



U.S. Foreign Aid to the Palestinians

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Summary

Since the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in the mid-1990s, the U.S. government has committed over \$4 billion in bilateral assistance to the Palestinians, who are among the world's largest per capita recipients of international foreign aid. Successive Administrations have requested aid for the Palestinians to support at least three major U.S. policy priorities of interest to Congress:

- Preventing terrorism against Israel from Hamas and other militant organizations.
- Fostering stability, prosperity, and self-governance in the West Bank that inclines Palestinians toward peaceful coexistence with Israel and a “two-state solution”.
- Meeting humanitarian needs.

Since June 2007, these U.S. policy priorities have crystallized around the factional and geographical split between the Fatah-led Palestinian Authority (PA) in the West Bank and Hamas in the Gaza Strip.

Informal congressional holds delayed disbursement of various portions of FY2011 aid to the Palestinians, until the Obama Administration obligated this assistance despite a reportedly remaining hold. Holds reportedly remain attached to already-appropriated FY2012 U.S. aid. The holds appear to be largely a response to and anticipation of Palestine Liberation Organization (PLO) initiatives in the United Nations and other international forums aimed at increasing international recognition of Palestinian statehood outside of negotiations with Israel. The holds occur at a time of ongoing structural budgetary crisis in the Palestinian Authority (PA)—exacerbated by a number of factors—that could threaten stability, especially in the West Bank. Additionally, some Members of Congress remain concerned about a possible “consensus” PA government whose composition would require Hamas approval. New conditions on aid from FY2012 relating both to potential U.N.-related initiatives and a potential consensus PA government have carried over into FY2013. Some Members of Congress have proposed additional conditions in anticipation of possible future steps by the PLO to make legal action possible—including at the International Criminal Court (ICC)—against perceived Israeli violations of various international laws and norms.

From FY2008 to the present, annual regular-year U.S. bilateral assistance to the West Bank and Gaza Strip has averaged around \$500 million, including annual averages of approximately \$200 million in direct budgetary assistance and \$100 million in non-lethal security assistance for the PA in the West Bank. Additionally, the United States is the largest single-state donor to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). However, whether UNRWA's role productively addresses the refugee issue in the context of efforts to mitigate or resolve the larger Israeli-Palestinian conflict remains a polarizing question.

Because of congressional concerns that, among other things, funds might be diverted to Palestinian terrorist groups, U.S. aid is subject to a host of vetting and oversight requirements and legislative restrictions. U.S. assistance to the Palestinians is given alongside assistance from other international donors, and U.S. policymakers routinely call for greater or more timely assistance from Arab governments in line with pledges those governments make. Even if the immediate objectives of U.S. assistance programs for the Palestinians are met, lack of progress toward a politically legitimate and peaceful two-state solution could undermine the utility of U.S. aid in helping the Palestinians become more cohesive, stable, and self-reliant over the long term.

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Introduction: Issues for Congress

U.S. aid to the Palestinians is intended to promote at least three major U.S. policy priorities of interest to Congress:

- Preventing terrorism against Israel from Hamas and other militant organizations.
- Fostering stability, prosperity, and self-governance in the West Bank that inclines Palestinians toward peaceful coexistence with Israel and a “two-state solution”.
- Meeting humanitarian needs.

Since June 2007, these U.S. policy priorities have crystallized around the geographical and factional split between

1. *West Bank/Fatah*: the U.S.- and Western-supported Palestinian Authority (PA) in the West Bank led by President Mahmoud Abbas (who also leads the secular nationalist Fatah faction) and Prime Minister Salam Fayyad (a political independent and former international technocrat); and
2. *Gaza Strip/Hamas*: the de facto regime led by Hamas in Gaza, which receives support from Iran along with substantial non-state support and has been designated a Foreign Terrorist Organization (FTO), a Specially Designated Terrorist (SDT), and a Specially Designated Global Terrorist (SDGT) by the U.S. government.¹

See **Appendix A** for recent historical background information. Despite more robust levels of assistance, factors such as the absence of Israeli-Palestinian peace, Palestinian pursuit of international support of statehood, and Hamas’s heightened role in Palestinian politics could make effective implementation of lasting aid projects difficult. Informal congressional holds (see “Congressional Holds” below) have delayed various portions of already-appropriated FY2011 and FY2012 U.S. aid.

From FY2008 to the present, annual regular-year U.S. bilateral assistance to the West Bank and Gaza Strip has averaged around \$500 million (see **Table 3** below), including annual averages of approximately \$200 million in direct budgetary assistance and approximately \$100 million in non-lethal security assistance for the PA in the West Bank. The remainder—approximately \$200 million on average per year—is dedicated to project assistance for the West Bank and Gaza through U.S. government grants to non-governmental organizations (NGOs). Much of this assistance is in direct support of PA Prime Minister Salam Fayyad’s security, governance, development, and reform programs aimed at building Palestinian institutions in advance of statehood. The post-2007 annual average of U.S. bilateral assistance is substantially greater than the approximate annual average of \$170 million from 2000-2007 and \$70 million from 1994-1999.

Because of congressional concerns that, among other things, U.S. funds might be diverted to Palestinian terrorist groups, this aid is subject to a host of vetting and oversight requirements and legislative restrictions (see “Major Conditions, Limitations, and Restrictions on Aid” below). U.S.

¹ For more information on Hamas and these terrorist designations, see archived CRS Report R41514, *Hamas: Background and Issues for Congress*, by Jim Zanotti.

assistance to the Palestinians is given alongside assistance from other international donors, and U.S. policymakers routinely call for greater or more timely assistance from Arab governments in line with the pledges those governments make.

Additional U.S. humanitarian assistance for Palestinian refugees in Gaza and elsewhere continues through contributions to the U.N. Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). U.S. contributions to UNRWA, which have totaled more than \$4 billion since UNRWA's inception in 1950 (see **Table 4** below), have averaged over \$200 million annually since 2007.

Palestinian U.N.-Related Initiatives and Possible Fatah-Hamas Consensus—Effects on Aid

Overview

On November 29, 2012, the U.N. General Assembly (UNGA) adopted Resolution 67/19 by a vote of 138 member states in favor, nine against (including the United States and Israel), and 41 abstentions. The resolution changed the permanent U.N. observer status of the Palestine Liberation Organization (or PLO, recognized as “Palestine” within the U.N. system) from an “entity” to a “non-member state.”² This change might increase the probability that the Palestinians and other international actors could take steps—particularly in the International Criminal Court (ICC)—to make legal action possible against perceived Israeli violations of various international laws and norms regarding the treatment of people and property in the West Bank and Gaza.³

The adoption of Resolution 67/19 is part of a broader PLO effort to obtain greater international recognition of Palestinian statehood, possibly to strengthen the PLO's hand in future negotiations. In September 2011, Mahmoud Abbas, who is the PLO's chairman, applied for Palestinian membership in the United Nations. Although the application stalled in the Security Council's membership committee⁴ and would have faced a U.S. veto, the Palestinians did obtain

² The PLO has had permanent observer status at the United Nations since 1974. The change in status effected by Resolution 67/19 is largely symbolic. “Palestine” maintains many of the capacities it had as an observer entity—including participation in General Assembly debates and the ability to co-sponsor draft resolutions and decisions related to proceedings on Palestinian and Middle East issues. However, despite its new designation as a “state,” it is not a member of the U.N., and therefore does not have the right to vote or to call for a vote in the General Assembly.

³ An April 2012 opinion by the ICC's Office of the Prosecutor, which determined that there was no basis for it to consider a declaration of consent by “Palestine” to ICC jurisdiction in the West Bank and Gaza, appeared to rule that guidance from the UNGA would be decisive in determining whether the PLO or Palestinian Authority had competence as a state to consent to ICC jurisdiction. International Criminal Court, Office of the Prosecutor, “Situation in Palestine,” April 3, 2012. One analysis asserts, however, that legal ambiguities remain. John Cerone, “Legal Implications of the UN General Assembly Vote to Accord Palestine the Status of Observer State,” *insights*, American Society of International Law, December 7, 2012.

⁴ United Nations Security Council, “Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations,” S/2011/705, November 11, 2011. Paragraph 19 of this report provides a summary of the varying views that committee members advanced regarding Palestinian membership: “The view was expressed that the Committee should recommend to the Council that Palestine be admitted to membership in the United Nations. A different view was expressed that the membership application could not be supported at this time and an abstention was envisaged in the event of a vote. Yet another view expressed (continued...)”

membership in the U.N. Educational, Scientific and Cultural Organization (UNESCO) in the fall of 2011. They appear to be using their UNESCO membership to establish and advance claims of Palestinian “self-determination and cultural rights”⁵ over sites such as the Church of the Nativity in Bethlehem. In June 2012, UNESCO inscribed (designated) the church as both a World Heritage Site and a World Heritage Site in Danger.⁶ Under U.S. laws passed in 1990 and 1994,⁷ Palestinian admittance into UNESCO triggered the withholding of U.S. contributions to the organization.⁸ These laws would require similar cutoffs of U.S. contributions to the United Nations and any other U.N. specialized agencies to the extent that the Palestinians were to gain membership or the same standing as member states in those U.N. entities. Such cutoffs could adversely affect these entities’ budgets and complicate both the U.S. relationship with individual U.N. entities and the conduct of U.S. foreign policy within the U.N. system and other multilateral settings.

Abbas and Hamas political bureau chief Khaled Meshaal reached agreement in principle in May 2011 and February 2012—with mediation from Egypt and Qatar—on arrangements intended to bridge the Palestinian geographical and factional divide and to clear the way for PA presidential and parliamentary elections. Internal disagreements within Hamas—possibly reflecting divisions over Hamas’s overall strategy and relationship with Iran and other countries in the region—are one of a number of factors that delayed political reunification of the West Bank and Gaza and cause many observers to doubt its likelihood. However, the popularity of a December 2012 Hamas rally in the West Bank and a January 2013 Fatah rally in Gaza and concern about an ongoing PA budgetary crisis (see “Economic Development and International Donor Assistance” below) and prospects for continued stalemate in negotiations with Israel have contributed to renewed Palestinian hopes of “reconciliation.” Abbas and Meshaal met in Cairo in early January.

Both the U.N.-related actions and the prospect of greater Hamas say in PA governance have resulted in Congress and the President attaching new legal conditions to U.S. aid to the Palestinians that have carried over into FY2013.⁹ For more information on these conditions, see “Major Conditions, Limitations, and Restrictions on Aid”, “Possible Additional Palestinian Action in International Forums”, and “Hamas and a “Unity Government”?” below.

(...continued)

was that there were serious questions about the application, that the applicant did not meet the requirements for membership and that a favourable recommendation to the General Assembly would not be supported.”

⁵ Isabel Kershner, “UNESCO Adds Nativity Church in Bethlehem to Heritage List,” *New York Times*, June 29, 2012.

⁶ Inclusion on the World Heritage List means that a site should be protected and preserved by the global community; inclusion on the Danger List means that a site is particularly threatened. In response to the designations, David Killion, U.S. Ambassador to UNESCO, stated that the Danger List is generally reserved only “for extreme cases, such as when a site is under imminent threat of destruction.” Killion also noted that in the past 40 years, only four other sites had been added to the Danger List. Statement by Ambassador Killion on the Emergency Inscription of the Church of the Nativity as a World Heritage Site, U.S. Mission to UNESCO, June 29, 2012.

⁷ P.L. 101-246 (Foreign Relations Authorization Act, Fiscal Years 1990 and 1991) and P.L. 103-236 (Foreign Relations Authorization Act, Fiscal Years 1994 and 1995).

⁸ In the Obama Administration’s FY2013 budget request, it stated its intention to “work with Congress to seek legislation that would provide authority to waive restrictions” on paying assessed and voluntary contributions to UNESCO. If Members of Congress sought to lift or modify these restrictions, they could amend the applicable legal provisions or propose stand-alone legislation.

⁹ As of January 2013, the provisions of the Consolidated Appropriations Act, 2012 (P.L. 112-74) remain valid for FY2013, pursuant to the Continuing Appropriations Resolution, 2013 (P.L. 112-175). If not extended or superseded by an Act of Congress, P.L. 112-175 will expire on March 27, 2013.

