



Department of Defense “Section 1207” Security and Stabilization Assistance: Background and Congressional Concerns

Nina M. Serafino
Specialist in International Security Affairs

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Summary

Section 1207 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006 (P.L. 109-163) provides authority for the Department of Defense (DOD) to transfer to the State Department up to \$100 million per fiscal year in defense articles, services, training or other support for reconstruction, stabilization, and security activities in foreign countries. DOD transferred \$10 million in FY2006, \$99.7 million in FY2007, and \$100 million in FY2008 under this authority. For FY2009, Congress added special authority to transfer up to an additional \$50 million for Georgia: DOD transferred a total of \$143.3 million to the State Department in FY2009 Section 1207 funds. In all, these funds have supported projects in 18 countries and two regions.

In action on the FY2010 NDAA (P.L. 111-84), Congress extended the \$100 million authority through FY2010. Congressional authorizers and appropriators strongly expressed in several documents that Section 1207 authority is temporary, and indicated that such funding is better provided under the State Department budget.

In the event the Obama Administration decides to request Section 1207 funding for FY2011, the second session of the 111th Congress may wish to consider extending this authority for another year, taking into account various issues regarding the use of DOD funds for State Department activities. Principal among them is and whether funding intended for use by the State Department is better funded under the State Department budget. Another is whether projects funded under Section 1207 authority are being used for the purposes intended by Congress.

This report will be updated as events warrant.

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Introduction

Since FY2006, Congress has relied on the Department of Defense (DOD) to fund small-scale security and stabilization activities carried out by the State Department and USAID to prevent or stabilize conflict situations abroad. The "Section 1207" authority used for this funding expires at the end of FY2010, and defense authorizers and appropriations have indicated their unwillingness to extend it once again. Nevertheless, Congress may wish to consider extending the funding if the Obama Administration should request it in the FY2011 budget.

Congress first provided DOD with "Section 1207" authority in 2005. Section 1207 of the National Defense Authorization Act [NDAA] for Fiscal Year 2006, P.L. 109-163, provided authority for DOD to transfer to the State Department up to \$100 million in defense articles, services, training or other support in FY2006 and again in FY2007 to use for reconstruction, stabilization, and security activities in foreign countries. This authority was first extended through FY2008 by Section 1210 of the FY2008 NDAA (P.L. 110-181) and again extended through FY2009 by Section 1207 of the FY2009 Duncan Hunter NDAA (P.L. 110-417). The FY2009 Duncan Hunter NDAA provides special authority for up to \$50 million to be spent under Section 1207 for Georgia, in addition to the up to \$100 million authorized for other countries. Most recently, Congress has extended the \$100 million transfer authority through FY2010 NDAA (P.L. 111-84).

Section 1207 authority has been used to fund activities of the State Department's Office of the Coordinator for Reconstruction and Stabilization (S/CRS, established in 2004) and activities implemented by other agencies that are coordinated by S/CRS, including activities of USAID. These funds have supported activities in 14 countries and in two regions. (For further information on these countries and projects, see the text below and **Table 1** at the end of this report.)

According to a United States Institute of Peace (USIP) report, Section 1207 was introduced "in response to requests from Defense Secretary Donald Rumsfeld and Secretary of State Condoleezza Rice to help jump start S/CRS by providing authorization and funding for projects that would involve interagency coordination. This action was taken in recognition of the fact that Congress was unable to pass a State Department authorization bill that would authorize S/CRS to conduct a comparable program¹ and "because of the perception that it was easier to obtain funding from Congress" in the DOD bill rather than the State Department bill.²

Conditions

Section 1207 authority requires that any services, defense articles, or funds provided or transferred to the Secretary of State comply with the authorities and limitations of the Foreign Assistance Act of 1961, the Arms Export Control Act, or any law making appropriations to carry out such Act. The Secretary of Defense must notify congressional armed services, foreign affairs, and appropriations committees when the authority is exercised; the notification must be prepared "in coordination" with the Secretary of State. As of FY2009, Section 1207 funds may not be used to support the budgets of foreign governments.

¹ Robert M. Perito, *Integrated Security Assistance: The 1207 Program*, United States Institute of Peace Special Report, July 2008, p. 2. (Hereafter referred to as *Integrated Security Assistance*.)

