



U.S. House of Representatives

COMMITTEE ON THE BUDGET

Washington, DC 20515

July 16, 2021

The Honorable Alejandro Mayorkas
Secretary
United States Department of Homeland Security
Washington, DC 20528

The Honorable Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Secretary Mayorkas and Acting Director Young:

I am writing in response to President Biden's plan regarding Proclamation 10142, issued on January 20, 2021, which halted construction of a southern border wall, in addition to the status of congressionally appropriated funds for construction of a border barrier. As a direct result of this proclamation and the Administration's immigration policies, our country is experiencing historic levels of illegal migration to the southern border, which has led to a national security, humanitarian, and public health crisis. In a recently issued opinion, the Government Accountability Office recommended Congress require the U.S. Department of Homeland Security (DHS) and the Office of Management and Budget provide more information regarding the Administration's plans with respect to funds appropriated by Congress for construction of a border barrier. Accordingly, I am requesting more detailed information on how the Administration intends to use the remaining funds appropriated by Congress for construction of a border barrier.

Congress appropriated funds – by a bipartisan vote – to construct a border barrier. President Biden's actions have directly ignored and undermined the decisions of Congress. That the Administration has further failed to be transparent regarding the current crisis at the southern border and its plans for unobligated funds appropriated by Congress for construction of a border barrier is particularly concerning.

Congress appropriated \$51.877 billion to DHS for fiscal year 2021. Of this amount, Congress explicitly provided \$1.375 billion for construction of a barrier at the U.S. southern border. This came about by a continuation of a funding policy originally provided in 2020.

In section 209(a)(1) of division D of the Consolidated Appropriations Act, 2020 (Public Law 116-93), Congress provided \$1.375 billion for barrier construction along the southern border for fiscal year 2020.

The same amount was then also provided for fiscal year 2021 as noted in section 210 of Division F of the Consolidated Appropriations Act, 2021 (Public Law 116-260):

“SEC. 210. Of the total amount made available under ‘U.S. Customs and Border Protection—Procurement, Construction, and Improvements’, an amount equal to the amount made available in section 209(a)(1) of division D of the Consolidated Appropriations Act, 2020 (Public Law 116–93) shall be made available for the same purposes as the amount provided under such section in such Act.”

However, recent reports and statements by the Administration suggest that these funds will not be obligated or spent for their intended purpose as provided by law. According to a plan released by DHS and the U.S. Department of Defense (DOD), the Administration intends to “end... wall expansion to the extent permitted by law; and address... safety and environmental issues resulting from border wall construction.”

It is my understanding that DHS has not obligated any of its fiscal year 2021 appropriation for construction of a barrier on the southern border. With \$1.375 billion of DHS’s fiscal year 2021 appropriation for a border barrier remaining unobligated and available for 5 years, it is imperative that the Administration provide Congress with detailed information and a timeline explaining how and when it intends to apportion and obligate these appropriated funds. This is necessary to ensure transparency and accountability regarding how the American people’s tax dollars will be spent and to ensure they are being spent pursuant to Congressional intent. In view of Article I equities, I respectfully request your response to the following questions:

1. DHS has almost completely obligated appropriated funds from prior fiscal years for border barrier construction projects. Please provide information detailing the current status of remaining balances for fiscal years 2018, 2019, and 2020.
2. With DHS delaying obligation of its fiscal year 2021 appropriation for new construction projects to perform environmental reviews and consult with stakeholders, please provide a detailed timeline for any environmental reviews or stakeholder consultations the Administration intends to engage in. Please also explain what projects can be included and funded under “urgent life, safety, and environmental issues.” If any amounts have been obligated for these purposes, please include details on the specific projects and associated costs.
3. To date, what amount of DHS’s fiscal year 2021 appropriation for construction of a border barrier has been obligated? If any amounts have been obligated, for what purposes were these funds obligated?
4. For any unobligated amounts of DHS’s fiscal year 2021 appropriation for construction of a border barrier, what amount of these funds have been apportioned? For what purposes were these funds apportioned?
5. When does DOD anticipate turning its barrier projects over to DHS? Please provide a list of projects that DOD will turn over to DHS, and the timeframe for completion of each

project. What are the costs associated with these projects and what portion of these costs will be funded from the fiscal year 2021 appropriation?

6. Does the Administration intend to submit a special message to Congress proposing to rescind any amount of DHS's fiscal year 2021 appropriation that was specifically provided for construction of a border barrier?
7. Does the Administration intend to reprogram or transfer any of these appropriated funds?

With a continuing crisis occurring at the southern border, it is vital for Congress to have detailed information on how this Administration intends to apportion and obligate funds appropriated by Congress, on a bipartisan basis, explicitly for a barrier at the southern border. Moreover, the American people deserve to know how the Administration intends to spend their taxpayer dollars, when it comes to issues of national security, especially to secure our southern border.

Thank you for your prompt attention to this matter. I look forward to hearing from you and respectfully request a response to this letter by July 30, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Smith". The signature is fluid and cursive, with a large initial "J" and "S".

Jason Smith
Republican Leader
House Committee on the Budget