	\$289.5	—	\$289.5
Total, DOD	\$5,775.0	\$5,122.7	\$652.3	\$5,775.0

Source: H.R. 2028 (P.L. 114-254).**Note:** All amounts appropriated are designated for OCO/GWOT pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 and are not subject to the BCA caps.

SFOPS OCO Funding and the CR

Title II of Division B of the second CR (H.R. 2028/P.L. 114-254) provides \$4.3 billion in additional OCO funds for State, Foreign Operations and Related programs. A comparison of the additional amounts requested by the Administration in its amendment of November 10, 2016, and those provided by Congress are shown in **Table 13**. Note that some amounts are available until the end of FY2017, while others are available until expended.

Table 13. Security Assistance Appropriations Act, 2017: SFOPS

H.R. 2028, Division B, Title II (dollars in millions)

Account	Nov 2016 Budget Amendment Increase	H.R. 2028	Time of funding availability
D&CP	\$746.2	\$1,052.4	September 30, 2018
OIG/State	\$2.5	\$2.5	September 30, 2018
ESCM	\$1,024.0	\$654.4	until expended
MRA	\$260.4	\$300.0	until expended
INCLE	\$19.3	\$26.3	September 30, 2018
ESF	\$2,460.4	\$1,030.6	September 30, 2018
PKO	\$90.0	\$50.0	September 30, 2018
FMF	—	\$200.0	September 30, 2018
NADR	\$128.0	\$128.0	September 30, 2018
IDA	\$953.2	\$616.1	until expended
OE/USAID	\$15.0	\$5.0	September 30, 2018
TI	\$73.5	\$50.2	until expended
IG/USAID	\$2.5	\$2.5	September 30, 2018
CIF/USAID	—	\$25.0	until expended
AEECA	—	\$157.0	September 30, 2018
Total	\$5,775.0	\$4,300.0	

Source: Letter from the Executive Office of the President, Office of Management and Budget, *Amendments to the FY2017 Budget*, November 10, 2016, and P.L. 114-254, Div. B, Title II.

Notes: D&CP = Diplomatic and Consular Programs; OIG/State = State Department Office of Inspector General; ESCM = Embassy Security, Construction, and Maintenance; MRA = Migration and Refugees Assistance; INCLE = International Narcotics Control and Law Enforcement; ESF=Economic Support Fund; PKO = Peacekeeping Operations; FMF=Foreign Military Financing; NADR=Nonproliferation, Anti-terrorism, Demining and Related Programs; IDA=International Disaster Assistance; OE/USAID=USAID Operating Expenses; TI = Transition Initiatives; IG/USAID=USAID Inspector General; CIF/USAID=Capital Investment Fund/USAID; AEECA = Assistance for Europe, Eurasia and Central Asia.

All amounts appropriated are designated for OCO/GWOT pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 and are not subject to the BCA caps.

Appendix A. Designation of Funds as Emergency or for Overseas Contingency Operations

The designation of funds as “emergency” or for “overseas contingency operations” is governed by several statutes as well as Office of Management and Budget (OMB) guidance and the DOD Financial Management Regulation. For more information on the federal budget process see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by (name redacted) .

The Balanced Budget and Emergency Deficit Control Act (BBEDCA) of 1985

BBEDCA, as amended, includes the statutory definitions of “emergency” and “unanticipated” requirements as they related to budget enforcement through sequestration. The act also allows for appropriations to be designated by Congress and the President as “emergency” or “for Overseas Contingency Operations.” Such appropriations are effectively exempt from the statutory discretionary spending limits.

Balanced Budget and Emergency Deficit Control Act (2 U.S.C. §900) Definitions

- (20) The term “emergency” means a situation that-
- (A) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and
 - (B) is unanticipated.
- (21) The term "unanticipated" means that the underlying situation is-
- (A) sudden, which means quickly coming into being or not building up over time;
 - (B) urgent, which means a pressing and compelling need requiring immediate action;
 - (C) unforeseen, which means not predicted or anticipated as an emerging need; and
 - (D) temporary, which means not of a permanent duration.