Congressional Holds

Various Members of congressional committees with jurisdiction over the authorization and appropriation of U.S. aid to the Palestinians placed informal holds on the obligation of various portions of already-appropriated FY2011 assistance for the Palestinians, as discussed in **Appendix B**. Although all of this assistance was reportedly obligated for use by the State Department by the spring of 2012, similar informal congressional holds appear to be delaying obligation of already-appropriated FY2012 assistance. On November 30, State Department spokesperson Victoria Nuland said that the Obama Administration is trying to get Congress to release all of the U.S. aid for Palestinians that was appropriated for FY2012:

So there's 495 million [dollars] in Fiscal Year 2012 funds that we have wanted to move. There's 200 million in direct budget support for the Palestinian Authority. There's 195 [million] in economic support funds for programs and projects there. And there is a hundred million in international narcotics control and law enforcement funds. That's what's currently pending with the Congress for the Palestinian Authority.¹⁰

The Administration notified Congress of its intention to obligate these FY2012 funds in April 2012. If delays in aid disbursement result in “decelerations” or shutdowns by the implementing organizations, additional expense, complication, and delay may ensue with respect to existing or prospective projects. The U.S. Agency for International Development (USAID) provided the following information to CRS on January 17, 2013:

Due to the existing hold on FY 2012 [economic support] funding, six projects were expected to close between March and May 2013. USAID therefore instructed the Chief of Parties for these projects to decelerate their project activities to continue a lower level of project implementation—in other words, to extend the duration of the program. With this deceleration, the six projects are now expected to have sufficient funding through dates that vary by project, between May-September 2013. All other USAID-funded projects are expected to run out of existing funds between June-December 2013 if they maintain a normal project implementation rate. Deceleration can involve the downsize of the project presence in country, including the termination of implementing partner staff.

On Dec. 30, 2012, the first termination notices were sent out to 17 partner staff working on the Health Flagship program implemented by Chemonics. The remaining 40 termination notices are expected to go out to the Health Flagship implementing partner staff between January 28, 2013 and March 31, 2013.

Congressional holds on foreign aid are not legally binding on the executive branch. However, since the late 1970s/early 1980s, successive Administrations have generally deferred to holds placed by Members of pertinent committees. This is part of a process by which the executive branch consults with Congress to provide it with information or otherwise address committees' concerns prior to obligating funds subject to a hold. In 2007 and 2008, Representative Nita Lowey, then chairwoman of the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs, exercised holds partly in order to shape the conditions under which the United States could provide budgetary and security assistance to the West Bank-based PA following Hamas's takeover of Gaza and its dismissal from the PA government.¹¹

¹⁰ Transcript of State Department Daily Press Briefing, Washington, DC, November 30, 2012.

¹¹ “Splits Between U.S. and Europe Over Aid to Palestinians,” *International Herald Tribune*, February 22, 2007; (continued...)

FY2012 Aid and FY2013 Request

Pursuant to the Consolidated Appropriations Act, 2012 (P.L. 112-74), aid to the Palestinians for FY2012 was reportedly appropriated up to the levels initially requested by the Obama Administration—\$400 million from the Economic Support Fund (ESF) account, \$113 million from the International Narcotics Control and Law Enforcement (INCLE) account. In April 2012, the Administration notified Congress of its intention to obligate \$395.7 million in ESF and \$100 million in INCLE for FY2012.¹² Partly due to the apparent congressional holds mentioned above on FY2012 aid, it remains unclear whether and when this aid will be obligated and disbursed. See **Table 1** below for details of the Administration’s spending plan for this aid. The Administration’s FY2013 budget request seeks ESF and INCLE aid to the Palestinians at reduced levels from FY2012. See **Table 2** below for figures and details of the Administration’s spending plan for the FY2013 aid.

According to the Administration’s FY2013 congressional budget justification, USAID’s West Bank and Gaza mission

will undergo a strategic planning exercise in the coming months. As a result of this exercise, USAID’s strategic objectives in the West Bank and Gaza will be defined in a new five year strategy which will guide program and resource planning in FY2013 and beyond. As part of this exercise, past performance of existing USAID projects will be reviewed and future programmatic choices will be discussed. The Mission’s strategy development process will help identify the key sectors in which USAID programs can achieve the greatest programmatic impact with the resources available.¹³

(...continued)

“Appropriator Wants Palestinian Authority Aid on Hold Until Accountability in Place,” *CQ Today*, March 4, 2008.

¹² USAID FY2012 Congressional Notification #47, April 27, 2012; State Department FY2012 Congressional Notification #92, April 27, 2012.

¹³ U.S. State Department, FY2013 Congressional Budget Justification for Foreign Operations (Annex: Regional Perspectives).

Table I. Proposed Spending Plan for FY2012 Bilateral Assistance

Amount	Purpose
<p>Economic Support Fund (\$395.7 million total)</p> <p><i>\$200 million</i></p> <p><i>\$195.7 million</i></p>	<p>Direct budgetary assistance to Palestinian Authority (PA) in West Bank</p> <p>Assistance for the West Bank and Gaza (through USAID)</p> <ul style="list-style-type: none"> • \$17.3 million – governance, rule of law, civil society • \$94.1 million – health, education, social services • \$62.6 million – economic development • \$21.7 million – humanitarian assistance
<p>International Narcotics Control and Law Enforcement (\$100 million total)</p> <p><i>Approx. 2/3</i></p> <p><i>Approx. 1/3</i></p>	<p>Training, non-lethal equipment, and garrisoning assistance to PA security forces in the West Bank, supporting efforts by the U.S. Security Coordinator</p> <p>Assistance for PA Ministry of Interior and for the justice sector (prosecutors and criminal investigators) to improve performance, efficiency, and inter-institutional cooperation</p> <p>Rule-of-law infrastructure, including courthouses, police stations, and prisons</p>

Sources: USAID, U.S. State Department.

Notes: All amounts are approximate.

Table 2. Proposed Spending Plan for FY2013 Bilateral Assistance

Amount	Purpose
<p>Economic Support Fund (\$370 million total)</p> <p>\$150 million</p> <p>\$220 million</p>	<p>Direct budgetary assistance to Palestinian Authority (PA) in West Bank</p> <p>Assistance for the West Bank and Gaza (through USAID)</p> <ul style="list-style-type: none"> • \$22.5 million – governance, rule of law, civil society • \$88 million – health, education, social services • \$78.7 million – economic development • \$30.8 million – humanitarian assistance
<p>International Narcotics Control and Law Enforcement (\$70 million total)</p> <p>\$40.8 million</p> <p>\$29.2 million</p>	<p>Training, non-lethal equipment, and garrisoning assistance to PA security forces in the West Bank, supporting efforts by the U.S. Security Coordinator</p> <p>Assistance for PA Ministry of Interior and for the justice sector (prosecutors and criminal investigators) to improve performance, efficiency, and inter-institutional cooperation</p> <p>Rule-of-law infrastructure, including courthouses, police stations, and prisons</p>

Source: U.S. State Department, FY2013 Congressional Budget Justification for Foreign Operations (Annex: Regional Perspectives).

Notes: All amounts are approximate.

Major Conditions, Limitations, and Restrictions on Aid

Annual appropriations legislation routinely contains the following conditions, limitations, and restrictions on U.S. aid to Palestinians:¹⁴

- *Hamas and Terrorism:* No aid is permitted for Hamas or Hamas-controlled entities, and no aid may be made available for the purpose of recognizing or otherwise honoring individuals who commit or have committed acts of terrorism.
- *Power-Sharing PA Government:* No aid is permitted for a power-sharing PA government that includes Hamas as a member, or that results from an agreement with Hamas and over which Hamas exercises “undue influence,” unless the President certifies that the PA government, including all ministers, has accepted the following two principles embodied in Section 620K of the Palestinian Anti-Terrorism Act of 2006 (PATA), P.L. 109-446: (1) recognition of “the Jewish state of Israel’s right to exist” and (2) acceptance of previous Israeli-Palestinian

¹⁴ Conditions, limitations, and restrictions for FY2013 are contained in the Consolidated Appropriations Act, 2012 (P.L. 112-74), §§7035-7040 and 7086, as extended by continuing resolution authority in P.L. 112-175.

agreements (the “Section 620K principles”).¹⁵ If the PA government is “ Hamas-controlled,” PATA applies additional conditions, limitations, and restrictions on aid. Under PATA, in the event that Hamas participation in a PA government precludes ministries from receiving aid, the PA president and judiciary (if not Hamas-controlled) may under certain conditions receive aid pursuant to a presidential waiver for national security purposes.

It is unclear whether a consensus government of the type anticipated under recent 2011 and 2012 Fatah-Hamas agreements would come under the legal definition of a “power-sharing PA government that includes Hamas as a member” or a government over which Hamas exercises “undue influence.”¹⁶ It is also unclear whether it would come under the legal definition of a “ Hamas-controlled” PA government, and thus trigger the additional conditions on U.S. aid cited above. Under PATA, the Palestinian Legislative Council (PLC) is considered to be part of the PA, but the legal consequences if the PLC were to reconvene with the majority Hamas won in 2006 are still unclear.¹⁷

- *PLO and Palestinian Broadcasting Corporation (PBC)*: No aid is permitted for the PLO or for the PBC.
- *Palestinian State*: No aid is permitted for a future Palestinian state unless the Secretary of State certifies that the governing entity of the state:
 1. has demonstrated a firm commitment to peaceful coexistence with the State of Israel;
 2. is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza in cooperation with Israel and others; and
 3. is working with other countries in the region to “vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships.”¹⁸

This restriction does not apply to aid meant to reform the Palestinian governing entity so that it might meet the three conditions outlined above. Additionally, the President is permitted to waive this restriction for national security purposes.

- *PA Personnel in Gaza*: No aid is permitted for PA personnel located in Gaza. Although the PA does pay salaries to individuals located in Gaza, USAID maintains that U.S. direct budgetary assistance to the PA goes toward paying the PA’s suppliers and commercial creditors (see “Direct Assistance to the Palestinian Authority” below).

¹⁵ These principles have some similarity to the principles the so-called international Quartet (United States, European Union, U.N. Secretary-General’s office, and Russia) has required Hamas to meet before accepting dealings with it: (1) recognizing Israel’s right to exist, (2) renouncing violence, and (3) accepting previous Israeli-Palestinian agreements.

¹⁶ See footnote 92.

¹⁷ Although a Hamas-majority PLC could technically pass legislation controlling various functions of the PA government, a document summarizing a May 16, 2011, 3D Security Initiative briefing for a congressional staff audience stated that the PLC would not likely play an activist role—absent widespread consensus across factions—given the interim nature of a potential power-sharing agreement as a placeholder anticipating PA presidential and legislative elections.

¹⁸ P.L. 112-74, §7036(a)(2).

- Palestinian Membership in the United Nations or U.N. Specialized Agencies:* No Economic Support Fund aid is permitted to the PA if the Palestinians obtain from this point forward (the restriction does not apply to Palestinian membership in UNESCO) “the same standing as member states or full membership as a state in the United Nations or any specialized agency thereof outside an agreement negotiated between Israel and the Palestinians.” The PLO did not obtain this standing or membership pursuant to UNGA Resolution 67/19; thus the resolution’s adoption did not trigger the aid restriction. The Secretary of State may waive this restriction for national security reasons by filing a waiver detailing how “the continuation of assistance would assist in furthering Middle East peace.”¹⁹
- Vetting, Monitoring, and Evaluation:* As discussed throughout this report, for U.S. aid programs for the Palestinians, annual appropriations legislation routinely requires executive branch reports and certifications, as well as internal and Government Accountability Office (GAO) audits. These requirements are aimed at preventing U.S. aid from benefitting Palestinian terrorists or abetting corruption; at ensuring the amenability of Palestinian society and institutions to aid programs; at assessing the programs’ effectiveness; and at monitoring intervening variables (such as aid from international actors).²⁰

Types of U.S. Bilateral Aid to the Palestinians

Table 3. U.S. Bilateral Assistance to the Palestinians, FY2005-FY2013

(regular and supplemental appropriations; current year \$ in millions)

Account	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013 ^a
ESF	224.4	148.5	50.0	389.5	776.0	400.4	395.7	395.7	370.0
P.L. 480 Title II (Food Aid)	6.0	4.4	19.5	-	20.7	-	-	-	-
INCLE ^b	-	-	-	25.0	184.0	100.0	150.0	100.0	70.0
Total	230.4	152.9	69.5	414.5	980.7	500.4	545.7	495.7	440.0

Sources: U.S. State Department, USAID.

Notes: All amounts are approximate; for purposes of this table and this report, “bilateral assistance” does not include U.S. contributions to UNRWA or other international organizations from the Migration and Refugee Assistance (MRA) or Emergency Refugee and Migration Assistance (ERMA) accounts, regardless of how the term is defined in legislation.