² *Integrated Security Assistance*, p. 3.

Funding Sources and Transfers

Section 1207 legislation does not specify a funding source. From FY2006 to FY2008, DOD tapped operations and maintenance (O&M) funds from the three military services and from the DOD defense-wide account to make these transfers. For FY2009, Congress appropriated \$100 million specifically for Section 1207 funding, although it had authorized up to \$150 million in Section 1207 spending. For FY2010, Congress indicated that \$97.09 million should be allocated for Section 1207 uses from the O&M Defense-wide, Defense Security Cooperation Agency (DSCA) appropriation.

In FY2006, DOD transferred \$10 million to the State Department for assistance to Lebanon in the midst of the Lebanese conflict. According to a spokesperson for S/CRS, DOD lacked the funds for further transfers through this authority in FY2006, even though the authorized amount was \$100 million.

In FY2007, DOD transferred a total of \$99.7 million to the State Department for programs in seven countries and regions. DOD described the projects funded in FY2007 as "a few small focused activities in various critical countries/regions to demonstrate proof of concept" and judged that while largely successful, "most could have more significant impact if continued or expanded."³ Countries benefiting from FY2007 Section 1207 funds were Colombia, Haiti, Nepal, Somalia, and Yemen. In addition, FY2007 funds supported regional activities in Southeast Asia and in the Trans-Sahara region.

In FY2008, DOD provided \$100 million in transfers from the DOD budget. This included \$50 million for Georgia and \$50 million for activities in six other countries: Afghanistan, Colombia, Democratic Republic of Congo, Lebanon, Sri Lanka, and Tajikistan.

In FY2009, DOD transferred a total of \$143.3 million to the State Department: \$50 million for activities in Georgia and \$93.3 million for activities in 11 other countries. The other countries are Bangladesh, Colombia, Democratic Republic of Congo, Kenya, Lebanon, Morocco, Panama, Paraguay, Philippines, Sri Lanka, and Uganda.

Congressional Action and Statements

2005-2007

Section 1207 authority was the result of a Senate floor amendment offered by Senator James Inhofe to the Senate version of the FY2006 NDAA (S. 1042), which would have provided funding up to \$200 million per fiscal year. (For FY2006, the Administration had asked for \$200 million for a State Department Conflict response fund, but neither authority nor funding was provided in non-DOD legislation.)⁴

³ U.S. Department of Defense, *Fiscal Year 2009 Budget Request Summary Justification*, February 4, 2008, p. 104.

⁴ For more on the conflict response fund, see CRS Report RL32862, *Peacekeeping/Stabilization and Conflict Transitions: Background and Congressional Action on the Civilian Response/Reserve Corps and other Civilian Stabilization and Reconstruction Capabilities*, by Nina M. Serafino.

Conferees on the FY2006 DOD authorization bill stated in their explanatory statement (H.Rept. 109-360), that they were providing "a temporary authority ... to the Department of State until S/CRS is fully stood up and adequately resourced." Further, the conferees on that bill stated that they were not inclined to continue authorizing DOD funds to enable the State Department to "fulfill its statutory authorities." Subsequently, the Senate Armed Services Committee (SASC), in its report on S. 1547 (S.Rept. 110-77), the Senate version of the FY2008 NDAA, described Section 1207 as a "pilot project."

In addition to extending the authority through FY2008, Section 1210 of the FY2008 NDAA (P.L. 110-181) augmented the role played by the Secretary of Defense. Under the FY2006 NDAA, the Secretary of Defense's role was limited to providing services and transferring defense articles and funds to the Secretary of State. The FY2008 NDAA included a provision requiring the Secretary of State to "coordinate with the Secretary of Defense in the formulation and implementation of a program of reconstruction, security, or stabilization assistance to a foreign country that involves the provision of services or transfer of defense articles or funds" under this authority.