Notes: As amended by the Budget Control Act of 2011 (P.L. 112-25).

Balanced Budget and Emergency Deficit Control Act (2 U.S.C. §901) Enforcing Discretionary Spending Limits

- (a) Enforcement
- (1) Sequestration
Within 15 calendar days after Congress adjourns to end a session there shall be a sequestration to eliminate a budget-year breach, if any, within any category.
 - (2) Eliminating a breach
Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.
- ...
- (b) Adjustments to discretionary spending limits

(1) Concepts and definitions

When the President submits the budget under section 1105 of title 31, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions, minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate, and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

(2) Sequestration reports

When OMB submits a sequestration report under section 904(e), (f), or (g) of this title for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31 shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year, as follows:

(A) Emergency appropriations; overseas contingency operations/global war on terrorism

If, for any fiscal year, appropriations for discretionary accounts are enacted that -

- (i) the Congress designates as emergency requirements in statute on an account by account basis and the President subsequently so designates, or
- (ii) the Congress designates for Overseas Contingency Operations/Global War on Terrorism in statute on an account by account basis and the President subsequently so designates, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements or for Overseas Contingency Operations/Global War on Terrorism, as applicable.

...

Notes: As amended by the Budget Control Act of 2011 (P.L. 112-25).

Title 10, United States Code—Armed Forces

10 U.S.C. §101—Definitions

Section 101 provides definitions of terms applicable to Title 10. While it does not define “overseas contingency operations”, it does include a definition of a “contingency operations.”

10 U.S.C. §101- Definitions

(13) The term “contingency operation” means a military operation that-

(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of this title, chapter 15 of this title, section 712 of title 14, or any other provision of law during a war or during a national emergency declared by the President or Congress.

10 U.S.C. §127a—Operations for which funds are not provided in advance: funding mechanisms

Section 127 provides the Secretary of Defense with authority to transfer funds appropriated for certain operations to established DOD accounts in order to reimburse those accounts for the incremental expenses incurred in the conduct of such an operation. This section specifies the criteria for covered operations and establishes thresholds for applicability of the authority based on the expected incremental costs of the operation.

10 USC §127a - Operations for which funds are not provided in advance: funding mechanisms

(a) In General.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed \$50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of \$100,000,000. Any operation the incremental cost of which is expected not to exceed \$10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) Waiver of Requirement To Reimburse Support Units.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) Transfer Authority.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is \$200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

[(d) Repealed. Pub. L. 108-136, div. A, title X, §1031(a)(3), Nov. 24, 2003, 117 Stat. 1596 .]

(e) Limitations.- (1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(f) Submission of Requests for Supplemental Appropriations.-It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) Incremental Costs.-For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) Relationship to War Powers Resolution.-This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO Compliance Reviews.-The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

Title 22, United States Code—Foreign Relations and Intercourse

22 U.S.C. §2421f—Sustainability requirements for certain capital projects in connection with overseas contingency operations

Subsection (e) includes the definition of an “overseas contingency operation” as it relates to this section. The subsection cross-references the term “contingency operation” defined in 10 U.S.C. 101(a)(13) but adds a qualifier that it be “a military operation outside the United States and its territories and possessions....”

22 U.S.C. §2421f - Sustainability requirements for certain capital projects in connection with overseas contingency operations

(a) Limitation - (1) In general

Commencing 60 days after January 2, 2013-

(A) amounts authorized to be appropriated for the Department of Defense may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project;

(B) amounts authorized to be appropriated for the Department of State may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of State, in consultation with the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project; and

(C) amounts authorized to be appropriated for the United States Agency for International Development may not be obligated or expended for a capital project described in subsection (b) unless the Administrator of the United States Agency for International Development, in consultation with the Mission Director and the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project.

(2) Elements

Each assessment on a capital project under this subsection shall include, but not be limited to, the following:

(A) An estimate of the total cost of the completed project to the United States.