¹⁹ P.L. 112-74, §7086(a).

²⁰ P.L. 112-74, §§7039-7040. GAO audits are available on the following U.S. aid programs to the Palestinians: (1) Economic Support Fund, including direct assistance to the PA and project assistance (audit for FY2008-FY2009 accessible at <http://www.gao.gov/new.items/d10623r.pdf>), (2) security assistance to the PA through the International Narcotics Control and Law Enforcement account (<http://www.gao.gov/new.items/d10505.pdf>), and (3) contributions to UNRWA through the Migration and Refugee Assistance and Emergency Refugee and Migration Assistance accounts (<http://www.gao.gov/new.items/d09622.pdf>).

- a. Amounts stated for FY2013 have been requested but not yet appropriated, except for amounts made available through a continuing resolution (P.L. 112-175) based on FY2012 levels.
- b. INCLE stands for International Narcotics Control and Law Enforcement. INCLE figures do not include \$86.362 million of FY2006 ESF funds reprogrammed into the INCLE account by President Bush in January 2007 (see “Direct Assistance to the Palestinian Authority” below).

Economic Support Fund Project Assistance

Types of Funding Programs

Most aid to the Palestinians is appropriated through the ESF account and provided by USAID (and, to a far lesser degree, the State Department)²¹ to non-governmental organizations (NGOs) operating in the West Bank and the Gaza Strip. Funds are allocated in this program for projects in sectors such as humanitarian assistance, economic development, democratic reform, improving water access and other infrastructure, health care, education, and vocational training. Currently most, if not all, funds for the Gaza Strip are dedicated to humanitarian assistance and economic recovery needs.²² See **Table 1** and **Table 2** above for the Obama Administration’s proposed spending plans for FY2012 and FY2013 ESF West Bank/Gaza assistance. In addition to bilateral U.S. assistance to the Palestinians, Congress routinely appropriates around \$10 million per year through the ESF and Development Assistance accounts for a “New Generation in the Middle East” initiative to “build understanding, tolerance, and mutual respect among the next generation of Israeli and Palestinian leaders.”²³

Vetting Requirements and Procedures

USAID subjects its programs worldwide to vetting requirements to ensure the proper use of funds appropriated through its accounts. USAID’s West Bank and Gaza program is subject to a specialized vetting process (for non-U.S. organizations) and to yearly audits intended to ensure that funds are not diverted to Hamas or other organizations classified as terrorist groups by the U.S. government.²⁴ This vetting process has become more rigorous in recent years in response to allegations that U.S. economic assistance was indirectly supporting Palestinian terrorist groups,

²¹ For example, see the State Department’s Middle East Partnership Initiative (MEPI) West Bank/Gaza website at <http://mepi.state.gov/med-region/west-bank-and-gaza.html>.

²² For further detail on the types of projects funded, see Government Accountability Office, *U.S. Assistance to the West Bank and Gaza for Fiscal Years 2010 and 2012*, GAO Foreign Assistance Report 12-81, July 13, 2012.

²³ P.L. 112-74, §7062(f)(2).

²⁴ P.L. 112-74, §7039(b) sets forth the legal requirements for vetting: “Prior to the obligation of funds appropriated by this Act under the heading ‘Economic Support Fund’ for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity nor, with respect to private entities or educational institutions, those that have as a principal officer of the entity’s governing board or governing board of trustees any individual that has been determined to be involved in, or advocating terrorist activity or determined to be a member of a designated foreign terrorist organization: *Provided*, That the Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which the Secretary has determined to be involved in or advocating terrorist activity.”

and following an internal audit in which USAID concluded it could not “reasonably ensure” that its money would not wind up in terrorist hands.²⁵

A February 2009 statement from USAID described its revamped vetting procedures as follows:

All NGOs applying for grants from USAID are required to certify, before award of the grant will be made, that they do not provide material support to terrorists.... Before making an award of either a contract or a grant to a local NGO, the USAID West Bank/Gaza Mission checks the organization and its principal officers, directors and other key personnel against lists maintained by the Office of Foreign Assets Control (OFAC) within the U.S. Department of Treasury. The Mission also checks these organizations and individuals through law enforcement and intelligence community systems accessed by USAID’s Office of Security. At present, the Mission collects additional information up front in addition to the individual’s full [four-part] name, such as a government issued photo-ID number and the individual’s date and place of birth.... [USAID’s] West Bank/Gaza program possess[es] the most comprehensive partner vetting system for foreign assistance throughout the U.S. Government.²⁶

A May 2009 GAO report found that USAID had strengthened its antiterrorism policies and procedures in response to recommendations GAO had made in a 2006 report.²⁷

Direct Assistance to the Palestinian Authority

Budgetary assistance is a major part of the U.S. strategy to support the PA in the West Bank, although some Members of Congress expect better governance and a more proactive approach by the PA toward peace with Israel in return.²⁸ According to annual foreign operations appropriations laws, congressionally approved funds for the West Bank and Gaza Strip cannot be given directly to the PA unless the President submits a waiver to Congress stating that doing so is in the interest of national security, and the Secretary of State certifies that there is a single PA treasury account, civil service roster, and payroll.²⁹ Annual appropriations legislation also routinely places

²⁵ “Audit: Terrorists Got U.S. Aid; Agency’s Screening Called Inadequate,” *Chicago Tribune*, November 16, 2007; Testimony of Henrietta Fore, then USAID Administrator and Director of U.S. Foreign Assistance, House Appropriations Subcommittee on State, Foreign Operations, and Related Programs Holds Hearing on the Fiscal 2009 Budget for the U.S. Agency for International Development, February 27, 2008.

²⁶ Statement issued by USAID to CRS on February 5, 2009. USAID does not subject U.S. organizations to vetting due to U.S. privacy law concerns. See GAO, *Measures to Prevent Inadvertent Payments to Terrorists Under Palestinian Aid Programs Have Been Strengthened, but Some Weaknesses Remain*, GAO Foreign Assistance Report 09-622, May 2009.

²⁷ See GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit. A schematic detailing USAID’s vetting process is found on page 42 of the report. GAO did recommend in the report that USAID take steps to ensure that it and its primary contractors use the same rigor at the subcontractor level that they employed in requiring antiterrorism clauses and certifications during their contracting process.

²⁸ Ileana Ros-Lehtinen, Chairman of the House Foreign Affairs Committee’s Subcommittee on the Middle East and North Africa, voiced significant concern over the Administration’s provision of direct budgetary assistance to the PA when serving as ranking Member of the full committee in November 2010: “It is deeply disturbing that the Administration is continuing to bail out the Palestinian leadership when they continue to fail to meet their commitments, under international agreements and requirements outlined in U.S. law, including dismantling the Palestinian terrorist infrastructure, combating corruption, stopping anti-Israel and anti-Semitic incitement, and recognizing Israel’s right to exist as a Jewish state.” House Foreign Affairs Committee website: “Ros-Lehtinen Opposes Latest U.S. ‘Bailout’ Installment for Palestinian Authority,” November 11, 2010.

²⁹ See P.L. 112-74, §7040 (“Limitation on Assistance for the Palestinian Authority”). In the event of a presidential waiver, §7040 requires the President to submit a report to the Committees on Appropriations “detailing the justification (continued...)”

conditions on aid to any power-sharing PA government “of which Hamas is a member,” and the FY2012 bill extended these conditions to any PA government that results from an agreement with Hamas over which Hamas has “undue influence” (for further discussion, see “Hamas and a “Unity Government?”” below). Even after money is transferred to the PA’s treasury account, the United States retains prior approval of any transactions from that account, along with a three-year power of audit and right of refund over those funds.³⁰

During the final year of President George W. Bush’s Administration, President Bush issued waivers providing \$300 million in direct budgetary assistance to the PA. President Barack Obama has followed the precedent Bush established by authorizing a total of \$750 million in direct budgetary assistance, as follows:

- In July 2009, \$200 million in ESF money were transferred to the PA in the wake of a presidential waiver issued by President Obama.³¹
- In November 2009, \$75 million in budgetary assistance were provided to the PA under the July presidential waiver as an advance on FY2010 ESF funds, pursuant to a continuing resolution (later appropriated pursuant to P.L. 111-117).
- In April 2010, another \$75 million in budgetary assistance from the ESF account were provided to the PA via presidential waiver.³²
- In November 2010, \$150 million in budgetary assistance were provided to the PA via presidential waiver as an advance on FY2011 ESF funds, pursuant to the Continuing Appropriations Act, 2011 (P.L. 111-242).³³
- In August 2011, \$50 million in budgetary assistance from the ESF account were provided via presidential waiver.³⁴
- In April 2012, the Administration notified Congress of its intention to obligate an additional \$200 million in budgetary assistance from the ESF account, accompanied by a presidential waiver.³⁵ This amount appears to be subject to an ongoing informal congressional hold, as mentioned above.³⁶

Direct U.S. budgetary assistance to the PA goes toward paying off its commercial debt, as the following FY2012 USAID congressional notification language says:

Direct budget support will be used in the same manner as previous transfers—to service debt to commercial suppliers and commercial banks. Debt to commercial banks will be debt

(...continued)

for the waiver, the purposes for which the funds will be spent, and the accounting procedures in place to ensure that the funds are properly disbursed: *Provided*, That the report shall also detail the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure.”

³⁰ USAID FY2012 Congressional Notification #47, April 27, 2012.

³¹ Presidential Determination No. 2009-23.

³² Presidential Memorandum 2010-06.

³³ Presidential Determination 2011-1.

³⁴ USAID FY2011 Congressional Notification #133, August 18, 2011; Presidential Determination 2011-14, August 30, 2011.

³⁵ USAID FY2012 Congressional Notification #47, April 27, 2012; Presidential Memorandum, April 25, 2012.

³⁶ See footnote 10.

originally incurred for purchases from commercial suppliers. Each of the payees will have been vetted in accordance with USAID West Bank and Gaza existing procedures, as applicable, as a precondition to the transfer of funds by the PA for such payments. Funds may also be used to pay for upcoming purchases from commercial suppliers or reimbursements of recent purchases from suppliers.³⁷

Despite this explanation of U.S. budgetary assistance to the PA, some commentators allege that U.S. funding indirectly supports PA salaries, including those supposedly paid to some Palestinians who are imprisoned by Israel on terrorism charges.³⁸

U.S. Security Assistance to the Palestinian Authority

As mentioned above, aid has been given to train, reform, advise, house, and provide non-lethal equipment for PA civil security forces in the West Bank loyal to President Abbas. This aid is aimed at countering militants from organizations such as Hamas and Palestinian Islamic Jihad, and establishing the rule of law for an expected Palestinian state. An increasing proportion of this training and infrastructure assistance has been provided to strengthen and reform the PA criminal justice sector (see **Table 1** and **Table 2** above). This assistance has come from the INCLE account—to which a total of approximately \$645 million has been appropriated or reprogrammed for use in the West Bank since 2007. The Obama Administration has requested an additional \$70 million in FY2013 INCLE funding.

Since Hamas gained control of the Gaza Strip, the office of the U.S. Security Coordinator (USSC) for Israel and the Palestinian Authority (a three-star U.S. general/flag officer, supported as of mid-2012 by U.S. and allied staff and military officers from the United Kingdom, Canada, and seven other countries) has worked in coordination with the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) to sponsor and oversee training for PA security forces personnel, many of whom have been newly recruited. To date, nine full PA National Security Forces (NSF)³⁹ special battalions (4,987 personnel) and two Presidential Guard (PG)⁴⁰ battalions (1,078 personnel) have been trained at the Jordan International Police Training Center (JIPTC).⁴¹ Additionally, approximately 613 members of the PA Civil Defense (firefighters and other emergency responders) have been trained in Amman at the Jordanian Academy of Civil Protection.⁴²

³⁷ USAID FY2012 Congressional Notification #47, April 27, 2012.

³⁸ See, e.g., Herb Keinson, "U.S. paying salaries for jailed Palestinian terrorists," *jpost.com*, July 26, 2011.

³⁹ The NSF (with approximately 8,000 active personnel), the organization that receives the greatest amount of training and other resources as a result of U.S. INCLE assistance, is considered by many Palestinians to be analogous to a national army—housed in barracks, classified by military rank, and subject to a military-style command structure.

⁴⁰ The PG's main purposes are to protect the PA president and other VIPs, to respond to crises, and to protect official PA facilities.

