

President Biden's Ukraine Supplemental Request Is a Border Trap

Lora Ries and RJ Hauman

KEY TAKEAWAYS

Congress should not consider a separate supplemental request during the ongoing appropriations process.

The Biden Administration is requesting additional border funds because it spent billions of taxpayer dollars to enable, not prevent, a self-inflicted border crisis.

House Republicans must demand inclusion of H.R. 2 as part of any spending agreement that is needed to avert a government shutdown in late September.

The Biden Administration's \$40.1 billion supplemental request¹ centered on Ukraine and disaster relief is a non-starter. It is a massive spending increase that would evade budget caps and complicate an already contentious battle over funding the federal government.

While most congressional Republicans recognize that the White House is trying to force them to choose between their support for disaster victims and sending additional taxpayer money to Ukraine, given eroding public support for the war, many observers are ignoring an additional request in the same supplemental for nearly \$4 billion to "manage the Southwest border safely and effectively." In other words: to entice, guide, process, transport, house, and provide social services to even more illegal aliens with the assistance of open-borders nongovernmental

This paper, in its entirety, can be found at <https://report.heritage.org/ib5329>

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.

organizations (NGOs). The Biden Administration has been paying NGOs, such as Catholic Charities, Lutheran Immigration and Refugee Services, Church World Services, and others, billions of dollars in taxpayer grants to receive illegal aliens from the Department of Homeland Security (DHS) and transport, house, and provide them with myriad other services. President Joe Biden is now back for more money for these NGOs.

Alarming, Senator Patty Murray (D-WA) and Senator Susan Collins (R-ME), Chair and Vice Chair of the Senate Appropriations Committee, respectively, put out a joint committee statement essentially endorsing the border component of the Biden Administration's supplemental request—billions that will be misspent—saying that “critical resources to stop the flow of fentanyl and address needs at the border” are important priorities.² The Senators added that they are “committed to craft a bill that will pass the Senate.”

Putting the irresponsible connection of Ukraine with disaster relief aside, the White House is effectively laying a trap for funding that it claims addresses border security and fentanyl but does nothing of the kind. It is a trap that lawmakers, congressional staff, and American taxpayers should not fall into.

Supplemental Request Highlights

Following are highlights of the supplemental request that pretends to address the border crisis:

- \$1.4 billion for U.S. Customs and Border Protection (CBP), centered on “border management” (processing) as well as shelter and social services for illegal aliens released from custody. This figure includes a whopping \$600 million to be transferred to the Federal Emergency Management Agency (FEMA) for open-borders NGO grants, as well as \$606 million for the CBP to reimburse the Department of Defense for “border security support.”
- \$759 million for U.S. Immigration and Customs Enforcement (ICE)—not to enforce the law in the interior of the country, but mainly to “respond to migration surges” along the border, such as transporting aliens towards release into the U.S.
- Nearly \$800 million for various agencies to research and target illicit drugs, such as fentanyl, and expand access to addiction care. While acceptable at face value, this provision mistakenly funds downstream

effects of an open border. Shutting down the border would prevent throwing good money after bad.

- \$100 million for the Department of Health and Human Services—through September 2025—to give NGOs grants for “culturally and linguistically appropriate services, including ‘wraparound’ services,” housing, medical assistance, legal assistance, and more for illegal aliens entering the U.S. The Administration’s explanatory language states that this money would be used to provide Ukrainians paroled into the U.S. resettlement assistance, but nothing in the Administration’s suggested statutory language mentions Ukrainians. Rather, the supplemental request seeks to bind the next Administration into paying NGOs to facilitate mass illegal immigration. This request also seeks an extension of the Additional Ukraine Supplemental Appropriations Act of 2022 for public benefits such as the Supplemental Nutrition Assistance Program, Medicaid, and Supplemental Security Income, as well as refugee resettlement benefits, to Ukrainians arriving in the U.S. during fiscal year 2024.
- \$700 million for the State Department to provide migration assistance to Ukrainians in Ukraine and in nearby countries.
- \$26 million for the State Department—through September 2025—to “address irregular migration within the Western Hemisphere.” Nearly half of this amount would go to State’s Bureau of Western Hemisphere for oversight, and the remaining \$14 million would go to the Safe Mobility Offices in Colombia, Costa Rica, Ecuador, and Guatemala and for messaging activities. The supplemental request also seeks another \$532 million for the State Department’s Migration and Refugee Assistance account to support “safe, regular, and humane migration management” in the Western Hemisphere. This includes the establishment of the Safe Mobility Offices, which “provide protection screening and increase access to lawful pathway options to migrate where they are.”³ In other words, this is an infrastructure to schedule their illegal immigration to the U.S. using the CBP Mobile One app and be mass paroled through our ports of entry. The Administration claims these activities would “reduce irregular migration” and “support migrants to access protection and other lawful pathways outside of refugee protection,” but after 31 months of evidence, this money would only encourage more illegal immigration to the U.S.