(B) An estimate of the financial and other requirements necessary for the host government to sustain the project on an annual basis after completion of the project.

(C) An assessment whether the host government has the capacity (in both financial and human resources) to maintain and use the project after completion.

(D) A description of any arrangements for the sustainment of the project following its completion if the host government lacks the capacity (in financial or human resources) to maintain the project.

(E) An assessment whether the host government has requested or expressed its need for the project, and an explanation of the decision to proceed with the project absent such request or need.

(F) An assessment by the Secretary of Defense, where applicable, of the effect of the project on the military mission of the United States in the country concerned.

(b) Covered capital projects- (1) In general

Except as provided in paragraph (2), a capital project described in this subsection is any capital project overseas for an overseas contingency operation for the benefit of a host country and funded by the Department of Defense, the Department of State, or the United States Agency for International Development, as applicable, if the capital project-

(A) in the case of a project that directly supports building the capacity of indigenous security forces in the host country, has an estimated value in excess of \$10,000,000;

(B) in the case of any project not covered by subparagraph (A) that is to be funded by the Department of State or the United States Agency for International Development, has an estimated value in excess of \$5,000,000; or

(C) in the case of any other project, has an estimated value in excess of \$2,000,000.

(2) Exclusion

A capital project described in this subsection does not include any project for military construction (as that term is defined in section 114(b) of title 10) or a military family housing project under section 2821 of such title.

(c) Waiver - The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development, as applicable, may waive the limitation in subsection (a) in order to initiate a capital project if such Secretary or the Administrator, as the case may be, determines that the project is in the national security, diplomatic, or humanitarian interests of the United States. In the first report submitted under subsection (d) after any waiver under this subsection, such Secretary or the Administrator shall include a detailed justification of such waiver. Not later than 90 days after issuing a waiver under this subsection, such Secretary or the Administrator shall submit to the appropriate committees of Congress the assessment described in subsection (a) with respect to the capital project concerned.

(d) Semi-annual reports - (1) In general

Not later than 30 days after the end of any fiscal-year half-year in which the Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development conducts an assessment under subsection (a), such Secretary or the Administrator, as the case may be, shall submit to the appropriate committees of Congress a report setting forth each assessment so conducted during such fiscal-year half-year, including the elements of each capital project so assessed specified in subsection (a)(2).

(2) Additional elements

In addition to the matters provided for in paragraph (1), each report under that paragraph shall include the following:

(A) For each capital project covered by such report, an evaluation (other than by amount of funds expended) of the effectiveness of such project, including, at a minimum, the following:

(i) The stated goals of the project.

(ii) The actions taken to assess and verify whether the project has met the stated goals of the project or is on track to meet such goals when completed.

(iii) The current and anticipated levels of involvement of local governments, communities, and individuals in the project.

(B) For each country or region in which a capital project covered by such report is being carried out, an assessment of the current and anticipated risks of corruption or fraud in connection with such project.

(3) Form

Each report shall be submitted in unclassified form, but may include a classified annex.

(e) Definitions - In this section:

(1) The term "appropriate committees of Congress" means-

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term "capital project" has the meaning given that term in section 2421e of this title.

(3) The term "overseas contingency operation" means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10).

Title 41, United States Code—Public Contracts

41 U.S.C. §1702—Chief Acquisition Officers and senior procurement executives

Subsection (d) includes the definition of an "overseas contingency operation" pertaining to this section providing for the appointment of a Chief Acquisition Officer of a federal agency. As in 22 U.S.C. §2421f (described above), the subsection cross-references the term "contingency operation" defined in 10 U.S.C. 101(a)(13) but adds a qualifier that it be "a military operation outside the United States and its territories and possessions...."

41 U.S.C. §1702—Chief Acquisition Officers and senior procurement executives

(a) Appointment or Designation of Chief Acquisition Officer.-The head of each executive agency described in section 901(b)(1) (other than the Department of Defense) or 901(b)(2)(C) of title 31 with a Chief Financial Officer appointed or designated under section 901(a) of title 31 shall appoint or designate a non-career employee as Chief Acquisition Officer for the agency.