⁴¹ Neither NSF nor PG personnel possess the legal authority to make arrests when tasked with law and order missions. Therefore, they generally operate as strategic reinforcements and force protection for the organizations empowered to make arrests—the Palestinian Civil Police (PCP, with approximately 7,200 active personnel) and two intelligence organizations (the Preventive Security Organization and the General Intelligence Service) which are less visible than the PCP and NSF in day-to-day law and order tasks.

⁴² The information in this paragraph on PA security forces training in Jordan was provided to CRS on January 14, 2013, by a senior Western official based in the region.

Now that the initial training of newly-formed battalions has reportedly been completed, the USSC/INL program appears to be changing its emphasis. At a July 12, 2011, hearing before the House Foreign Affairs Subcommittee on the Middle East and South Asia, Lieutenant General Michael Moeller, the previous USSC,⁴³ outlined some of these changes in the context of expectations for FY2012:

This year, we will transition the program into the next phase of our campaign plan: Building institutional capacity. This new phase is less resource intensive as we move away from primarily providing the Palestinian security forces with equipment and infrastructure toward an increasingly direct “advise and assist” role.

In this phase, we will help the PASF develop indigenous readiness, training, and logistics programs and the capability to maintain/sustain their force structure readiness and infrastructure. Additionally, the USSC will continue to support other US rule of law programs that assist the Palestinians to improve the performance of the Justice and Corrections Sectors.⁴⁴

The USSC/INL security assistance program exists alongside other assistance and training programs provided to Palestinian security forces and intelligence organizations by various other countries and the European Union (EU).⁴⁵ Some reports cite the probable existence of covert U.S. assistance programs as well.⁴⁶ By most accounts, the PA forces receiving training have shown increased professionalism and have helped substantially improve law and order and lower the profile of terrorist organizations in West Bank cities.⁴⁷ Israeli officials generally support the USSC/INL program, routinely citing both the PA forces’ greater effectiveness as well as increased and sustained levels of Israel-PA security cooperation in the West Bank since the program began. This cooperation, however, renders the PA vulnerable to criticism from Hamas and others seeking to undermine the PA’s popular credibility as a champion of Palestinian national aspirations.⁴⁸

Additionally, the aspiration to coordinate international security assistance efforts and to consolidate the various PA security forces under unified civilian control that is accountable to rule of law and to human rights norms remains largely unfulfilled. PA forces have come under criticism for the political targeting of Hamas—in collaboration with Israel and the United States—through massive shutdowns and forced leadership changes to West Bank charities with alleged ties to Hamas members and through reportedly arbitrary detentions of Hamas members

⁴³ Vice Admiral Paul Bushong has served as USSC since October 2012.

⁴⁴ Testimony of Lt. Gen. Moeller before the House Foreign Affairs Subcommittee on the Middle East and South Asia, July 12, 2011.

⁴⁵ In January 2006, the EU Coordinating Office for Palestinian Police Support (EUPOL COPPS) was launched to help train and equip the Palestinian Civil Police. EUPOL COPPS also advises the PA on criminal justice and rule of law issues. EUPOL COPPS has 70 international staff and 40 local hires in the West Bank, and an annual operating budget of almost €5 million. See <http://eupolcopps.eu>.

⁴⁶ See, e.g., Yezid Sayigh, *Policing the People, Building the State: Authoritarian Transformation in the West Bank and Gaza*, Carnegie Endowment for International Peace, February 2011; Ian Cobain, “CIA working with Palestinian security agents,” *guardian.co.uk*, December 17, 2009.

⁴⁷ Improvements in the PA security forces’ leadership and capacity may factor into Israeli data that—according to information a senior Western official based in the region provided to CRS on June 12, 2012—cite a 96% decrease in West Bank terrorist attacks since 2007. Other factors contributing to the decline in terrorism may include enhanced Israeli security measures, Palestinian fatigue with or decreasing appetite for politically-motivated violence or popular resistance, and various political and economic incentives and other developments.

⁴⁸ Gabe Kahn, “Hamas: PA-Israel Security Cooperation Blocking Unity Deal,” *IsraelNationalNews.com*, March 9, 2012.

and supporters.⁴⁹ More recently, some observers are questioning how successful the PA has been in bringing law and order to Jenin and other parts of the northern West Bank that were previously held out as examples of PA security progress and possible models for other West Bank areas. Some PA security personnel, including a few trained with U.S. funding⁵⁰ and some who had been granted amnesty from previous involvement with terrorist groups, have reportedly been involved in the criminal activity that led to a renewed PA crackdown in the area. One report asserted that despite these incidents, general security in Jenin remains much improved since 2007,⁵¹ and many reports document ongoing efforts by the PA to confront crime and security personnel corruption. According to PA Prime Minister Salam Fayyad, “What’s going on now is patching the gaps (in the security establishment) through a focused security effort.”⁵²

Some Palestinians and outside observers assert that the effectiveness and credibility of PA operations are undermined by Israeli restrictions—including curfews, checkpoints, no-go zones, and limitations on international arms and equipment transfers—as well as by Israel’s own security operations in the West Bank⁵³ and at crossings into Gaza. Israel claims that its continuing operations in the West Bank are necessary in order to reduce the threat of terrorism. It is unclear how concerns about the effectiveness of the PA security forces might evolve if anti-Israel protests and occasional instances of Israeli-Palestinian confrontation in the West Bank increase in frequency and intensity amid heightened tension. According to one observer:

In the last couple of months, and especially since Israel’s intervention in Gaza and November’s UN vote on Palestine, a cascade of direct confrontations between Israeli forces and Palestinians have erupted throughout the West Bank.⁵⁴

This might in part be motivated by a continued stalemate in negotiating efforts, PA budgetary problems exacerbated by Israel’s unwillingness to transfer tax and customs revenue,⁵⁵ and new Israeli announcements of residential construction and planning in West Bank settlements and in East Jerusalem.⁵⁶

How potential Fatah-Hamas consensus on a PA governing arrangement may affect the activities of PA security forces in the West Bank is unclear, although it is possible that these activities will remain largely unchanged until either PA presidential and legislative elections can be held or Fatah and Hamas can agree on security coordination for both the West Bank and Gaza. The likelihood of either contingency occurring is seriously questioned by many observers.

⁴⁹ See, e.g., Nathan Thrall, “Our Man in Palestine,” *New York Review of Books*, October 14, 2010.

⁵⁰ Karin Brulliard, “Drama in West Bank city of Jenin shows cracks in Palestinian nation-building project,” *Washington Post*, May 25, 2012.

⁵¹ Ibid.

⁵² Ali Sawafta and Noah Browning, “Palestinian Authority cracks down in West Bank town,” *Reuters*, June 4, 2012.

⁵³ These operations underscore the fact that the Israeli-Palestinian agreements that authorized the creation of Palestinian security forces in the 1990s in areas of limited Palestinian self-rule contained clauses that preserved Israel’s prerogative to conduct operations in those areas for purposes of its own security.

⁵⁴ Geoffrey Aronson, “Israeli-Palestinian Security Ties Fail as They Succeed for PA,” *Al-Monitor*, January 4, 2013.

⁵⁵ See footnote 90.

⁵⁶ Many Israelis who support the extension of Israeli civil law over East Jerusalem—which took place in 1967—refer to Jewish residential areas there as “neighborhoods”, seeking to distinguish these areas from Jewish settlements in the West Bank, which remains under Israeli military jurisdiction. Successive U.S. Administrations and most other international actors do not draw this distinction. For more information, see CRS Report RL33476, *Israel: Background and U.S. Relations*, by Jim Zanotti.

U.S. Contributions to UNRWA

Overview

The United States is the largest single-state donor to UNRWA, which provides food, shelter, medical care, and education for many of the original refugees from the 1948 Arab-Israeli war and their descendants—now comprising approximately 5 million Palestinians in Jordan, Syria, Lebanon, the West Bank, and Gaza. U.S. contributions to UNRWA—separate from U.S. bilateral aid to the West Bank and Gaza—come from the Migration and Refugee Assistance (MRA) account and the Emergency Refugee and Migration Assistance (ERMA) account. Since UNRWA’s inception in 1950, the United States has provided the agency with approximately \$4.4 billion in contributions (see **Table 4** below). Other refugees worldwide fall under the mandate of the U.N. High Commissioner for Refugees (UNHCR).

The budget for UNRWA’s core activities (general fund) for 2013 is \$657 million, funded mainly by Western governments, international organizations, and private donors.⁵⁷ In December 2012, UNRWA Deputy Commissioner-General Margot Ellis forecast a \$69 million funding shortfall for 2013,⁵⁸ which would necessitate some combination of additional contributions and program cuts. UNRWA also creates special emergency funds for pressing humanitarian needs. U.S. contributions (which are made from the Migration and Refugee Assistance (MRA) and Emergency Refugee and Migration Assistance (ERMA) accounts managed by the State Department’s Bureau of Population, Refugees, and Migration (PRM)) totaled \$233.3 million for FY2012 (\$125.4 million for the general fund, \$103.8 million for emergency funds and special projects). According to PRM, \$100 million in FY2013 contributions have been disbursed as of December 2012 (\$60 million for the general fund, \$40 million for emergency funds).⁵⁹

Table 4. Historical U.S. Government Contributions to UNRWA

(in \$ millions)

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1950-1989	1,473.3	2001	123.0
1990	57.0	2002	119.3
1991	75.6	2003	134.0
1992	69.0	2004	127.4
1993	73.8	2005	108.0
1994	78.2	2006	137.0
1995	74.8	2007	154.2

⁵⁷ According to statistics from UNRWA’s website, U.S. contributions in 2011 constituted approximately 23% of the UNRWA General Fund budget and 25% of the total budget. Aggregate contributions from the European Commission and European states (including both EU members and non-members) and regions constituted approximately 51% of the total budget. Aggregate contributions from the Muslim world constituted approximately 15% of the total budget.

⁵⁸ Transcript of remarks by UNRWA Deputy Commissioner-General Margot Ellis at 2013 Pledging Conference, United Nations, New York, December 4, 2012, available at <http://www.unrwa.org/etemplate.php?id=1550>.

⁵⁹ CRS email correspondence with State Department official, December 4, 2012.

Fiscal Year(s)	Amount	Fiscal Year(s)	Amount
1996	77.0	2008	184.7
1997	79.2	2009	268.0
1998	78.3	2010	237.8
1999	80.5	2011	249.4
2000	89.0	2012	233.3
		TOTAL	4,381.8

Source: U.S. State Department.

Notes: All amounts are approximate.

Until the 1990s, Arab governments refrained from contributing to UNRWA's budget in an effort to keep the Palestinian refugee issue on the international agenda and to press Israel to accept responsibility for their plight. Since then, several Arab states have made relatively modest annual contributions.

In Gaza, most observers acknowledge that the role of UNRWA in providing basic services (i.e., food, health care, education) takes much of the governing burden off Hamas. As a result, some complain that this amounts to UNRWA's enabling of Hamas and argue that its activities should be discontinued or scaled back. This is in addition to critics who question UNRWA's existence because they believe it perpetuates Palestinian dependency and resentment against Israel.⁶⁰ However, many others, U.S. and Israeli officials included, believe that UNRWA plays a valuable role by providing stability and serving as the eyes and ears of the international community in Gaza. They generally prefer UNRWA to the uncertain alternative that might emerge if UNRWA were removed from the picture.⁶¹

Civil conflict in Syria affects the approximately 500,000 Palestinian refugees there. Some have fled to Lebanon, Jordan, and even Gaza,⁶² and some others have reportedly taken part in the conflict or incurred death, injury, displacement, or other forms of harm, such as when the Yarmouk refugee camp in greater Damascus became a locus of fighting between regime forces and rebels in December 2012.⁶³ Future events could exacerbate the dilemma of these refugees and increase UNRWA needs assessments.

⁶⁰ See, e.g., Michael S. Bernstam, "The Palestinian Proletariat," *Commentary*, December 2010.

⁶¹ See FY2013 Congressional Budget Justification for Foreign Operations, Department of State (Volume 2), pp. 105-106: "USG support for UNRWA directly contributes to the U.S. strategic interest of meeting the humanitarian needs of Palestinians, while promoting their self-sufficiency. UNRWA plays a stabilizing role in the Middle East through its assistance programs, serving as an important counterweight to extremist elements. Given UNRWA's unique humanitarian role in areas where terrorist organizations are active, the State Department continues to monitor closely UNRWA's obligations to take all possible measures to ensure that terrorists do not benefit from USG funding."

