

Updated October 5, 2018

PEPFAR Stewardship and Oversight Act: Expiring Authorities

Congress has prioritized fighting HIV/AIDS globally, having authorized related activities and appropriated over \$76 billion for HIV/AIDS programs since FY2001 (**Table 1**). The 108th and 110th Congresses enacted two pieces of legislation that have shaped U.S. responses to these diseases: the “Leadership Act” of 2003, P.L. 108-25, and the “Lantos-Hyde Act” of 2008, P.L. 110-293. Among other things, these acts authorized appropriations for PEPFAR and instituted congressional priorities, including performance targets.

In 2013, when authorizations in the Lantos-Hyde Act were set to expire, congressional commitment to fighting HIV/AIDS remained strong, but concerns about recovering from the Great Recession had depressed support for enacting legislation that authorized the provision of billions of dollars over several years. Ultimately, the 113th Congress enacted P.L. 113-56, the PEPFAR Stewardship and Oversight Act of 2013 (PEPFAR Stewardship Act), which did not authorize a particular amount, but permitted further appropriations, extended programs, and enhanced oversight. Many of these provisions were set to expire at the end of FY2018 (**Table 2**).

The 115th Congress is deliberating three bills aimed at extending key provisions in the PEPFAR Stewardship Act: (1) H.R. 6651, PEPFAR Extension Act of 2018; (2) its Senate companion, S. 3476; and (3) H.R. 6856, PEPFAR and Protections for Orphans and Vulnerable Children Act of 2018. All three bills include language that

- requires the Inspectors General of the Department of State and Broadcasting Board of Governors, HHS, and USAID to jointly coordinate annual plans for oversight activities through 2023;
- requires the Global AIDS Coordinator to publish annually reports on HIV/AIDS spending by the U.S. government, the Global Fund, and governments in partner countries through 2024;
- limits U.S. Global Fund contributions to 33% of all contributions received and permit withholding portions of those contributions through 2023; and
- requires that more than half of U.S. international HIV/AIDS appropriations be used for treatment of HIV/AIDS and other associated opportunistic infections, as well as nutritional support and medical care for people living with HIV/AIDS through 2023.

H.R. 6651, would not extend the requirement that at least 10% of HIV/AIDS assistance be spent on programs in support of orphans and vulnerable children, whereas H.R. 6856 and S. 3476 would prolong that funding directive through 2023.

PEPFAR-Related Legislation

The Leadership Act. In January 2003, President George W. Bush announced the President’s Emergency Plan for AIDS Relief (PEPFAR), a government-wide initiative to combat global HIV/AIDS. PEPFAR supports a wide range of HIV/AIDS prevention, treatment, and care activities and is the largest commitment by any nation to combat a single disease. Later that year, Congress enacted the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, P.L. 108-25, which authorized \$15 billion to be spent from FY2004 to FY2008 on bilateral and multilateral HIV/AIDS, TB, and malaria programs. The Leadership Act (and the legislation that it amends) is the primary vehicle through which U.S. global assistance for fighting these diseases is authorized. The act included language to instruct how the funds should be spent, list program goals and targets, and establish the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (known as the Global AIDS Coordinator) at the Department of State. The Office of the Global AIDS Coordinator (OGAC) distributes the majority of the funds it receives from Congress for global HIV/AIDS programs to U.S. federal agencies and departments and multilateral groups like the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund).

The Lantos-Hyde Act. In 2008, Congress enacted the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, P.L. 110-293, which amended the Leadership Act to authorize the appropriation of \$48 billion for global HIV/AIDS, TB, and malaria efforts from FY2009 to FY2013. The Lantos-Hyde Act mostly amends the Leadership Act, although it also amends some other acts, such as the Foreign Assistance Act of 1961, and includes some stand-alone authorities. The Leadership Act and the Lantos-Hyde Act (primarily through amendments to the Leadership Act) created frameworks for how the funds should be spent, established program goals and targets, and established offices for coordinating government-wide responses, among other things.

PEPFAR Stewardship Act. In 2013, Congress enacted P.L. 113-56, the PEPFAR Stewardship and Oversight Act of 2013. Unlike its predecessors, this act did not authorize a particular total amount for global HIV/AIDS, TB, and malaria programs. It primarily focused on enhancing oversight for related programs; preserving requirements to apportion 10% of HIV/AIDS funds for orphans and vulnerable children (OVC); mandating that more than half of related funds be spent on HIV/AIDS treatment and care; and requiring that at least 50% of prevention funds be used for activities that promote abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction.