- \$50 million for the Department of Labor’s Wage and Hour Division to “protect” unaccompanied children (UAC) who are encouraged to enter unlawfully and \$50 million to Labor’s Office of the Solicitor to enforce child labor laws and prosecute companies alleged to be exploiting child workers. Like fentanyl research and targeting above, child labor violations are a downstream effect of policies enticing and rewarding unaccompanied children who cross the border. Ending the UAC pipeline ends child labor violations.
- \$36 million for the Justice Department’s Executive Office of Immigration Review to accelerate the hiring of additional immigration judges—many of whom will be mass-migration attorneys hand selected by Department of Justice political appointees. Simply hiring more immigration judges would not reduce court abuse that deportable aliens pursue through multiple continuances, motions, and appeals to spend more time in the United States. Congress should authorize immigration judges with summary judgment to quickly dismiss frivolous cases and significantly limit administrative and judicial review.

New Illegal Alien Housing and Social Services Program Under ICE

One of the most egregious supplemental request provisions is disguised as an additional \$759 million for ICE. It contains a buried section titled “Reprogramming Authority for Facilities and Support Services.” This language would allow ICE to use not only supplemental funding, but *any* funding provided in future spending bills, for the purpose of allowing “refugees, asylum seekers, or other migrants to be housed in community-based residential facilities, depart unsupervised during certain hours, and be provided medical care, legal programming, and other services through contracts, grants, or cooperative agreements with non-governmental organizations.”⁴

The language is clear: This is permanent reprogramming authority to end ICE detention by shuffling essential law enforcement money to the housing of illegal aliens and providing them with social services through corrupt, open-borders NGOs.

A media outlet recently reported that ICE is visiting two sites of Endeavors, an NGO, in Texas for potentially repurposing idle, temporary UAC shelters for families who have recently crossed the border.⁵ These sites

would be used as housing, not as a detention facility, in which residents would be required to remain within a certain radius of the shelter as a condition of release. Not only would this approach be very expensive, but residents who leave the restricted area would face zero consequences. ICE is clearly preparing to move forward with its non-detention housing plan before Congress has even considered the Administration's non-enforcement proposal.

It is also worth noting that Endeavors is the organization at the center of viral videos in which a former Biden Administration official talked at length about his Endeavors contracts.⁶ In response, the DHS Inspector General launched a yearlong investigation into the award from ICE to Endeavors. The Inspector General concluded in April 2022 that the contract was unjustified, and that Endeavors pocketed \$17 million of funds it failed to use for the intended purpose.⁷ Despite this bad behavior, Endeavors has been awarded a whopping \$2.1 billion by the Biden Administration since 2021.⁸

In a nutshell, this Administration seeks to line the pockets of one of the most corrupt organizations in the border racket. Even worse, Biden officials are doing it through ICE, an agency that was created to enforce the law.

FEMA Funding for Illegal Aliens

The supplemental request contains \$600 million for FEMA's Shelter and Services Program (SSP), yet another expansion of a concerted effort to facilitate the worst border crisis in American history by providing additional social services to illegal border crossers. This SSP request builds on around \$1 billion that has been allocated to the program and its counterpart under FEMA,⁹ the Emergency Food and Shelter Program (EFSP), which is run by a board populated by agenda-driven charities seeking to enable the border crisis and line the pockets of open-borders NGOs.¹⁰

In a recent bombshell report,¹¹ the DHS Inspector General revealed that NGOs receiving money provided by the American Rescue Plan of 2021 through the EFSP misspent at least \$7.4 million, more than half of an audited \$12.9 million provided through the program. The organizations in question failed to adhere to the law, submit receipts, and keep the required documentation for their funding. The audit found that these NGOs spent money on those who crossed the border illegally and are not lawfully present in the United States.