⁶² Mohammed Suliman, "Palestinian Refugees From Syria Seek Refuge in Gaza," *Al-Monitor Palestine Pulse*, January 17, 2013.

⁶³ Nicolas Pelham, "Jordan's Syria Problem," *New York Review of Books Blog*, January 10, 2013.

Issues for Congress

Some observers, including a former general counsel for UNRWA, have criticized UNRWA for, among other things, insufficient or flawed vetting procedures and engaging in political advocacy.⁶⁴ UNRWA and its supporters, however, maintain that UNRWA officials are fulfilling their mandated roles as well as can be expected under challenging circumstances (i.e., UNRWA's lack of a robust policing capability and other operational limitations, political pressures, and security concerns).⁶⁵

In testimony before the House Appropriations Subcommittee on State, Foreign Operations and Related Programs on April 23, 2009, Secretary of State Hillary Rodham Clinton spoke for the Obama Administration regarding U.S. oversight of contributions to UNRWA:

We have made it clear to UNRWA, the United Nations Relief And Works Agency, that we intend to carefully track any aid that they receive. They have taken additional steps, partly at our urging, to make their process more transparent, consistent with both United Nations commitments and U.S. legislation. They conduct background checks on employees. They share staff lists with us and with Israel. They prohibit staff participation in political activities. They launch investigations upon receiving information from Israel, us, or anyone else about any staff member engaging in inappropriate or illicit activities. They are actually investigating staff members right now who were elected in internal elections within Gaza. And we have pressed them very hard because they have to earn our confidence in this.⁶⁶

Vetting of UNRWA Contributions

The primary concern raised by some Members of Congress is that U.S. contributions to UNRWA might be used to support terrorists. Section 301(c) of the 1961 Foreign Assistance Act (P.L. 87-195), as amended, says that “No contributions by the United States shall be made to [UNRWA] except on the condition that [UNRWA] take[s] all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.”

A May 2009 GAO report said that, since a previous GAO report in 2003, UNRWA and the State Department had strengthened their policies and procedures to conform with Section 301(c) legal requirements, but that “weaknesses remain.”⁶⁷ Neither report found UNRWA to be in noncompliance with Section 301(c), and to date, no arm of the U.S. government has made such a finding. The following are some points from the 2009 report and subsequent developments related to it:

⁶⁴ See James G. Lindsay, *Fixing UNRWA: Repairing the UN's Troubled System of Aid to Palestinian Refugees*, Washington Institute of Near East Policy, Policy Focus #91, January 2009. See also James Phillips, “The Gaza Aid Package: Time to Rethink U.S. Foreign Assistance to the Palestinians,” The Heritage Foundation WebMemo No. 2333, March 9, 2009.

⁶⁵ A direct written rebuttal by Israeli academic Maya Rosenfeld to the former UNRWA general counsel's claims was carried by UNRWA's website and is available at http://rete-eco.it/attachments/5172_Rejoinder%20to%20Lindsay_jan09.pdf.

⁶⁶ Transcript of remarks by Secretary of State Hillary Rodham Clinton, House Appropriations Subcommittee on State, Foreign Operations and Related Programs Hearing, April 23, 2009.

⁶⁷ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

- In the 2009 GAO report, State officials said compliance is evaluated based on State's "internal level of confidence that UNRWA has taken all possible measures to ensure that terrorists are not receiving assistance, such as having procedures in place and taking measures to respond to issues that arise."⁶⁸ State has not defined the term "all possible measures," nor has it defined what would constitute noncompliance with Section 301(c).
- The report said that State had not established written criteria to use in evaluating UNRWA's compliance with Section 301(c), and recommended that State consider doing so.⁶⁹ In November 2009, State and UNRWA signed a non-binding "Framework for Cooperation" for 2010. The document agreed that, along with the compliance reports UNRWA submits to State biannually, State would use 15 enumerated criteria "as a way to evaluate" UNRWA's compliance with Section 301(c). State has signed a similar document with UNRWA in each subsequent year.⁷⁰
- UNRWA said that it screens its staff and contractors every six months and that it screened all Palestinian refugees and microfinance clients in December 2008 for terrorist ties to Al Qaeda and the Taliban, pursuant to a list established pursuant to U.N. Security Council Resolution 1267.⁷¹ According to the State Department, UNRWA has subsequently screened all of the above groups roughly every six months.⁷² UNRWA said that it is unable to screen those of its beneficiaries who are displaced persons from the 1967 war because it does not collect information on those persons.⁷³
- UNRWA's UN 1267 terrorist screening list does not include Hamas, Hezbollah, or most other militant groups that operate in UNRWA's surroundings. UNRWA is unwilling to screen its contractors and funding recipients against a list supplied by only one U.N. member state. Nevertheless, UNRWA officials did say that if notified by U.S. officials of potential matches, they would "use the information as a trigger to conduct their own investigation," which led to the report's recommendation that the State Department consider screening UNRWA contractors.⁷⁴ In response, State says that it now screens quarterly, against the Excluded Parties Lists System (EPLS, which is a list of parties excluded throughout the U.S. government from receiving federal contracts⁷⁵),

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ "Framework for Cooperation Between UNRWA and the Government of the United States of America for 2013," available at <http://www.state.gov/documents/organization/201638.pdf>. The 15 enumerated criteria are found in Annex 1 of the framework document.

⁷¹ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

⁷² CRS correspondence with State Department official, June 20, 2012.

⁷³ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit. In 2006, an organization that advocates for Palestinian refugees estimated the total number of 1967 displaced persons to be between 800,000 and 850,000. See BADIL Resource Center for Palestinian Residency & Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons 2004-2005*, May 2006.

⁷⁴ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

⁷⁵ U.S. General Services Administration website at https://www.acquisition.gov/faqs_whatIs.asp.

the names of vendors of contracts equal to or exceeding \$100,000, as provided by UNRWA. Each contract awardee is screened twice by separate State/PRM staff. The most recent analysis was conducted for the third quarter of 2012 (July-September 2012). Since the EPLS screening by State/PRM began in 2009, the analysis has resulted in no matches against the EPLS.⁷⁶

- UNRWA has established procedures to investigate inappropriate staff behavior. UNRWA [said] that it seeks information from authorities whenever staff are detained, convicted, or refused a permit or targeted by Israeli military forces. UNRWA officials said they share the names of all UNRWA staff annually with the governments of Egypt, Israel, Jordan, Lebanon, Syria, and the Palestinian Authority but have received no information on staff members from these governments.⁷⁷
- UNRWA officials said that UNRWA provides assistance “in the context of its humanitarian mandate, meaning that agency policy is generally not to deny education or primary healthcare benefits.” The officials said that if a refugee was denied benefits because of suspected militant or terrorist activities or ties, his or her child “would not be disqualified from attending an UNRWA school.”⁷⁸

Legislation

Critiques of UNRWA’s operations are routinely raised, and some Members of Congress have supported legislation or resolutions aimed at increasing oversight of the agency, strengthening its vetting procedures, and/or capping U.S. contributions.⁷⁹ In S.Rept. 112-172, which accompanies the version of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013 (S. 3241) that the Senate Appropriations Committee reported favorably on May 24, 2012, the committee included a provision that would require the Secretary of State to submit a report within one year of the act’s enactment with the following information:

(a) the approximate number of people who, in the past year, have received UNRWA services—(1) whose place of residence was Palestine between June 1946 and May 1948 and who were displaced as a result of the 1948 Arab-Israeli conflict; and (2) who are descendants of persons described in subparagraph (1);

(b) the extent to which the provision of such services to such persons furthers the security interests of the United States and of other United States allies in the Middle East; and

⁷⁶ CRS email correspondence with State Department official, December 4, 2012.

⁷⁷ GAO, *Measures to Prevent Inadvertent Payments to Terrorists...*, op. cit.

⁷⁸ Ibid.

⁷⁹ H.Rept. 111-151 (the joint explanatory statement accompanying the Consolidated Appropriations Act, 2010, P.L. 111-32) contained a provision requiring a report from the Secretary of State to the Committees on Appropriations no later than 45 days following the enactment of P.L. 111-32 on various UNRWA self-policing and transparency-promoting activities, including measures UNRWA takes to comply with Section 301(c) of the 1961 Foreign Assistance Act relating to preventing assistance to terrorists, and measures it takes to reduce anti-Israel incitement and education. P.L. 112-74 incorporated the same reporting requirement by reference to H.Rept. 111-151. Pursuant to the version of H.R. 5857 (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013) reported favorably by the House Appropriations Committee, no U.S. contributions to UNRWA would be permitted unless and until the Secretary of State reports that UNRWA is following through on the self-policing and transparency-promoting activities discussed above.

(c) the methodology and challenges in preparing such report.

Senator Patrick Leahy, chairman of the Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs, reportedly authored the above language for S.Rept. 112-172 as an alternative to a more detailed reporting requirement proposed by Senator Mark Kirk.⁸⁰ In a May 25, 2012, press release, Senator Kirk's office asserted that the reporting requirement is intended to "help taxpayers better understand whether UNRWA truly remains a refugee assistance organization or has become a welfare agency for low-income residents of the Levant." A critic of the provision wrote that its "real goal" is to "redefine the number of Palestinian refugees receiving aid from UNRWA with a view to limiting its budget, which is heavily dependent on U.S. aid."⁸¹ Palestinians' claim of a "right of return" for many in their diaspora to their places of origin in present-day Israel—one of the core issues to be resolved in the Israeli-Palestinian conflict—could be substantially affected by a recharacterization of Palestinian refugees or a change in their aid levels.

Supporters of the Kirk reporting requirement assert that UNRWA, by providing services to descendants of the original Palestinian refugees from 1948—by one count, the number of registered refugees has increased seven-fold since then—has effectively become "a silent partner to the Palestinian leadership" in perpetuating the refugee issue.⁸² A counterargument holds that UNRWA defines refugee status and eligibility for its services using a standard recognized and practiced by the U.N. High Commissioner for Refugees (UNHCR) around the world.⁸³ This counterargument is, in turn, brought into question by other sources.⁸⁴

Such opposing views highlight a broader debate over responsibility for the multi-generational Israeli-Palestinian conflict and whether attempts to resolve the refugee problem separately are advisable and more likely either to lead to or work against an overall resolution that addresses both parties' interests.⁸⁵ Deputy Secretary of State Thomas Nides used the following language in a letter dated May 24, 2012, urging Chairman Leahy to oppose the Kirk reporting requirement:

The status of Palestinian refugees is one of the most sensitive final status issues confronting Israel and the Palestinians; it strikes a deep, emotional, [sic] chord among Palestinians and their supporters, including our regional allies. Indeed, the refugee issue is not confined to the Palestinian territories; it also directly and significantly impacts the politics and stability of allies, such as Jordan and Lebanon, which host large Palestinian refugee populations.

⁸⁰ Josh Rogin, "Senate fight today over Palestinian 'refugees,'" *thecable.foreignpolicy.com*, May 24, 2012.

⁸¹ Victor Kattan, "'UNRWA reform' effort will harm Middle East peace effort," *thehill.com*, May 30, 2012. Reportedly, the original version of Senator Kirk's reporting requirement would have defined a Palestinian refugee for purposes of U.S. policy towards UNRWA "as a person whose place of residence was Palestine between June 1946 and May 1948, who was personally displaced as a result of the 1948 or 1967 Arab-Israeli conflicts, who currently does not reside in the West Bank or Gaza and who is not a citizen of any other state." Rogin, *op. cit.*

⁸² Jonathan Schanzer, "Status Update," *foreignpolicy.com*, May 21, 2012.

⁸³ Kattan, *op. cit.*

⁸⁴ Josh Rogin, "Senate fight today over Palestinian 'refugees,'" *thecable.foreignpolicy.com*, May 24, 2012: "UNRWA has been using a definition that includes descendants of refugees while other U.N. bodies do not include descendants in their definition." See also Jennifer Rubin, "Is the U.N. making the Palestinian refugee problem worse?," *washingtonpost.com*, May 23, 2012.

⁸⁵ See, e.g., Hilary Leila Krieger, "Palestinians: US refugee bill may delay peace," *jpost.com*, June 5, 2012; Leila Hilal, "Israeli Leader Wrongly Blames UN and Arab States for Palestinian Refugees," *theatlantic.com*, February 21, 2012; "Leila Hilal's bizarre defense of UNRWA," *jpost.com* (Warped Mirror Blog), June 7, 2012.