(b) Authority and Functions of Chief Acquisition Officer.-

(1) Primary duty.-The primary duty of a Chief Acquisition Officer is acquisition management.

(2) Advice and assistance.-A Chief Acquisition Officer shall advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

(3) Other functions.-The functions of each Chief Acquisition Officer include-

(A) monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;

- (B) increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Federal Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;
- (C) increasing appropriate use of performance-based contracting and performance specifications;
- (D) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the executive agency;
- (E) managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;
- (F) advising the executive agency on the applicability of relevant policy on the contracts of the agency for overseas contingency operations and ensuring the compliance of the contracts and contracting activities of the agency with such policy;
- (G) developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and
- (H) as part of the strategic planning and performance evaluation process required under section 306 of title 5 and sections 1105(a)(28), 1115, 1116, and 9703 (added by section 5(a) of Public Law 103-62 (107 Stat. 289)) of title 31-
 - (i) assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for acquisition management;
 - (ii) developing strategies and specific plans for hiring, training, and professional development to rectify a deficiency in meeting those requirements; and
 - (iii) reporting to the head of the executive agency on the progress made in improving acquisition management capability.

(c) Senior Procurement Executive.- (1) Designation.-The head of each executive agency shall designate a senior procurement executive.

(2) Responsibility.-The senior procurement executive is responsible for management direction of the procurement system of the executive agency, including implementation of the unique procurement policies, regulations, and standards of the executive agency.

(3) When chief acquisition officer appointed or designated.-For an executive agency for which a Chief Acquisition Officer has been appointed or designated under subsection (a), the head of the executive agency shall-

- (A) designate the Chief Acquisition Officer as the senior procurement executive for the executive agency; or
- (B) ensure that the senior procurement executive designated under paragraph (1) reports directly to the Chief Acquisition Officer without intervening authority.

(d) Overseas Contingency Operations Defined.-In this section, the term "overseas contingency operations" means military operations outside the United States and its territories and possessions that are a contingency operation (as that term is defined in section 101(a)(13) of title 10).

Administration and Internal Guidance

In addition to statutory requirements, DOD and DOS are subject to guidance on OCO spending from the Administration. In October 2006 under the Bush Presidency, Deputy Secretary of Defense Gordon England directed the services to break with long-standing DOD regulatory

policies and expand their request for supplemental funding to reflect incremental costs related to the “longer war on terror.” There was no specific definition for the “longer war on terror,” now one of the core missions of the Department of Defense.

In February 2009, at the beginning of the Obama administration, OMB issued updated budget guidance that required DOD to move some OCO costs back into the base budget. However, within six months of issuing the new criteria, officials waived restrictions related to pay and that would have prohibited end strength growth.¹²⁵ In a letter from OMB to the Under Secretary of Defense (Comptroller) Robert Hale, the agency characterized its 2009 criteria as “very successful” for delineating base and OCO spending, but stated, “This update clarifies language, eliminates areas of confusion and provides guidance for areas previously unanticipated.”¹²⁶ GAO subsequently reported that the revised guidance significantly changed the criteria used to build the fiscal year 2010 OCO funding request by

- specifying stricter definitions for repair and procurement of equipment;
- limiting applicability of OCO funds for RDT&E;
- excluding pay and allowances for end strength above the level requested in the budget;
- excluding enduring family support initiatives; and
- excluding base realignment and closures amounts.¹²⁷

OMB again revised its guidance in September 2010 following a number of Government Accountability Office (GAO) reports that had concluded DOD reporting on OCO costs was of ‘questionable reliability,’ due in part to imprecisely defined financial management regulations related to OCO spending.¹²⁸