2008

In action on the FY2009 NDAA (P.L. 110-417, signed into law October 14, 2008), Congress extended the \$100 million Section 1207 transfer authority for one fiscal year, through FY2009. In a March 20, 2008, letter, DOD requested that Congress double Section 1207 authorized funding to \$200 million per year, extend the authority for five fiscal years, and broaden the authority to permit DOD to provide that services or transfer defense articles and funds to the head of any U.S. government department or agency, not just the Department of State. As reported by SASC, its version of the FY2009 NDAA (S. 3001) would have doubled the authorized amount to \$200 million, as requested by DOD, and would have extended Section 1207 authority three years, through September 30, 2011.⁵

The conference version of the bill conformed to the House Armed Services Committee (HASC) version of the FY2009 NDAA (H.R. 5658), which did not change the authorized amount and provided for a one-year extension. Nevertheless, Congress did approve a special additional authority under Section 1207 to provide up to \$50 million in Section 1207 assistance to Georgia in FY2009. In addition, Congress amended the original legislation to prohibit the use of Section 1207 funds to support the budgets of foreign governments.

2009

In early May, DOD indicated in the DOD Summary Budget Justification document that it was requesting a \$200 million appropriation for Section 1207 FY2010 funding.⁶ Nevertheless, in action on the FY2010 NDAA, Congress again extended existing authority for up to \$100 million in transfer authority through September 30, 2010, the end of FY2010 (P.L. 111-84, signed into

⁵ In testimony before Congress in April 2008, Secretary of Defense Gates requested that Section 1207 authority be extended for five years and the amount be doubled to \$200 million. House Committee on Armed Services, *Hearing on Building Partnership Capacity and Development of the Interagency Process*, April 15, 2008. Video and audio versions of the hearing are available through <http://armedservices.house.gov/comdocs/schedules/2008.shtml>, last accessed June 1, 2009.

⁶ U.S. Department of Defense, *Fiscal Year 2010 Budget Request Summary Justification*, May 2009, p. 1-13. Hereafter referred to as *FY2010 Budget Justification*.

law October 28, 2009). As noted above, congressional appropriators indicated that \$97.09 million should be allocated for Section 1207 spending from DSCA appropriations in the Department of Defense Appropriations Act, 2010 (P.L. 111-118, signed into law December 19, 2009, H.Rept. 111-380, December 15, 2009).

Congressional Concerns

Appropriate Uses

From the beginning, there has been some confusion about the appropriate uses of Section 1207 and questions about the desirability of funding State Department activities through the DOD budget. HASC and SASC reports on their respective versions of the FY2009 NDAA (H.R. 5658 and S. 3001) both state separate concerns about Section 1207 authority, reflecting a perceived need to clarify intended purposes and restate the original congressional intention that Section 1207 was to be a temporary authority.

In its report accompanying S. 3001 (S.Rept. 110-335, May 12, 2008), SASC stated that DOD had "inappropriately restricted" the uses for which Section 1207 services or funds can be provided to the State Department. Pointing to the Secretary of Defense's April 15, 2008, testimony at a HASC hearing that Section 1207 authority "is primarily for bringing civilian expertise to operate alongside or in place of our armed forces," SASC stated that the legislative intent of Section 1207 authority was broader, and was meant "to enable the Secretary of Defense to support the provision by the Secretary of State of reconstruction, security, or stabilization assistance to a foreign country." SASC further stated such assistance could include "providing early civilian resources to avert a crisis that could otherwise subsequently require U.S. military forces to assist or intervene."⁷ In May 2009, DOD seemed to reply to this statement in its FY2010 Budget Request Summary Justification document, in which it asserts that Section 1207 funding is "for reconstruction, security, or stabilization assistance—primarily to put civilian professionals alongside warfighters, or to provide early civilian resources to avert crises that could require U.S. military forces to intervene."⁸

In its report accompanying H.R. 5658 (H.Rept. 110-652, May 16, 2008), HASC stated that the committee "reaffirms that the resources provided under this authority are intended to meet immediate, short-term needs." The committee reiterated the concern that had been expressed in

⁷ In February 2008, the State Department and DOD set forth guidance for Section 1207 proposals that clarified the uses of the fund and procedures for developing proposals and coordinating with other agencies and programs. This document specifies that programs should "clearly advance U.S. security interests by promoting regional stability and/or building governance capacity of foreign partners to address conflict, instability, and sources of terrorism," "focus on security, stabilization, or reconstruction objectives in regions and countries where a failure to act could lead to the deployment of U.S. forces," "address urgent or emergent threats or opportunities that conventional foreign assistance activities cannot address in the required time frame," "seek to achieve short term security, stabilization, or reconstruction objectives that are coordinated with longer-term development efforts and that are expected to be sustained by the host government, international organizations, or other forms of U.S. foreign assistance," and "address stability, security, and development goals from a holistic perspective, integrating initiatives across multiple sectors." (See <http://www.crs.state.gov/index.cfm?fuseactions=public.display&shortcut=4PRW>.)