This proposed amendment would be viewed around the world as the United States acting to prejudge and determine the outcome of this sensitive issue. United States policy has been consistent for decades, in both Republican and Democratic administrations—final status issues can and must only be resolved between Israelis and Palestinians in direct negotiations. The Department of State cannot support legislation which would force the United States to make a public judgment on the number and status of Palestinian refugees.⁸⁶

Additionally, the joint explanatory statement to P.L. 112-74 (H.Rept. 112-331) endorsed language in S.Rept. 112-85 (accompanying S. 1601) directing GAO to assess

(1) the ability of the Palestinian Authority to assume responsibility for any of the programs and activities conducted by the U.N. Relief and Works Agency in the West Bank; (2) actions required by the Palestinian Authority in order to assume such responsibility; and (3) the opinion of the Department of State and relevant ministries of the Government of Israel, including the Ministry of Defense, on the viability of transitioning such programs and activities from UNRWA to the Palestinian Authority.

Issues for Congress in Determining Future Aid

Possible Additional Palestinian Action in International Forums

Additional recourse by the PLO to international forums, either to seek greater recognition of Palestinian statehood, or to directly or indirectly pursue censure of or legal measures against Israel for past and ongoing activities regarding the West Bank and Gaza, could lead to greater resistance to or scrutiny of U.S. aid to Palestinians. Past international action is discussed above (see “Palestinian U.N.-Related Initiatives and Possible Fatah-Hamas Consensus—Effects on Aid”).

One possible reason that some Members of Congress have shown reluctance to continue funding the PA in light of Palestinian action within the U.N. system is a possible perception of these Palestinian initiatives as an attempt to undermine the U.S. role as “honest broker” and guarantor of the peace process. U.S. lawmakers and officials also may view Palestinian action in international forums as a sign that U.S. attempts to use aid for political leverage with the Palestinians are unproductive.

Following the adoption of UNGA Resolution 67/19, some Members of Congress proposed legislation⁸⁷ or sought Obama Administration action⁸⁸ seeking to close the PLO’s representative

⁸⁶ Text of Deputy Secretary Nides’s letter available at <http://www.scribd.com/doc/94703915/DepSec-State-Opposes-Kirk-Amdt#download>.

⁸⁷ Three amendments (S.Amdt. 3139, S.Amdt. 3171, and S.Amdt. 3203) responding to UNGA Resolution 67/19 were proposed to S. 3254 (the National Defense Authorization Act, 2013) prior to its passage in December 2012. None of the amendments were voted on.

⁸⁸ In December 2012, the then-current and -prospective chairs and ranking Members of the House Foreign Affairs Committee sponsored a letter to President Obama calling on him to close the PLO’s representative office in Washington, DC. The text of the letter that was signed by more than 235 Members of Congress is available at http://www.scribd.com/doc/117655331/Letter-to-President-Obama-A-Majority-of-Members-of-Congress-Sign-Ros-Lehtinen-Letter-Urging-Consequences-for-Palestinians-UN-over-Unilateral-Stat?secret_password=scbcbqtlem1ftdesloz.

office in Washington, DC, or to make any future ICC action targeting Israel a trigger that would cut off U.S. aid to the PA. One source quoted Senator Lindsey Graham, co-sponsor of one of the legislative proposals, as saying, “I do not mind helping the Palestinian people, who have many challenges, get a good economy and rule of law, a nation established on the West Bank. But I cannot, along with my colleagues, in good conscience send a billion dollars to an organization who is trying to use the political tool of the United Nations and the International Criminal Court to undermine [the peace process].”⁸⁹

However, U.S. lawmakers and policymakers may be reluctant to take drastic or permanent measures in reprisal for Palestinian action in international forums, or to encourage the continuation or intensification of reprisals that Israel has made since the adoption of Resolution 67/19.⁹⁰ This could be due to

- desires not to further undercut a possible return to diplomacy;
- concerns regarding the PA’s financial fragility and the disorder that could result from undermining West Bank self-rule institutions;
- calculations that reprisals would be more advisable if and when the Palestinians take further steps in connection with the ICC or other international forums; and
- concern that international and regional actors who may be willing to provide replacement assistance for the Palestinians in the event of a change to U.S. aid levels could influence the PA and the West Bank in ways that run counter to U.S. interests.⁹¹

Hamas and a “Unity Government”?

As discussed above (see “Major Conditions, Limitations, and Restrictions on Aid”), although Fatah and Hamas reached various tentative agreements in 2011 and 2012 on a consensus PA governing arrangement, questions persist over how the agreement might actually be implemented. These questions include how PA and Hamas security operations might be integrated, when and how Palestinian presidential and legislative elections might be conducted, and who might occupy PA government positions. Current law, which would assign the same legal consequences for full Fatah-Hamas power sharing to a PA government “over which Hamas exercises undue influence,”

⁸⁹ Emily Cadei, “Palestinian U.N. Upgrade Triggers New Warning from Senators,” *cq.com*, November 29, 2012.

⁹⁰ Following the adoption of Resolution 67/19, Israel announced that it would withhold approximately \$115 million in monthly customs and tax payments that it is generally legally bound to transfer to the Palestinian Authority (PA) under the 1994 Israel-PLO “Paris Protocol”. The PA depends on this revenue to satisfy 40-45% of its monthly expenses. Subsequent reports indicate that Israel might withhold monthly payments until as late as March 2013. The withholding will ostensibly defray amounts (up to \$350 million) owed Israel for utility expenses.

This is the case even though a private Palestinian-operated company is directly responsible for these unpaid expenses. Daoud Kuttab, “Status of Electricity in Jerusalem: It’s Complicated,” *Al-Monitor Palestine Pulse*, January 6, 2013.

⁹¹ In testimony offered to the House Committee on Foreign Affairs, Subcommittee on the Middle East and South Asia, on July 10, 2012, Jonathan Schanzer of the Foundation for Defense of Democracies said, in addressing the possible consequences of a U.S. aid cutoff to the Palestinians, “I would say that, yes, we leave the playing field open to other bad actors to step in, whether it be Iran, Saudi Arabia, Qatar. I think there is no shortage of actors. Of course, the Muslim world is notorious for not making good on its pledges to the Palestinians for aid. But, nevertheless, if we stepped out, we certainly would lose our leverage and potentially yield it to other actors that are working against U.S. interests, and I would warn against it.”

does not further define this phrase. Thus, it is unclear whether Hamas's underlying approval of a PA government that includes formally non-aligned "technocrats" instead of Hamas members would be deemed to constitute "undue influence" over the government.⁹²

Future debates might focus on the following issues:

- Whether a "power of approval" by Hamas over a PA government, absent any further level of participation, should trigger a requirement for that government's acceptance and compliance with the Section 620K principles discussed above.
- Whether to relax or tighten U.S. restrictions on which Palestinian party/ies should be answerable for accepting and complying with the Section 620K principles.
- Whether to grant the U.S. President discretion—under certain conditions and/or for specific purposes—to waive aid restrictions relating to a PA government that includes or involves Hamas but does not meet the Section 620K principles.

Assuming that the United States chooses not to engage with and/or contribute to a PA government that includes or involves Hamas, future debates might take place over the degree to which the United States should actively dissuade others in the international community—particularly European and Arab actors—from engagement and contributions.⁹³

Questions Regarding a Two-State Solution

Even assuming that the immediate objectives of U.S. assistance to the Palestinians—relieving humanitarian needs in Gaza and improving security and facilitating development in the West Bank—are met, failure to achieve progress towards a politically legitimate and peaceful two-state solution could undermine the utility of U.S. aid in helping the Palestinians become more cohesive, stable, and self-reliant over the long term.

Many factors may complicate prospects for a negotiated two-state solution, including but not limited to:

- Discord within and among Palestinian factions—reflected geographically by divided rule in the West Bank and Gaza (unless and until consensus on interim governing arrangements and/or elections is implemented) and ideologically by Hamas's refusal to join the PLO in forswearing violent resistance against Israel.
- Preconditions or conditions that Israel and the PLO have each attached to the negotiating process and/or a final-status agreement.⁹⁴

⁹² If §7040(f)(1) of H.R. 5857 (Department of State, Foreign Operations, and Related Programs Appropriations Act, 2013) were to be enacted in the form that was reported favorably by the House Appropriations Committee in May 2012, it would consider a PA government resulting from any agreement with Hamas—regardless of the level of influence Hamas is deemed to exercise over the government—to have the same legal consequences as full power sharing.

⁹³ Previously when Hamas participated in the PA government from 2006-2007, the European Union joined the United States in refusing to provide direct assistance to the PA. There are indications, however, that Europeans might be less willing to follow the U.S. lead in the event that another PA government including Hamas is formed.

⁹⁴ PLO Chairman Abbas has routinely expressed unwillingness to resume negotiations with Israel unless it halts Jewish settlement construction in the West Bank and East Jerusalem and is willing to use the 1949-1967 armistice lines as the (continued...)

- Physical entrenchment of Israeli settlers in the West Bank and of obstacles to Palestinian movement within the West Bank and in and out of both the West Bank and Gaza, together with its political and socioeconomic consequences.
- Possibility of high-impact events—such as a major terrorist attack, a surprise election outcome, an outbreak of war, or pursuit by Palestinians of political strategies outside of negotiations with Israel. This possibility could increase as result of the region-wide unrest and political change that has been ongoing since late 2010.

The Gaza Situation

Hamas's control of Gaza presents a conundrum for many that has become even more complicated following the Israel-Gaza conflict of November 2012 (also known as Operation Pillar of Defense). Most parties, including Israel and the PA, express concern that assisting Gaza's population and rebuilding infrastructure damaged during Operation Cast Lead (the 2008-2009 Israel-Gaza conflict) and the November 2012 conflict could bolster Hamas. Thus, while controlled levels of basic sustenance and medical supplies have been permitted to enter Gaza, reconstruction projects have been limited. Following the November cease-fire brokered by Egypt, however, Israel has relaxed limits on the import of construction materials, and Egypt has allowed a Qatari-sponsored \$400 million reconstruction initiative for Gaza to send in truckloads through the Rafah border crossing.

Largely as a result of an earlier Israeli easing of the closure regime at its crossings with Gaza in 2010, the World Bank estimated economic growth for Gaza to be approximately 20% for 2011, but this immediate growth surge has since abated, dropping to around 6% in early 2012.⁹⁵ Near the end of 2011, real per capita GDP remained approximately 15% less than the pre-closure-regime level of approximately \$1,300—see **Figure 1** below. More goods have come into Gaza, and limited exports have resumed, but not to the Israel and West Bank markets that previously constituted about 85% of Gaza's exports.⁹⁶

It is not clear if, when, and under what conditions a full resumption of agricultural and industrial trade and movement of persons between Gaza and the outside world might be expected. In 2011, following the resignation of President Hosni Mubarak, Egypt permanently opened its crossing with Gaza at Rafah to passenger traffic, but because this has not extended to the passage of goods, it appears not to have had a material effect on trade or smuggling to Gaza through tunnels from Egypt's Sinai Peninsula.⁹⁷

(...continued)

basis for border negotiations. In Israeli Prime Minister Binyamin Netanyahu's June 14, 2009, speech accepting the concept of a two-state solution, Netanyahu insisted that the Palestinians would need to recognize Israel as the "nation state of the Jewish people" and accept demilitarization with "solid security measures."

⁹⁵ World Bank, *Fiscal Crisis, Economic Prospects: The Imperative for Economic Cohesion in the Palestinian Territories*, September 23, 2012.

⁹⁶ Gisha – Legal Center for Freedom of Movement, "A Guide to the Gaza Closure: In Israel's Own Words," September 2011.

⁹⁷ See, e.g., Nicolas Pelham, "Gaza's Tunnel Phenomenon: The Unintended Dynamics of Israel's Siege," *Journal of Palestine Studies*, vol. XLI, no. 4, summer 2012. According to information provided to CRS by Gisha in March 2012, citing 2011 sources from the Israeli Ministry of National Economy and the Peres Center for Peace, smuggling tunnels account for approximately 80% of total imports into Gaza and accounted for approximately 60% of Hamas's 2010 total (continued...)

It is possible that either Hamas's positions on the Quartet principles or its control over Gaza would have to change before substantial U.S. funds might be used in the reconstruction of buildings and infrastructure in Gaza, with the exception of U.N. facilities and other special cases such as international schools. In the meantime, outside assistance from Iran, Egypt, Qatar, other Gulf states, and Turkey may bolster Hamas's rule and, combined with other factors, may exacerbate the Palestinian political divide that exists between the West Bank and Gaza. Additionally, unless the terms of the November 2012 cease-fire lead to a significant change in the security status quo in and around Gaza, occasional skirmishes between Palestinian militants (including Hamas) and Israel in Gaza's border areas and continuing low-level rocket and mortar fire from Gaza at targets in Israel could spiral into renewed conflict.