Table A-1. OMB Criteria for War/Overseas Contingency Operations Funding Requests

as of September 9, 2010

Item	Definition of Criteria
Geographic area covered/"Theater of operations"(for non-classified war/overseas contingency operations funding)	Geographic areas in which combat or direct combat support operations occur: Iraq , Afghanistan, Pakistan, Kazakhstan, Tajikistan, Kyrgyzstan, the Horn of Africa, Persian Gulf and Gulf nations, Arabian Sea, the Indian Ocean, the Philippines, and other countries on a case-by-case basis. Note: OCO budget items must also meet the criteria below.
Inclusions	
Major Equipment (General)	Replacement of losses that have occurred but only for items not already programmed for replacement in the Future Years Defense Plan (FYDP)—no accelerations. Accelerations can be made in the base budget. Replacement or repair to original capability (to upgraded capability if that

¹²⁵ U.S. Government Accountability Office, *Overseas Contingency Operations: Funding and Cost Reporting for the Department of Defense*, GAO-10-288R, December 18, 2009, <http://www.gao.gov/assets/100/96506.pdf>.

¹²⁶ Letter from Steven M. Kosiak, Associate Director for Defense and Foreign Affairs, OMB, to Robert Hale, Under Secretary of Defense, Comptroller, “Revised War Funding Criteria,” September 9, 2010.

¹²⁷ GAO-10-288R

¹²⁸ GAO, *Opportunities to Improve Controls over Department of Defense’s Overseas Contingency Operations Cost Reporting*, May 27, 2010. <http://www.gao.gov/new.items/d10562r.pdf>

Item	Definition of Criteria
Ground Equipment Replacement	<p>is currently available) of equipment returning from theater. The replacement may be a similar end item if the original item is no longer in production. Incremental cost of non-war related upgrades, if made, should be included in the base.</p> <p>Purchase of specialized, theater-specific equipment.</p> <p>Funding must be obligated within 12 months.</p>
Equipment Modifications (Enhancements)	<p>Combat losses and washouts (returning equipment that is not economical to repair); replacement of equipment given to coalition partners, if consistent with approved policy; in-theater stocks above customary equipping levels on a case-by-case basis.</p>
Equipment Modifications (Enhancements)	<p>Operationally required modifications to equipment used in theater or in direct support of combat operations, for which funding can be obligated in 12 months, and that is not already programmed in FYDP.</p>
Munitions	<p>Replenishment of munitions expended in combat operations in theater. Training ammunition for theater-unique training events is allowed. Forecasted expenditures are not allowed. Case-by-case assessment for munitions where existing stocks are insufficient to sustain theater combat operations.</p>
Aircraft Replacement	<p>Combat losses, defined as losses by accident or by enemy action that occur in the theater of operations.</p>
Military Construction	<p>Facilities and infrastructure in the theater of operations in direct support of combat operations. The level of construction should be the minimum to meet operational requirements. At non-enduring locations, facilities and infrastructure for temporary use are covered. At enduring locations, construction requirements must be tied to surge operations or major changes in operational requirements and will be considered on a case-by-case basis.</p>
Research and Development	<p>Projects required for combat operations in these specific theaters that can be delivered in 12 months.</p>
Operations	<p>Direct War costs:</p> <ul style="list-style-type: none"> • transport of personnel, equipment, and supplies to, from, and within the theater of operations; • deployment-specific training and preparation for units and personnel (military and civilian) to assume their directed missions as defined in the orders for deployment into the theater of operations; <p>Within the theater, the incremental costs above the funding programmed in the base budget:</p> <ul style="list-style-type: none"> • to support commanders in the conduct of their directed missions (to include Emergency Response Programs); • to build and maintain temporary facilities; • to provide food, fuel, supplies, contracted services and other support; and • to cover the operational costs of coalition partners supporting U.S. military missions, as mutually agreed.
Health	<p>Indirect War Costs: Indirect war costs incurred outside the theater of operations will be evaluated on a case-by-case basis.</p> <p>Short-term care directly related to combat. Infrastructure that is only to be used during the current conflict.</p>