⁸ *FY 2010 Budget Justification*, May 2009, pp. 1-13. This statement continues: "These programs help to promote stability and to reduce terrorist space and influence. The programs are often executed in the same place where U.S. forces are operating or may be forced to operate if conditions worsened."

the conference report accompanying the original Section 1207 legislation (H.Rept. 109-360, December 15, 2005) that DOD should not provide long-term funding in order to enable the Department of State to “fulfill its statutory requirements.” This concern, according to H.Rept. 110-652, applied to both long-term development programs and to the broader security assistance initiatives “that would be better suited for traditional foreign military financing authorities.”

Transfer of Section 1207 Functions to the State Department and USAID

In addition to some Members of Congress, some outside analysts believe that Section 1207 activities would be better funded through the State Department and/or USAID. (DOD has never requested that Section 1207 be made permanent law, although it did, as mentioned above, request in 2008 that Congress extend the authority for five fiscal years.) While noting the utility of DOD Section 1207 funding, which enables the U.S. government “to meet critical needs and to take advantage of key opportunities,” the USIP report mentioned above urges that in the future Congress appropriate such quick reaction funding to the State Department. “The DOD could still participate in deciding on project proposals, but the money would be guaranteed and could be made available more quickly. This would require coordinating the efforts of various congressional committees, but it would restore the traditional role of the DOS [Department of State] in funding U.S. foreign assistance.”⁹

In action on the FY2010 defense authorization and appropriations acts, and the FY2010 State Department, Foreign Operations, and Related appropriations act, armed services authorizers, defense appropriators, and foreign operations appropriators expressed the sense that the State Department should have responsibility for stabilization and reconstruction funding. However, some attributed continued funding under DOD to a lack of State Department capacity to handle the funding.

Conferees on the FY2010 NDAA stated that “Congress has always intended for this transfer authority to be temporary and are disappointed that the Department of State has not yet achieved the capacity to fulfill its statutory requirements. The conferees urge the administration to work toward this goal as rapidly as possible. They further recommend that the administration examine ways to maintain this coordination [between DOD and State Department] in the absence of this authority” (H.Rept. 111-288, October 7, 2009).

Similarly, in action on their versions of the FY2010 NDAA (H.R. 2647 and S. 1390), the House and Senate armed services committees both stressed the temporary nature of Section 1207 authority.¹⁰ House Armed Services Committee members wrote: “While the projects undertaken with funds provided by this authority are worthy, the committee is concerned that insufficient progress has been made in building the capacity within the Department of State to assume the statutory and fiscal responsibility necessary to fulfill its statutory requirements.... The committee stresses that it has always been a temporary authority and urges the Administration to develop

⁹ Integrating Security Assistance, p. 11.

¹⁰ Under its version of the bill (H.R. 2647), HASC would have reduced FY1207 authority to \$25 million for FY2010, while the SASC version (S. 1390) would have retained the full \$100 million.

capacity within the Department of State so that this transfer authority is no longer required" (H.Rept. 111-166, p. 413). The Senate Armed Services Committee also "reaffirms its view that Section 1207 is a temporary authority" (S.Rept. 111-35, p. 193).

Foreign operations appropriators expressed similar sentiments. In creating a new USAID Complex Crises Fund, conferees on the State Department, Foreign Operations, and Related Programs appropriations of the Consolidated Appropriations Act, 2010 (Division F, P.L. 111-117, signed into law December 16, 2009), urged the State Department and USAID to develop additional capacity in order to replace Section 1207 DOD funding with additional funding Complex Crisis funding. "USAID and the Department of State should continue to establish and bolster crisis prevention and response capabilities in order to assume most, if not all, of the functions currently funded" by DOD under Section 1207 authority, they wrote. However, the conferees also specified that "USAID and the Departments of State and Defense shall continue to consult on the formulation and implementation of stabilization and security assistance, as appropriate, whether through the utilization of section 1207 or funds appropriated by this Act."