Some Members of Congress are routinely concerned that bilateral assistance for Gaza or contributions to UNRWA could be misused and diverted to benefit Hamas or other terrorist groups. Yet, some Members of Congress advocate expanding the level and type of humanitarian and development assistance to Gaza—often at the same time they advocate easing, ending, or even challenging the Israeli-Egyptian closure regime—arguing that Gazans need more support to improve their economic, physical, and psychological situations. A 2012 U.N. report outlined several challenges to Gaza's liveability by extrapolating its conditions eight years forward to 2020.⁹⁸

Strengthening the PA in the West Bank

Paradoxically, instability in the West Bank and the Gaza Strip is both a major reason for the increases in U.S. assistance over the past five years and a factor that could lead some to oppose maintaining or boosting current aid levels. After Hamas's takeover of the Gaza Strip and dismissal from the PA in June 2007, the United States made assisting the PA with economic development and civil security a higher priority, with an aim of bolstering the standing of the Abbas/Fayyad government. Yet, if lawmakers detect that the PA in Ramallah is unable to achieve or maintain popular legitimacy and competent control in the West Bank within a reasonable timeframe, their willingness to provide resources and training might decrease, given concerns that aid could potentially be used against Israel or Palestinian civilians.

Some observers argue that U.S. assistance does not enhance the legitimacy of Abbas and the PA, but rather detracts from it by leading some Palestinians to conclude that the PA is too beholden to the United States.⁹⁹ Others have warned that U.S. dependence on individual leaders such as Abbas and Fayyad works against long-term stability by undermining mechanisms of democratic governance and enabling authoritarianism.¹⁰⁰ Abbas's further consideration of actions outside of negotiations with Israel—greater rapprochement with Hamas, international diplomacy aimed at garnering support for Palestinian statehood and isolating Israel, support for nonviolent protests in the West Bank, and even the threat of disbanding the PA—could decrease U.S. policymakers'

(...continued)

revenue (\$300 million out of \$500 million).

⁹⁸ United Nations Country Team in the occupied Palestinian territory, *Gaza in 2020: A liveable place?*, August 2012.

⁹⁹ See Sherifa Zuhur, Ali Abunimah, Haim Malka, Shibley Telhami, "Symposium: Hamas and the Two-State Solution: Villain, Victim or Missing Ingredient?" *Middle East Policy*, vol. 15, issue 2, July 1, 2008; Transcript of National Public Radio interview ("All Things Considered") with Robert Malley, June 16, 2007.

¹⁰⁰ See Nathan J. Brown, "Fayyad Is Not the Problem, but Fayyadism Is Not the Solution to Palestine's Political Crisis," Carnegie Endowment for International Peace, September 2010.

inclination to support a PA led by him.¹⁰¹ Allegations of corruption from some commentators also may undermine U.S. support for Abbas.¹⁰²

Economic Development and International Donor Assistance

In General

The appointment in June 2007 of Salam Fayyad, a former World Bank and International Monetary Fund official, as PA prime minister raised hopes for Palestinian reform and economic growth that have been realized in part. Fayyad has produced reform proposals aimed at establishing a “de facto Palestinian state”¹⁰³ that have helped garner major international donor assistance pledges and promises of investment while gradually increasing PA revenues. International pledges of support, however, have routinely proven insufficient to cover the PA’s budgetary expenses, occasionally requiring efforts by Fayyad to obtain last-minute assistance and/or private financing or to temporarily curtail PA employee salaries. To prevent the PA’s insolvency at one point during 2012, Israel even provided occasional advances—totaling nearly \$200 million—on the transfer of tax and customs revenue that it collects on the PA’s behalf.

However, the financing gap persists between international donor commitments and the PA’s budgeted needs—exacerbated by current Israeli withholding of tax and customs revenues it is generally bound to transfer to the PA¹⁰⁴—and may do so for the foreseeable future. According to a March 2012 International Monetary Fund report, “There is little scope to cover that gap through further arrears accumulation to the private sector or borrowing from commercial banks, given the existing large stock of debt to businesses and banks. Therefore there is a high risk that the persistence of that gap will result in cuts in essential spending, including wages and social

¹⁰¹ H.R. 5857, if enacted with §7039(h)(2) in its current form, would appear to condition FY2013 ESF aid for Palestinians and UNRWA contributions in the West Bank and Gaza on the Secretary of State certifying that the PA “is moving to halt anti-Israel incitement and is engaged in activities aimed at promoting peace and coexistence with Israel.”

¹⁰² In testimony before the House Foreign Affairs Committee on September 14, 2011, Jonathan Schanzer of the Foundation for the Defense of Democracies proposed that “Congress should challenge the corrupt system created by Mahmoud Abbas. This includes, one, stricter oversight of the presidential waiver process that releases Palestinian funds each year. Two, oversight of the Palestine Investment Fund, including a full audit. Three, conduct an inquiry into the wealth of Mahmoud Abbas and his sons, Yasser and Tarek, to determine whether U.S. funds have contributed to their holdings. Four, demand an immediate resolution to the matter of the electric power plant in Gaza. U.S. taxpayers should not be [indirectly] financing Hamas. Number five, scrutinize the presidential budget of PA president Mahmoud Abbas, and finally, find ways to increase the role of Prime Minister Salam Fayyad, who has been marginalized by Abbas in recent years.” On May 8, 2012, Representatives Nita Lowey, Steve Israel, and Ted Deutch sent a letter to the Comptroller General of the United States raising concerns about the Palestine Investment Fund (PIF) and requesting information on the scope and nature of U.S. contributions to the PIF. See http://israel.house.gov/index.php?option=com_content&task=view&id=1067&Itemid=73.

¹⁰³ See, e.g., Palestinian National Authority, *Palestine: Ending the Occupation, Establishing the State*, Program of the Thirteenth Government, August 2009, available at http://www.mideastweb.org/palestine_state_program.htm. A key passage from the document reads: “Out of respect for our citizens, and in recognition of their desire to live free and peaceful lives under national independence, we must answer their demand to see the fruits of the state-building project. Against this background, the Palestinian government is struggling determinedly against a hostile occupation regime, employing all of its energies and available resources, most especially the capacities of our people, to complete the process of building institutions of the independent State of Palestine in order to establish a de facto state apparatus within the next two years. It is time now for the illegal occupation to end and for the Palestinian people to enjoy security, safety, freedom and independence.”

¹⁰⁴ See footnote 90.

transfers.”¹⁰⁵ Analysts are speculating about the possible consequences for the PA’s continued viability and for political and regional stability if it cannot meet its financial obligations, especially monthly salary payments for the more than 150,000 employees on its payroll.¹⁰⁶

The success of Fayyad’s reform plans appears to hinge on the following factors:

- Keeping the public sector solvent enough to sustain long-term private sector development;
- Getting Israeli restrictions loosened or lifted on the movement of goods and people both within and out of the West Bank and Gaza¹⁰⁷ and on Palestinian development projects in so-called “Area C”;¹⁰⁸ and
- Overall political progress to overcome Palestinian factional/geographical division and towards Palestinian statehood.¹⁰⁹

Several high-profile projects—housing developments, industrial parks, superstores, entertainment complexes—have been completed or are in various stages of proposal or construction in and around Ramallah, Bethlehem, Jericho, and the northern West Bank in an effort to jumpstart private sector development.¹¹⁰ Yet, most analysts assert that actual and prospective economic development should not be overstated because the West Bank economy continues to be propped up by external aid. After growth rates of approximately 10% in 2010 and 2011, estimated growth for 2012 was around 5.4%.¹¹¹ Furthermore, uncertainty remains regarding movement and access and regarding progress in negotiations with Israel.

¹⁰⁵ International Monetary Fund, *Recent Experience and Prospects of the Economy of the West Bank and Gaza: Staff Report Prepared for the Meeting of the Ad Hoc Liaison Committee*, March 21, 2012.

¹⁰⁶ One report estimates that 90,000 of the PA’s employees are in the West Bank, and the other 60,000 are in Gaza. Reportedly, those in Gaza no longer actually work in civil service positions because the Hamas-led regime has replaced them. “Arab states ‘completely incapacitated’ PA by withholding aid, Fayyad says,” *Associated Press*, January 6, 2013.

¹⁰⁷ The current system of Israeli restrictions on movement within the West Bank can be traced to the time of the second Palestinian *intifada* (which began in late 2000), and the closure of Gaza crossings and ports to the Hamas takeover in June 2007.

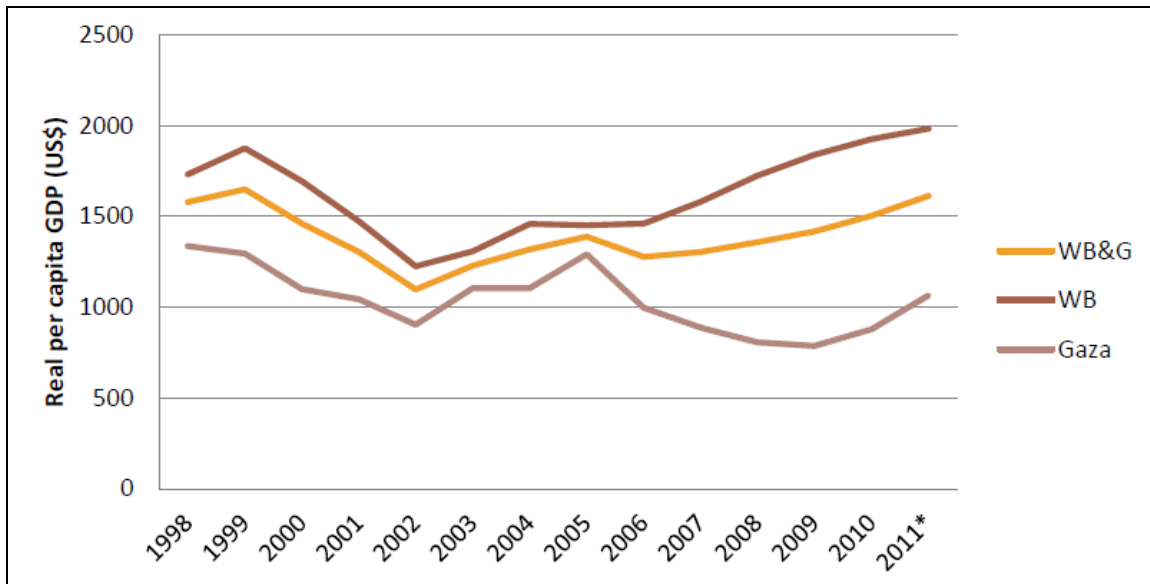
¹⁰⁸ Zones denoted as “Area C” in the West Bank pursuant to the Israel-PLO Interim Agreement on the West Bank and the Gaza Strip, dated September 28, 1995, fall under Israeli administrative and security control.

¹⁰⁹ See Nathan J. Brown, “Are Palestinians Building a State?,” Carnegie Endowment for International Peace, June 2010.

¹¹⁰ Some of these ventures have been supported by U.S. organizations—including the Overseas Private Investment Corporation (OPIC), the Aspen Institute, the Center for American Progress, and CHF International—affiliated or involved with a public-private partnership known as the Middle East Investment Initiative. See <http://meiinitiative.org>.

¹¹¹ World Bank, *op. cit.*

**Figure I. West Bank and Gaza Strip
Real Gross Domestic Product (GDP) Per Capita: 1998-2011**



Sources: World Bank; Palestinian Central Bureau of Statistics.

Note: *Based on data for the first three quarters of 2011.

Arab States

Congress has indicated its interest in staying abreast of the economic assistance that Arab state governments provide to the West Bank and the PA, sometimes requiring reports from the Administration on the subject.¹¹² Arab states (especially Gulf states) provided large amounts of aid to the Hamas-led PA government in 2006-2007 after the United States and European Union withdrew their aid, but following the reinstatement of U.S. and EU aid in mid-2007, most of them reduced contributions.¹¹³ Routinely, they make generous pledges of aid to the Palestinians, but at times fulfill them only in part and after significant delay. The largest Arab donor to the PA budget is Saudi Arabia, which generally contributes between \$100-250 million annually.

