

ISSUE BRIEF

No. 4247 | JULY 10, 2014

Crisis at the Border: Throwing Money at the Problem Is Not the Solution

David Inserra and Romina Boccia

President Obama has just made public the details of his \$4.3 billion emergency request, including \$3.7 billion in additional emergency funding to deal with the immigration crisis on the southwest border. While the federal government does need to take action to better protect U.S. borders and enforce immigration laws, throwing money at the problem is not the solution, especially funding that exploits emergency spending provisions in the Budget Control Act (BCA) of 2011.

Instead, lawmakers should use the existing and ongoing appropriations process to better prioritize funding. Critically, the Obama Administration should also stop its anti-enforcement policies that are encouraging the increase in illegal immigration, thus making it more difficult and costly to secure U.S. borders.

Exploiting the Emergency Loophole

Congress is currently debating how to allocate the nearly half-trillion dollars (\$492.4 billion) in non-defense discretionary spending that lawmakers authorized in the Ryan–Murray budget deal for fiscal year (FY) 2015.¹ If Congress chose to support the Obama Administration’s approach to dealing with the surge in unaccompanied minors, there is

no reason why Congress could not do so within the current BCA cap. Congress has already lifted the cap by \$9.2 billion from its original FY 2015 level established by the BCA and could allocate some of the spending increase toward the Administration’s border efforts.² Indeed, Congress could easily use the appropriations process to better prioritize spending needs. President Obama is instead asking Congress to circumvent its already inflated spending cap by exploiting the “emergency” loophole.

The surge in illegal border crossings by unaccompanied minors does not meet all of the criteria necessary to qualify as emergency spending either. The BCA, in an effort to constrain the Administration and Congress from exploiting a safety valve designated for true emergencies to needlessly increase spending, established criteria to identify emergencies. The criteria specify that the situation must be:

- Sudden—i.e., not building over time;
- Unforeseen—i.e., not predicted or anticipated as an emergent need; and
- Temporary—i.e., not expected to present a permanent problem.³

In May 2012, Governor Rick Perry (R-TX) wrote to alert President Obama to the more than 90 percent increase in unaccompanied minors illegally crossing the border compared to the previous year.⁴ The number of unaccompanied-minor border crossings has increased drastically since then, indicating that the current situation qualifies as neither unforeseen nor temporary.

This paper, in its entirety, can be found at <http://report.heritage.org/ib4247>

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

Fixing Bad Policies

Ultimately, additional funding is not the solution to the U.S.'s immigration woes. Instead, the Obama Administration should rescind its anti-enforcement policies that are contributing to this crisis in the first place. Specifically, the Obama Administration is claiming executive authority to not enforce the immigration laws through "prosecutorial discretion." The Obama Administration acted unilaterally to create the Deferred Action for Childhood Arrivals program (DACA), which enabled unlawful immigrants who were brought to the U.S. as children before June 2007 to not be subject to immigration enforcement and provided them with work authorization.⁵

These and other administrative decisions to not enforce large sections of U.S. immigration laws create an enormous incentive for more illegal immigration. These policies lead would-be unlawful immigrants, especially children and their families, to believe that they might receive some form of administrative amnesty or at least not be deported if they manage to enter the U.S.

Request Falls Short

While some of the money requested by President Obama may be helpful for Congress to appropriate within the BCA cap, much of it is not: \$615 million for wildfire fighting is one prime example of spending that does not belong in this request focused on dealing with the situation at the southwest border. While funding for immigration judges, expanded Border Enforcement Security Task Force teams, and supporting efforts at the border may be helpful, it is important that Congress understand that these policies are not a silver bullet and are ineffective so long as internal enforcement is selective.

President Obama also requested \$295 million for the State Department's Economic Support Fund (ESF) for the "reintegration of migrants" into their

home communities and to "address the root causes of migration" through economic development. Such funding is \$37 million greater than ESF funds appropriated in the past seven years to all of Central America. It also continues the Administration's disturbing trend of prioritizing economic development over security. Successful economic development will occur only when safety and security are ensured.

When President Obama first announced his request for funding, he also requested changes in the law to enable him to more expeditiously remove unlawful immigrants, a step in the right direction. He has now withdrawn that request. This is the wrong approach, since policy changes that better administer the U.S. immigration system are far more likely to be effective than the proposals in the current request.

Stopping Future Flows of Illegal Immigration

Rather than huge new sums of funding, a different path is needed. Congress should:

- **Reject emergency funding.** The President's request does not meet the requirements of the BCA and should instead be considered within the existing budget. Such a process is eminently doable as Congress is now considering appropriations bills. Congress should also reject the \$615 million that was included in the request for wildfire suppression and instead address the wildfire situation separately through the appropriations process, as the House is proposing to do.
- **Prioritize existing funding.** Working within the existing budget and appropriations process, Congress should better prioritize funding within the federal budget. Similarly, harmful restrictions on foreign aid and the shift of existing aid

1. Committee on the Budget, U.S. Senate, "Section-by-Section Analysis of the Ryan-Murray Spending Agreement," http://www.budget.senate.gov/republican/public/index.cfm/files/serve/?File_id=0065168b-3e4a-45da-a3a9-8ff338ee8fb8 (accessed July 8, 2014).

2. Ibid.

3. Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy, "An Examination of Federal Disaster Relief Under the Budget Control Act," Congressional Research Service Report for Congress, November 8, 2013, <http://fas.org/sgp/crs/misc/R42352.pdf> (accessed July 8, 2014).

4. Fox News, "Perry Accuses Obama Administration of Fueling 'Surge' in Illegal Immigrant Children," May 7, 2012, <http://www.foxnews.com/politics/2012/05/07/perry-accuses-obama-administration-fueling-urge-in-illegal-immigrant-children/> (accessed July 8, 2014).

5. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Consideration of Deferred Action for Childhood Arrivals (DACA)," <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca> (accessed on July 8, 2014).

to economic development should be reversed to provide more immediate security assistance and build the partner capacity of Guatemala, El Salvador, and Honduras.⁶

Additionally, President Obama should:

- **Rescind his anti-enforcement executive policies.** Rather than just ask for more money, the President should pursue policy changes. Rather than more executive actions that defeat the rule of law, President Obama should cancel policies such as DACA that decrease the enforcement of immigration law.
- **Advance efforts with state and local governments.** Over the past several years, President Obama has tried to cut and curtail the 287(g) program, which trains and deputizes state and local police officers to help enforce federal immigration laws. The current crisis proves why the federal government should not go it alone. Many states and communities are willing to help with immigration enforcement if only the Administration would allow them.

Better Policy More Important Than More Funding

President Obama and Congress should act to fix the U.S. problem on the border, but throwing money at the problem and ignoring fiscal discipline is not the answer. Instead, Congress and the Administration should take steps to ensure that U.S. laws are being consistently and faithfully executed.

—*David Inserra is a Research Assistant for National Security and Cyber Security in the Douglas and Sarah Allison Center for Foreign and National Security Policy, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. Romina Boccia is Grover M. Hermann Fellow in Federal Budgetary Affairs in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom and Opportunity, at The Heritage Foundation.*

6. Ana Quintana, "U.S. Foreign Assistance to Mexico, Guatemala, Honduras, and El Salvador," Heritage Foundation *Issue Brief* No. 4245, July 8, 2014, <http://www.heritage.org/research/reports/2014/07/us-foreign-assistance-to-mexico-guatemala-honduras-and-el-salvador>.