

# ISSUE BRIEF

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## Border Crisis: Emergency Budget Request Misses the Mark

*David Inserra*

President Obama recently requested \$4.3 billion in emergency funding, with \$3.7 billion to deal with the immigration crisis at the border. While there may be a need for extra funding to handle the influx of unaccompanied minor children (UAC) and families, this does not mean that Congress needs to break the Budget Control Act (BCA) spending caps. Instead, Congress should prioritize funding as appropriate within its given budget. While it may be necessary to reprogram current funding, Congress should exercise more control over exactly how that money is being spent.

### Department of Health and Human Services (HHS): \$1.8 Billion

**Request:** HHS would receive \$1.8 billion “for additional capacity to care for unaccompanied children including through more stable, cost-effective arrangements, while maintaining services for refugees; and the necessary medical response to the arrival of these children.”

**Analysis:** HHS’s Office of Refugee Resettlement (ORR) is responsible for the care of UAC, though most UAC do not fit the definition of a refugee or asylee.<sup>1</sup> In the absence of policy or enforcement changes, ORR will continue to be responsible for handling these children—for years, in some cases.

While average time in ORR’s custody was 35 days, this time line may be increasing as the numbers of UAC continue to grow.<sup>2</sup> It is also worth noting that the \$1.8 billion is not limited to UAC but includes all refugee and entrant assistance efforts.

**Recommendation:** If the U.S. is to care for growing numbers of UAC, additional funding for UAC care will be required, though \$1.8 billion should be substantially trimmed down and restricted to just UAC. Any funding that is appropriated for this purpose should remain within the BCA caps and should not be redirected from security and enforcement efforts.

### Department of Homeland Security (DHS): \$1.54 Billion

**Request:** The request includes \$1.54 billion for DHS, with Immigration and Customs Enforcement (ICE) receiving \$1.1 billion. ICE would receive \$879 million for “detention, prosecution, and removal of apprehended undocumented families,” specifically of “adults traveling with children.” ICE would also receive \$116 million for transportation costs and \$109 million for a variety of enforcement and investigatory capabilities.

Customs and Border Protection (CBP) would receive \$432 million, most of which would cover transportation costs of additional patrols and apprehension of individuals at the border and initially housing and processing these illegal immigrants. Another \$39 million would be allocated for additional aerial surveillance to patrol the border and \$29 million for Border Enforcement Security Task Force (BEST) teams.

**Analysis:** It is unclear how many deportations would actually occur quickly as a result of the \$879

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million requested for dealing with families who unlawfully entered the U.S., because DHS policy is to try to avoid separating families. Instead, such funding would likely be focused on detention or alternatives to detention, which would not speed the currently overburdened process. Some of the \$116 million allocated for extra ICE transportation may be necessary, but once again, much of this spending would not support the removal of illegal immigrants. The same is true for the \$109 million for more investigations and enforcement activities, including BEST.

CBP is getting sidetracked handling the influx of UAC and families, and this funding attempts to mitigate this problem. More noteworthy, however, is the additional \$39 million being spent on additional aerial surveillance to patrol the border and \$29 million for BEST teams. Additional technology and expanded cooperation with state, local, and Mexican authorities are important and cost-effective ways to increase the effectiveness of existing manpower and resources.

**Recommendation:** Funding that would actually speed the removal of individuals would be most helpful. Similarly, spending on ICE transportation efforts is less important than more prosecution and removal funding. Within the \$109 million for investigations and enforcement funding, BEST teams and increasing the number of vetted units in El Salvador, Guatemala, and Honduras should be the priorities to combat transnational criminal organizations, though it should be understood that these capabilities will take some time to stand up.

CBP remains at the front lines of this crisis and should be supported so that it can focus on securing the border from other potential threats to the U.S. Technology and BEST teams are good long-term priorities, but CBP will also need some immediate funding to maintain its current efforts.

### **Department of Agriculture: \$615 Million**

The emergency request for \$615 million for wild-fire fighting does not belong in this request, as it has nothing to do with immigration. Any consideration of such funding should occur within normal appropriations and not be tied to any immigration legislation or funding.

### **Department of State: \$300 Million**

**Request:** President Obama requested \$300 million for the State Department, \$295 million of which is for the State Department's Economic Support Fund (ESF) to support the "reintegration of migrants" into their home communities and "address the root causes of migration" through economic development.

**Analysis:** 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 irresponsible trend of prioritizing economic development over security. Successful economic development will occur only when safety and security are ensured.<sup>3</sup>

**Recommendation:** A better use of existing and any additional funding would be to prioritize U.S. security cooperation in Central America through the Central American Regional Security Initiative and U.S. security cooperation with Mexico through the Merida Initiative. Both of these initiatives seek to combat crime, improve citizen safety, and promote effective governance that sustains the rule of law.<sup>4</sup> Congress should also consider reprogramming funding from prematurely terminated U.S. Agency for International Development programs for Bolivia and Ecuador.