Although Arab governments called at a December 2012 League of Arab States (Arab League) meeting for the immediate implementation of a plan to provide \$100 million per month to the PA to compensate for Israel's withholding of tax and customs revenues (a reprisal for the adoption of UNGA Resolution 67/19), the decision did not specify which countries would pay or when. After expressions of concern by PA leaders and appeals from the Arab League, Saudi Arabia agreed in January 2013 to provide \$100 million to the PA.

¹¹² See, e.g., H.Rept. 111-366 (to P.L. 111-117, Consolidated Appropriations Act, 2010): "The conferees direct the Secretary of State to provide a report to the Committees on Appropriations not later than 180 days after enactment of this Act on international participation, including by Arab states, in the economic development of the West Bank and support for the Palestinian Authority, similar to that proposed by the House. This report may be submitted in classified form, if necessary."

¹¹³ See Glenn Kessler, "Arab Aid to Palestinians Often Doesn't Fulfill Pledges," *Washington Post*, July 27, 2008; "Falling Short," *Washington Post*, July 27, 2008.

Arab governments' reluctance to fulfill pledges may stem from misgivings over "picking sides" in Palestinian factional disputes and from concerns that without imminent prospects either for domestic political unity or for progress on the peace process, any money contributed could be a waste. Under the same rationale, future progress toward domestic unity could lead to larger contributions.¹¹⁴ On the part of the Gulf states in particular, reluctance may also stem from a feeling that they are less responsible historically for the Palestinians' current situation than Israel, the United States, and Europe.¹¹⁵ Also, according to *Reuters*, "A high of \$1.8 billion in foreign aid [from Arab countries to the PA] in 2008 plunged to \$600 million last year, with Gulf countries scaling back their giving because of increased domestic spending over two years of Arab political uprisings and the global financial downturn."¹¹⁶

Conclusion

Implementing U.S. bilateral assistance programs for the West Bank and Gaza and making UNRWA contributions presents significant challenges due to regional political uncertainty, ongoing Israeli-Palestinian disputes, and concerns that aid might be diverted to Palestinian terrorist groups. Prospects for stability in the West Bank appear to hinge on improved security, beneficial political and economic developments, Israeli cooperation, and continuation of high levels of foreign assistance.

In assessing whether U.S. aid to the Palestinians since the June 2007 West Bank/Fatah-Gaza Strip/Hamas split has advanced U.S. interests, Congress could evaluate how successful aid has been in

- reducing the threat of terrorism;
- inclining Palestinians towards peace with Israel;
- preparing Palestinians for self-reliance in security, political, and economic matters;
- promoting regional stability; and
- meeting humanitarian needs.

Given that evaluation, Congress will assess future aid in the context of U.S. policy priorities. Such evaluation and assessment might influence its deliberations over

- which aid programs to start, continue, expand, scale back, change, or end; and
- which oversight, vetting, monitoring, and evaluation requirements to apply to various aid programs.

¹¹⁴ For example, Qatar, not a major contributor to the PA in recent years, provided \$30 million in budgetary assistance in March 2012, one month after its leaders brokered an agreement aimed at a consensus PA government approved by both Fatah and Hamas. At least one early 2012 report indicates that Qatar also provided some funding to Hamas. Yezid Sayigh, "Hamas Looks to the Future: With Gains Come Dilemmas," Posted on Carnegie Middle East Center website (reportedly originally published in Arabic in *Al Hayat*), March 8, 2012. As discussed above, the Qatari-brokered agreement was reportedly later rejected by Hamas, largely owing to an intra-factional dispute.

¹¹⁵ See, e.g., Robert Bowker, *Palestinian Refugees: Mythology, Identity, and the Search for Peace*, Boulder, CO: Lynn Rienner Publications, Inc., 2003, p. 194.

¹¹⁶ "Saudis to give \$100 million to Palestinian Authority," *Reuters*, January 16, 2013.

Appendix A. Recent Historical Background

Since the establishment of limited Palestinian self-rule in the West Bank and Gaza Strip in the mid-1990s, the U.S. government has committed more than \$4 billion in bilateral assistance to the Palestinians in the West Bank and Gaza,¹¹⁷ who are among the largest per capita recipients of foreign aid worldwide.¹¹⁸ This assistance has focused on the further development of the Palestinian economic, social services, and civil society sectors; and on strengthening the processes, governance, and security-providing capacities of PA institutions.

Following the death of Yasser Arafat in 2004 and his succession by Mahmoud Abbas as PA president in 2005, Congress and the Bush Administration increased U.S. assistance to the Palestinians. However, after the 2006 Hamas victory in Palestinian Legislative Council elections reversed the renewed sense of U.S. optimism in elected Palestinian leadership, U.S. assistance was restructured and reduced. The United States halted direct foreign aid to the PA but continued providing humanitarian and project assistance to the Palestinian people through international and NGOs. The ban on direct assistance continued during the brief tenure of a Hamas-led power-sharing government (February to June 2007). During that time, the United States and the other members of the international Quartet (the United Nations Secretary-General's office, the European Union, and Russia) unsuccessfully demanded that Hamas accept the Quartet principles—recognition of Israel's right to exist, renunciation of violence, and acceptance of previous Israeli-Palestinian agreements.

Subsequent events altered the situation dramatically. In June 2007, Hamas forcibly took control of the Gaza Strip. PA President and Fatah head Mahmoud Abbas, calling the move a “coup,” dissolved the power-sharing government and tasked the politically independent technocrat Salam Fayyad to serve as prime minister and organize a new PA “caretaker” government in the West Bank. Within days, the United States lifted its economic and political embargo on the PA.

The Bush Administration and Congress then boosted U.S. aid levels in hopes of fostering an economic and security climate conducive to peaceful coexistence between Israel and a future Palestinian state. The revival of Israeli-Palestinian negotiations for a final-status agreement in conjunction with the Annapolis Conference of November 2007¹¹⁹ provided further impetus for U.S. economic support of institutional and societal building blocks for Palestinian self-governance. The Obama Administration has advocated a similar approach. Attempts by both Administrations to broker an Israeli-Palestinian negotiating process that yields a substantive and lasting resolution of core issues in dispute (borders, security, refugees, the status of Jerusalem, settlements, and water rights) have thus far proven unsuccessful.

¹¹⁷ Prior to the establishment of limited Palestinian self-rule in the West Bank and Gaza, approximately \$170 million in U.S. developmental and humanitarian assistance (not including contributions to UNRWA) were obligated for Palestinians in the West Bank and Gaza from 1975-1993, mainly through non-governmental organizations. CRS Report 93-689 F, *West Bank/Gaza Strip: U.S. Foreign Assistance*, by Clyde R. Mark, July 27, 1993, available on request to Jim Zanotti.

¹¹⁸ Net official development assistance per capita figures for all countries for 2007-2011 are available at <http://data.worldbank.org/indicator/DY.ODA.ODAT.PC.ZS>.

¹¹⁹ The Annapolis Conference was organized by then President George W. Bush and attended by Mahmoud Abbas, then Israeli Prime Minister Ehud Olmert, and several Western and Arab heads of state seeking to help restart the peace process following violence both among Palestinians and between Israelis and Palestinians earlier in the decade.

Prospects for negotiations may be even dimmer for the near term given various factors. These factors include heightened Israeli security concerns in the context of region-wide political uncertainty and the rocket threat Israel faces from Hamas and other Gaza-based militants, as borne out by a weeklong November 2012 conflict. Factors working against a resumption of negotiations may also include efforts by the Fatah-led PA and PLO to pursue widespread international recognition of Palestinian statehood and possible rapprochement with Hamas, as well as continuing Israeli announcements of residential construction and planning in West Bank settlements and in East Jerusalem.¹²⁰

¹²⁰ See footnote 56.

Appendix B. Congressional Holds on FY2011 Aid

Various Members of congressional committees with jurisdiction over the authorization and appropriation of U.S. aid to the Palestinians placed informal holds on the obligation of the following tranches of already-appropriated FY2011 assistance after congressional notifications by the Obama Administration on August 18, 2011:

- \$192.2 million in Economic Support Fund (ESF) project assistance for the West Bank and Gaza to be distributed through NGOs;¹²¹ and
- \$147.6 million in International Narcotics Control and Law Enforcement (INCLE) non-lethal assistance for PA security forces.¹²²

Media reports and statements from Member offices indicated that Representative Kay Granger, chairwoman of the House Appropriations Subcommittee on State, Foreign Operations, and Related Programs; Representative Ileana Ros-Lehtinen, then chairman of the House Foreign Affairs Committee; and some members of the Senate Foreign Relations Committee had placed a hold on the funds (with Granger not participating in the hold on the INCLE portion).¹²³ The hold on INCLE funding was lifted in the fall of 2011. By March 2012, all Members other than Ros-Lehtinen had decided to release the hold on the ESF portion.¹²⁴ Ros-Lehtinen reportedly agreed to release her hold over all but approximately \$60 million of the ESF project assistance for the West Bank and Gaza, subject to various conditions. She reportedly asked that the Administration not use the funds released for “‘assistance and recovery in Hamas-controlled Gaza,’ West Bank road construction, or trade and tourism promotion in the Palestinian territories.”¹²⁵ She also reportedly expressed concern that the Administration had “‘threatened to spend the money ‘over congressional objections’ if the lawmakers’ holds were not lifted.”¹²⁶

At a March 20, 2012, House Foreign Affairs Committee hearing addressing the Obama Administration’s FY2013 budget request for foreign aid, Chairman Ros-Lehtinen asked USAID Administrator Rajiv Shah for a written response to questions she posed and statements she made regarding aid to various countries. She made the following statements regarding U.S. aid to the Palestinians:

On funding for the Palestinian Authority, Dr. Shah, the administration is pressing Congress to release \$147 million for Palestinians in the West Bank and Gaza. Among the arguments utilized is that Abu Mazen [Mahmoud Abbas] needs to be supported because he’s all we have. However, the administration is not demanding that [Abbas] return to the negotiation table with Israel without preconditions, nor that he stops his unilateral statehood scheme at the U.N.

The administration also says we need to help rebuild the Palestinian economy, this at a time when our economy is facing serious challenges, and Americans are suffering.

¹²¹ USAID FY2011 Congressional Notification #133, August 18, 2011.

¹²² State Department FY2011 Congressional Notification, August 18, 2011.

¹²³ Mary Beth Sheridan, “Wasting no time in blocking Palestinian aid,” *washingtonpost.com/blogs/checkpoint-washington*, October 4, 2011.

¹²⁴ “U.S. lawmakers release \$88.6 million in aid to Palestinians,” *Reuters*, April 4, 2012.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

Now in the list of projects the administration wants to fund with the \$147 million in taxpayer dollars, there are some that are aimed at addressing humanitarian concerns—funding for water programs, health, food aid, and support for USAID programming. Congress and the administration can find common ground on these.

However, there are others that Congress finds difficult to justify as advancing U.S. national security interests or in assisting our ally and friend Israel. In this respect, if you could justify \$2.9 million for trade facilitation, \$4.5 million for tourism promotion, and \$8.1 million for road construction.

Specifically, I would ask that you justify a total of \$26.4 million in reconstruction and recovery for Hamas-run Gaza that includes cash-for-work programs. And more broadly, how much has the U.S. spent in total since 1993 in West Bank and Gaza, and how much is the administration proposing we spend next year, and how can we justify that?

In April 2012, the *National Journal* reported that Secretary of State Hillary Clinton had decided to provide the entire remaining amount of appropriated FY2011 ESF project assistance despite Chairman Ros-Lehtinen's hold.¹²⁷ The report cited an unnamed State Department official as stating that the funds deliver

critical support to the Palestinian people and those leaders seeking to combat extremism within their society and build a more stable future. Without funding, our programs risk cancellation. Such an occurrence would undermine the progress that has been made in recent years in building Palestinian institutions and improving stability, security, and economic prospects, which benefits Israelis and Palestinians alike.¹²⁸

None of the \$200 million in FY2011 direct budgetary assistance for the PA was subjected to a hold. The *New York Times* reported in September 2011 that Israeli Prime Minister Binyamin Netanyahu “urged dozens of members of Congress visiting Israel [in August] not to object to the aid,” at the Administration’s request.¹²⁹

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¹²⁷ Sara Sorcher, “Clinton Overrides Republican Lawmaker’s Hold on Palestinian Aid,” *nationaljournal.com*, April 11, 2012.

¹²⁸ *Ibid.*

¹²⁹ Jennifer Steinhauer and Steven Lee Myers, “House Republicans Discover a Growing Bond with Netanyahu,” *New York Times*, September 21, 2011.