Item	Definition of Criteria
Personnel (Incremental Pay)	Incremental special pays and allowances for Service members and civilians deployed to a combat zone; incremental pay. Special pays and allowances for Reserve Component personnel mobilized to support war missions.
Special Operations Command	Operations and equipment that meet the criteria in this guidance.
Prepositioned Supplies and Equipment	Resetting in-theater stocks of supplies and equipment to pre-war levels. Excludes costs for reconfiguring prepositioned sets or for maintaining them.
Security Force Funding	Training, equipping, and sustaining Iraqi and Afghan military and police forces.
Fuel	War fuel costs and funding to ensure that logistical support to combat operations is not degraded due to cash losses in DoD's baseline fuel program. Would fund enough of any base fuel shortfall attributable to fuel price increases to maintain sufficient on-hand cash for the Defense Working Capital Funds to cover seven days' disbursements. (This would enable the Fund to partially cover losses attributable to fuel cost increases.)
Exclusions from war/overseas contingency funding - Appropriately funded in the base budget	
Training equipment	Training vehicles, aircraft, ammunition, and simulators. Exception: training base stocks of specialized, theater-specific equipment that is required to support combat operations in the theater of operations, and support to deployment-specific training described above.
Equipment Service Life Extension Programs (SLEPs)	Acceleration of SLEPs already in the FYDP.
Base Realignment and Closure (BRAC)	BRAC projects.
Family Support Initiatives	Family support initiatives to include the construction of childcare facilities; funding private-public partnerships to expand military families' access to childcare; and support for service members' spouses professional development.
Industrial Base Capacity	Programs to maintain industrial base capacity (e.g. "war-stoppers").
Personnel	Recruiting and retention bonuses to maintain end-strength. Basic Pay and the Basic allowances for Housing and Subsistence for permanently authorized end strength. Individual augmentees will be decided on a case-by-case basis.
Office of Security Cooperation	Support for the personnel, operations, or the construction or maintenance of facilities, at U.S. Offices of Security Cooperation in-theater.
Special Situations	
Reprogrammings and paybacks	Items proposed for increases in reprogrammings or as payback for prior reprogrammings must meet the criteria above.

Source: Letter from Steven M. Kosiak, Associate Director for Defense and Foreign Affairs, OMB, to Robert Hale, Under Secretary of Defense, Comptroller, "Revised War Funding Criteria," September 9, 2010.

DOD Financial Management Regulations

DOD incorporated the September 2010 OMB criteria for war costs into the Financial Management Regulation. **Table A-2** depicts the general breakdown of cost categories DOD uses in its budget processes.

Table A-2. General Cost Categories for Contingency Operations
DOD Financial Management Regulation

Category	Description
Personnel	Incremental pay and allowances of DOD military and civilians participating in or supporting a contingency operation.
Personnel Support	Includes materials and services required to support Active and Reserve Component personnel and DoD civilian personnel engaged in the contingency operation.
Operating Support	The incremental costs of material and services used to conduct or support an operation, including contract services.
Transportation	Includes transportation costs associated with supporting the contingency operation, including contract services, for all phases of the operation (i.e., deployment, sustainment and redeployment).
Working Capital Fund Support Costs	Includes costs associated with supporting the contingency operation, accepted by Defense Working Capital Fund organizations for contingency operations.
Investment Costs	Includes costs associated with supporting the contingency operation, appropriately financed in the Procurement; Research Development, Test and Evaluation (RDT&E); and in the Military Construction appropriations for projects in support of contingency operations.
Other Support Costs	Includes various departmental programs designed to reimburse coalition countries for logistical and military support; to provide lift to and to sustain coalition partners during military operations; to train and equip the Afghan National Army and the Armed Forces of Iraq, and to execute the Commander's Emergency Response Program.

Source: DOD, "Financial Management Regulation," Contingency Operations, Table 23-1 (September 2007); http://comptroller.defense.gov/Portals/45/documents/fmr/current/12/12_23.pdf.