Earlier, in action on its version of the FY2010 State Department, Foreign Operations, and Related Programs appropriations bill (S. 1434), the Senate Appropriations Committee (SAC) would have created a larger fund in the State Department budget. It stated that the purpose of the fund, to be used together with other funds in the bill, was to assist the State Department's effort to "assume most if not all of the functions currently funded" by Section 1207 (S.Rept. 111-44, p. 46). Further, the committee expressed its intention that DOD and the State Department "coordinate formulation and implementation of security and stabilization assistance, as appropriate, whether through the utilization of section 1207 or the new capabilities [that SAC would have provided] within the Department of State" (S.Rept. 111-44, p. 47).

In action on the FY2010 Department of Defense Appropriations Act (P.L. 111-118), defense appropriators also signaled that they did not expect to again provide DOD funds for Section 1207-type activities. They did expect, however, that DOD would remain involved in future planning for such activities even though they would be funded by other agencies. In their report (H.Rept. 111-380), conferees on the bill recommended an allocation of \$97.09 million (from the overall Defense Security Cooperation Agency appropriation) to serve as a bridge fund while the Complex Crises Fund was put in place. That fund "will enable USAID and the Department of State to meet emergent requirements that fall under their purview without relying on the Department of Defense," the conferees wrote. Nevertheless, they directed the Secretaries of Defense and State and the Director of USAID "to maintain and strengthen the interagency process created from the section 1207 program when formulating, reviewing, and approving future projects that would have been funded through section 1207."

Table I. Section 1207 Funded Projects, by Country or Region, FY2006-FY2008

Country	Project's Purpose	Amount (\$ millions)			
		FY06	FY07	FY08	FY09
Afghanistan	Renovate the Pol-e-Charki prison.			10.0	
Bangladesh	Provide mentoring, training, and technical assistance to enhance community-based policing skills, and to provide outreach to communities and training to local volunteer groups in order to strengthen ties between communities and government authorities (\$8.0 million). Support the Bangladeshi government's curriculum development for and oversight of unregulated privately-financed madrassahs (\$7.1 million).				15.1
Colombia	Help provide, with FY07 funds, basic health, education, and infrastructure in areas recently reclaimed from insurgents through the Initial Government Response Program. FY08 funds support implementation of the Integrated Consolidation Plan for La Macarena Region (PCIM), a unified military and civilian strategy. FY09 funds provide infrastructure, technical assistance, and education to at-risk populations in the Meta region.		4.0	5.0	4.8
Democratic Republic of Congo	Extend central government authority to Eastern Congo. FY08 funds used to enhance border police capabilities to control the border in Northern Katanga; extend reach of justice services and facilitate prosecution in remote areas; increase the activity and accountability of local governments. FY09 funds improve the prosecution and adjudication of gender-based violence and other crimes, and reinforce provincial government capacity to provide key services (\$2.8 million). They also provide training to police in sexual and gender-based violence (\$2.97 million).			9.1	5.8
Georgia	With FY08 funds, rebuild the police force (\$20 million) and meet priority food, shelter, and livelihood requirements for internally displaced persons in Shida Kartli (\$30 million). FY09 funds provide stabilization assistance in the aftermath of the August 2008 conflict with Russia. Assistance includes resettlement and livelihood support, and vocational training for Internally Displaced Persons; rebuilding of schools and municipal infrastructure; landmine surveys and clearance; and restoration of Georgian Coast Guard infrastructure.			50.0	50.0
Haiti	Combine community policing with small-scale employment and infrastructure projects to improve security and stability and extend central government authority in Cite Soleil, Port au Prince's largest slum (Haiti Stabilization Initiative.)		20.0		
Kenya	In the areas most affected by post-election violence in late 2007 and early 2008, support leadership development and positive civic engagement among disaffected youth, improve morale within police units and foster trust between police and local communities; enhance Kenyan military's ability to provide security and stability, help train military engineers in civil affairs; and provide equipment for rebuilding infrastructure damaged by post-election violence.				8.0