Table 1. Appropriations for Global HIV/AIDS Programs: FY2001-FY2019
(current U.S. \$ billions)

	Bush Administration		Obama Administration		Trump Administration			
	FY01-FY08 Enacted Total	FY01-FY08 Average	FY09-FY16 Enacted Total	FY09-FY16 Average	FY17 Enacted	FY18 Request	FY18 Enacted	FY19 Request
State HIV/AIDS	8,663.6	1,083.0	31,185.2	3,898.2	4,228.5	3,850.0	4,320.0	3,936.1
Global Fund	2,858.4	357.3	9,376.1	1,172.0	1,321.4	1,125.0	1,350.0	945.8
USAID HIV/AIDS	2,412.7	301.6	2,459.6	307.4	323.0	0.0	330.0	0.0
CDC HIV/AIDS	918.4	114.8	891.4	111.4	125.5	69.5	128.4	n/s
NIH HIV/AIDS	1,935.2	241.9	3,085.1	385.6	422.8	a	a	a
DOD HIV/AIDS	42.1	5.3	53.2	6.6	0.0	0.0	0.0	0.0
DOL HIV/AIDS	30.3	3.8	0.0	0.0	0.0	0.0	0.0	0.0
Total HIV/AIDS	16,860.9	2,107.6	47,050.6	5,881.3	6,421.2	a	a	a

Source: Created by CRS from appropriations legislation and correspondence with CDC and USAID legislative affairs offices.

Abbreviations: U.S. Department of State (State), U.S. Agency for International Development (USAID), U.S. Centers for Disease Control and Prevention (CDC), U.S. Department of Defense (DOD), National Institutes of Health (NIH), tuberculosis (TB), HIV/AIDS, TB, and malaria (HTAM), not specified (n/s)

Notes: Congress appropriated funds to the Department of Defense for global HIV/AIDS activities from FY2001 through FY2015. After FY2015, all support for DOD HIV/AIDS activities were provided through appropriations to the State Department.

a. NIH international HIV/AIDS Research is funded through the Office of AIDS Research. Congressional budget justifications typically include annual funding levels, but not requested funding levels. CRS did not aggregate the total since FY2018-requested and FY2019-enacted levels are not yet available.

Table 2. Authorities in the PEPFAR Stewardship Act Set to Expire in 2018 or 2019

Section and Title	Summary of Language	Date of Expiration
Sec. 2 Inspector General Oversight amends 101(f)(1) of the Leadership Act	Directs the Inspectors General of the Department of State and Broadcasting Board of Governors, the Department of Health and Human Services (HHS), and the U.S. Agency for International Development (USAID) to jointly develop annually coordinated plans for overseeing global HIV/AIDS, TB, and malaria programs.	September 30, 2018
Sec. 3(a) Annual Study amends Sec. 101(g) of the Leadership Act	Directs the Global AIDS Coordinator to annually complete a study of treatment providers, including a description of the per-patient cost of providing treatment and care for people with HIV/AIDS, human and fiscal resource requirements for HIV/AIDS programs, and spending by the Global Fund to Fight AIDS, Tuberculosis, and Malaria (Global Fund) and by partner countries.	September 30, 2019
Sec. 4(a)(1)(A) Limitation amends Sec. 202(d)(4)(A)(i) of the Leadership Act	Prohibits U.S. contributions to the Global Fund from exceeding 33% of all funds donated to the Fund.	September 30, 2018
Sec. 4(a)(1)(C)(vi) amends Sec. 202(d)(4)(A)(ii) of the Leadership Act	Requires the Department of State to withhold contributions to the Fund commensurate to the amount the Fund provided to a country that the President has determined repeatedly provided support for acts of international terrorism.	September 30, 2018
Sec. 4(b) Withholding Funds amends Sec. 202(d)(4)(A)(iv)	Permits any amounts withheld from the Global Fund to be used for bilateral HIV/AIDS, TB, and malaria programs.	September 30, 2018
Sec. 4(b)(1)(A) amends Sec. 202(d)(5) of the Leadership Act	Authorizes withholding 20% of Global Fund contributions until the Secretary of State certifies that certain reporting and evaluation requirements are met.	September 30, 2018
Sec. 6(a)(1) Orphans and Vulnerable Children amends Sec. 403(b) of the Leadership Act	Requires that at least 10% of funds appropriated for bilateral HIV/AIDS programs be expended for programs targeting orphans and vulnerable children affected by HIV/AIDS.	September 30, 2018
Sec. 6(b)(1) Allocation of Funding amends Sec. 403(c) of the Leadership Act	Requires that more than half of funds appropriated for bilateral HIV/AIDS programs be expended on the provision of treatment, care and nutritional support for people living with HIV/AIDS.	September 30, 2018

Source: Created by CRS from P.L. 113-56, the PEPFAR Stewardship and Oversight Act of 2013.

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