Appendix B. DOD Contingency Operations Funded in the Base Budget

In FY2017, contingency operations funded wholly or in part through the DOD's base budget funding request, and therefore subject to the BCA caps, include the following:

- Support to the North Atlantic Treaty Organization (NATO) as a part of **NATO-led operations in the Balkans region**.
- **Joint Task Force Bravo**, which supports joint, combined, and interagency exercises and operations in Central America to counter the influence of transnational organized crime; carry out humanitarian assistance and disaster relief; and build military capacity with regional partners and allied nations, in order to promote regional cooperation and security.
- **Operation Enduring Freedom-Trans Sahara**, which supports the DOS-led Trans-Sahara Counter Terrorism Program, which in turn supports U.S. Africa Command in executing its strategy for U.S. military operations within certain regions of its area of responsibility.
- **Operation Enduring Freedom–Horn of Africa**, also known as the Combined Joint Task Force-Horn of Africa, supports efforts to defeat violent extremist organizations in East Africa. This operation also provides military-to-military engagement with partner African countries, as well as readiness for crisis response and evacuation of U.S. military, diplomatic, and civilian personnel throughout East Africa.
- **Operation Noble Eagle**, which funds the continuing efforts to defend the United States from airborne attacks, maintain the sovereignty of the United States airspace, and defend critical U.S. facilities from potentially hostile threats or unconventional attacks.
- **Operation Observant Compass**, which supports the deployment of approximately 100 U.S. military personnel currently assisting the Ugandan People's Defense Force and neighboring partner African countries in countering the Lord's Resistance Army operations.¹²⁹

Beginning in FY2016, Operation Spartan Shield, which supports ongoing U.S. Central Command missions and the building of Middle East partner military capacity, was budgeted and requested in U.S. Army and U.S. Navy OCO budget justification documents under Operation Freedom's Sentinel. In FY2017, funding for Operation Enduring Freedom-Caribbean and Central America, was previously funded in part through the base DOD budget, was requested in the U.S. Special Operations Command OCO O&M budget justification documents.¹³⁰

¹²⁹ Department of Defense Budget Fiscal Year 2017: Justification for Base Funded Contingency Operations and the Overseas Contingency Operation Transfer Fund, February 2016.

¹³⁰ Contributed by Heidi Peters, Research Librarian.

List of Acronyms

ABCT	Armor Brigade Combat Team
AFRICOM	Africa Command
ANDSF	Afghan National Defense and Security Forces
ASFF	Afghan Security Forces Fund
BBA	Bipartisan Budget Act of 2015
BBEDCA	Balanced Budget and Emergency Deficit Control Act of 1985
BCA	Budget Control Act of 2011
CENTCOM	Central Command
CTPF	Counterterrorism Partnership Fund
DNI	Director of National Intelligence
DOD	Department of Defense
DOS	Department of State
ERI	European Reassurance Initiative
EUCOM	European Command
FMR	Financial Management Regulation
GAO	Government Accountability Office
GWOT	Global War on Terror
HASC	House Armed Services Committee
IC	Intelligence Community
IED	Improvised Explosive Device
IS	Islamic State
ISAF	International Security Assistance Force
ISF	Iraqi Security Forces
ITEF	Iraq Train and Equip Fund
MIP	Military Intelligence Program
MRAP	Mine-Resistant Ambush Protected
NATO	North Atlantic Treaty Organization
NDAA	National Defense Authorization Act
NIP	National Intelligence Program
O&M	Operation and Maintenance
OCO	Overseas Contingency Operations
OOL	Operation Odyssey Lightning
OCOTF	Overseas Contingency Operations Transfer Fund
OEF	Operation Enduring Freedom
OFS	Operation Freedom's Sentinel
OIF	Operation Iraqi Freedom

OIR	Operation Inherent Resolve
OMB	Office of Management and Budget
OND	Operation New Dawn
ONE	Operation Noble Eagle
OSC-I	Office of Security Cooperation-Iraq
RDT&E	Research, Development, Test, and Evaluation
SFOPS	State Department, Foreign Operations, and Related Programs
USAID	United States Agency for International Development
USD(I)	Under Secretary of Defense (Intelligence)

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