Country	Project's Purpose	Amount (\$ millions)			
		FY06	FY07	FY08	FY09
Lebanon	With FY06 funds, clear unexploded ordnance posing an immediate threat to noncombatants (\$5 million). Help train and outfit additional Lebanese Internal Security Force (ISF) members (i.e., Lebanon's national police) to allow police to free Lebanese Army forces performing policing duties in the Bekaa Valley to enforce the Israeli-Hezbollah cease-fire in southern Lebanon (\$5 million). With FY07 funds, strengthen the ISF communications capacity (\$5.0 million) and assist the ISF in introducing community and proximity policing in the Nahr al-Bared Palestinian refugee camp and surrounding areas (\$5 million). With FY09 funds, strengthen ISF forces ability to provide security by implementing a nation-wide communications system that will help them perform police duties and reduce vulnerability to outside interference and surveillance.	10.0		10.0	10.0
Morocco	With \$5.08 million in FY09 funds, teach life skills to at-risk youth who are imprisoned or have been released from prison without rehabilitation instruction and may be susceptible to terrorist messages (\$5.08 million).				5.1
Nepal	Extend the government's police presence to four districts at risk of communist domination and create community-based infrastructure projects in those districts.		10.0		
Panama	Provide social and security programs to curb infiltration of Panama's Darien region, which adjoins Colombia, by members of the Revolutionary Armed Forces of Colombia (FARC) and criminals fleeing counterinsurgency and counternarcotics initiatives in Colombia (\$5.07 million).				5.1
Paraguay	Promote stability in Paraguay's five poorest and most volatile provinces where criminal activity flourishes and threatens to destabilize the tri-border area (with Argentina and Brazil) by bolstering regional law enforcement, strengthening local government and citizen confidence, and fostering economic growth (\$6.69 million).				6.7
Philippines	Support community policing, improve three model police stations, and upgrade capabilities of the Regional Crime Lab in Zamboanga City, Mindanao. Also construct roads and boat landings in Mindanao.				14.0
Somalia	Support civilian police reform, security and justice infrastructure rehabilitation, youth employment and income generation activities (\$17.5 million, Somalia Reconciliation and Stabilization Program), and enhance community-police coordination for cross-border security and to establish neutral zones (\$7.5 million).		25.0		
Sri Lanka	With FY08 funds, support programs to improve livelihoods for conflict-affected populations, assist government institutions, building the technical capacity of municipal and provincial governments, encourage citizen participation, and foster a bilingual environment in Sri Lanka's eastern province. With FY09 funds, complement Section 1207-funded FY08 projects by improving basic policing skills and practices in the East by training civilian police officers (\$2.0 million). Also with FY09 funds, support the return and reintegration of ex-combatants and displaced persons in the north of the country (\$10.28 million).			6.0	12.3
Tajikistan	Provide training and technical assistance to local government, local law enforcement representatives, and community leaders to enhance skills to promote stability in conflict-affected and unstable areas, including the Fergana and Rasht Valleys and the Afghan border areas.			9.9	

Country	Project's Purpose	Amount (\$ millions)			
		FY06	FY07	FY08	FY09
Uganda	Create 8 Justice Community Centers to re-establish justice, law, and order in north Uganda. Funding (\$6.46) to support construction, training, technical aid, and institutional guidance and development of the Uganda police force and other justice and law enforcement institutions.				6.5
Yemen	Promote stability by assisting in areas where the central government is largely absent in order to deter youths from joining terrorist groups.		8.8		
Southeast Asia Region	Support the multi-year, interagency, "3-D" (diplomacy, development, and defense) Southeast Asia Tri-border Initiative to deter terrorist recruitment and deny terrorists sanctuary in Indonesia, Malaysia, and the Philippines.		16.9		
Trans-Sahara Region	Support Trans-Sahara Counter-Terrorism Partnership programs in Mali and Niger to reduce terrorist recruiting and sanctuary areas. (Mauritania was originally part of the program, but its funds were not spent due to sanctions imposed after the August 2008 coup., according to information provided by the State Department Office of the Coordinator for Reconstruction and Development.)		15.0		
Totals		10.0	99.7	100.0	143.3

Sources: Office of the Secretary of Defense for FY2006-FY2008 information and figures, last verified June 1, 2009. State Department Office of the Coordinator for Reconstruction and Development (S/CRS) for FY2009 information and figures, January 26, 2010.

Note: Totals may not add due to rounding.

Author Contact Information

Nina M. Serafino
Specialist in International Security Affairs
nserafino@crs.loc.gov, 7-7667