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1. Brett Schaefer, "The U.S. Should Dismiss UNHCR Opinion That the Migrants Are Refugees," The Heritage Foundation, The Daily Signal, July 10, 2014, <http://dailysignal.com/2014/07/10/u-s-dismiss-unhcr-opinion-migrants-refugees/>.
  2. Lisa Seghetti, Alison Siskin, and Ruth Ellen Wasem, "Unaccompanied Alien Children: An Overview," Congressional Research Service *Report for Congress*, June 23, 2014, p. 9, <http://fas.org/sgp/crs/homesec/R43599.pdf> (accessed July 15, 2014).
  3. Ana Quintana, "Improving Regional Security in Central America's Northern Triangle," Heritage Foundation *Issue Brief* No. 4240, June 23, 2014, <http://www.heritage.org/research/reports/2014/06/improving-regional-security-in-central-americas-northern-triangle>, and David Inserra and Romina Boccia, "Crisis at the Border: Throwing Money at the Problem Is Not the Solution," Heritage Foundation *Issue Brief* No. 4247, July 10, 2014, <http://www.heritage.org/research/reports/2014/07/crisis-at-the-border-throwing-money-at-the-problem-is-not-the-solution>.
  4. 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>.

## Department of Justice (DOJ): \$64 Million

**Request:** President Obama requested \$64 million for the DOJ. About \$15 million is to provide legal aid to children, while only \$1.1 million supports DOJ immigration prosecutors. Additionally, \$45.4 million is requested for “approximately 40 additional immigration judges and support teams.”

**Analysis:** According to the DOJ, there are currently over 260 immigration judges in 59 immigration courts nationwide. Despite these resources, the backlog has climbed to 366,758 cases pending review.<sup>5</sup> While more judges may be a good thing, it could take upwards of a year to get new immigration judges trained and in the field. Also of note, the request provides UAC with 15 times more funding for their legal defense against removal than for DOJ prosecutors handling these immigration cases.

**Recommendation:** If more funding is to be directed to the DOJ, more immigration prosecutors and judges should be the priority, though this will take some time—and it would only manage, not solve, the crisis. A better short-term solution would be to immediately move immigration judges from the interior to the border and establish a new “surge” docket for these immigrants.<sup>6</sup> There are also over 1 million unenforced deportation orders already sitting at DHS. Adding more judges would be useless if the Administration fails to enforce the deportation and removal orders they issue.

## Better Policies

Funding alone is not the solution to the current crisis; far more important are the policies that determine how such funding is used. For example, ICE should shift funds to the 287(g) program that would train and enable state and local law enforcement to help enforce U.S. immigration laws. Such a policy would be more effective at enforcing U.S. law but would require an about-face from the Obama

Administration, which has restricted and cut the use of this cost-effective force multiplier.<sup>7</sup>

Even more effective and less expensive would be rescinding anti-enforcement policies that are drawing illegal immigrants to the U.S. The Administration’s broad use of discretion to not enforce immigration laws against millions of unlawful immigrants, most clearly seen in the Deferred Action for Childhood Arrivals program, has only created an incentive for more illegal immigration, making border security and enforcement efforts more difficult. Simply rescinding such policies and fully using existing immigration authorities to enforce the law would be a critical step in the right direction.

## Priorities and Funding

Congress should:

- **Reject a broad supplemental.** The current surge of UAC into the U.S. will likely require some additional resources, but the vast majority (if not all) of the request should be handled through the normal appropriations process. This problem has been growing and was warned of for some time, and it will not be temporary unless policy changes are made. Thus, the request does not meet the requirements of emergency spending.
- **Consider reprogramming away from lower priorities.** Two notable places where relatively large sums might be found in DHS are in the Federal Emergency Management Agency (FEMA) and a bio-agro defense facility in the Science and Technology directorate. FEMA should be reformed so that more responsibility for disasters is returned to state and local governments. This would free up some FEMA funding for the current crisis. If the funds are not yet spent, the bio-agro defense facility is a prime example of low-priority funding that should be repurposed.<sup>8</sup>

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5. Cully Stimson, “Shovel Ready Judges: The Obama Plan to Address Immigration Backlog,” The Heritage Foundation, The Daily Signal, July 14, 2014, <http://dailysignal.com/2014/07/14/shovel-ready-judges-obama-plan-address-immigration-backlog>.

6. Ibid.

7. Matt A. Mayer, “Illegal Immigration: House Sends Strong Signal with Increased Funding for Section 287(g) Program,” Heritage Foundation *Issue Brief* No. 3642, June 19, 2012, <http://www.heritage.org/research/reports/2012/06/illegal-immigration-strong-signal-with-increased-funding-for-section-287g-program>.

8. See David Inserra, “Reforming DHS Through the Appropriations Process,” Heritage Foundation *Issue Brief* No. 4230, May 29, 2014, <http://www.heritage.org/research/reports/2014/05/reforming-dhs-through-the-appropriations-process>.

## **The Path Forward**

The U.S. should take a long, hard look at its priorities. If dealing with the current crisis is one of them, then other funding elsewhere within DHS or elsewhere in the non-defense budget should be diverted. Most important, policy changes that cost little but effectively enforce U.S. immigration laws are the best solution.

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