It is important to remember that the misused funds reported by the audit are only a small portion of the funds doled out in 2021. The audit reviewed \$12.9 million of \$80.6 million that was awarded of a total of \$110 million. It

is safe to posit that the total fraud is far worse, considering that around \$1 billion has been provided thus far to EFSP.

Such funding requests make a mockery of the current border crisis. They do nothing to address the root of the problem. The solution to eliminating humanitarian relief fraud and abuse of taxpayer dollars is to defund the NGOs doing the Biden Administration's dirty work of illegal alien processing, human smuggling, and incentivizing mass migration.

Most important, FEMA dollars should be spent on actual disaster relief for American citizens—notably for the fire destruction in Maui and current hurricane season.

What Should Be Done?

Congress must control the purse through the proper appropriations process. When it comes to the border crisis, what the Biden Administration is asking for as the end of the fiscal year approaches is a trap that lawmakers should not fall into.

Congress must defund open-borders operations and allocate such funds to real border security and immigration enforcement with stringent non-reprogramming provisions and hawkish oversight requirements, instead of abdicating its responsibility to use American taxpayer dollars responsibly and lawfully. House Republicans took a strong first step on this front, passing a DHS appropriations bill through committee that does the opposite of what the Biden Administration is requesting in the supplemental.

The House DHS appropriations bill¹²—drafted with significant input from Heritage Foundation analysts¹³—seeks to truly secure the border and ramp up interior enforcement by:

- Providing \$2.1 billion for construction of a physical wall along the southern border and \$496 million for 22,000 Border Patrol agents, the highest level ever funded.
- Ensuring that not a single dollar is used for the CBP One mobile application to facilitate the entry of aliens into the country.¹⁴
- Providing \$3.550 billion for ICE custody operations, the highest total ever appropriated, to fund an average daily detainee population of 41,500. This funding is critical for deterring skyrocketing levels of illegal immigration and to support additional interior enforcement actions for all removable aliens.

- Providing \$655 million to fund transportation and removal operations for illegal aliens, a critical ICE function that has dramatically decreased under the Biden Administration.
- Ensuring that illegal aliens are properly monitored with GPS tracking from the first encounter through the end of immigration proceedings if immigration detention is not available.¹⁵
- Prohibiting funds for implementing Homeland Security Secretary Alejandro Mayorkas's¹⁶ and ICE principal legal advisor Kerry Doyle's¹⁷ immigration enforcement memos, which encourage use of prosecutorial discretion—the decision to not prosecute—rather than pursuing removal proceedings for removable aliens.
- Prohibiting illegal aliens—including those unlawfully paroled or otherwise inadmissible—from being transferred to the interior of the country.
- The House DHS appropriations bill also cuts wasteful spending and rescinds improperly allocated funds by:
- Rejecting countless Biden Administration funding requests for projects that encourage more illegal immigration, and
- Excluding the Biden Administration's \$4.7 billion southern-border contingency slush fund that would have provided funds to process and release even more illegal aliens into the country.

Once this DHS appropriations bill is passed by the House in September with a handful of improvements to send a strong message in adherence to the proper process, House Republicans must demand that their already passed, historic border security measure (H.R. 2, the Secure the Border Act)¹⁸ be attached to any spending agreement to avert a government shutdown. It is their duty to use any means necessary to address the Biden Administration's open-borders agenda that not only undermines the rule of law, but threatens national sovereignty, economic security, and public safety.

H.R. 2 is needed because it:

- Closes loopholes used for asylum fraud,

- Fortifies border security by ending “catch and release,”
- Ends the illegal use of mass parole,
- Expands penalties for visa overstays,
- Reduces incentives for illegal immigration by mandating nationwide E-Verify,
- Closes long-standing loopholes in the processing of both accompanied and unaccompanied alien minors,
- Resumes construction of the border wall, and
- Prohibits the Biden Administration’s purposeful reliance on left-wing NGOs to process and transport illegal aliens into American communities.

Conclusion

This supplemental request is a concerted effort by the Biden Administration to hold disaster relief funds hostage to obtain more Ukraine war money and prolong the crisis at the U.S. border with Mexico.¹⁹ The border provisions in the supplemental are a cynical ploy to deceive Americans that the Administration cares about national security, when in fact it does not secure the border, and ramps up processing, housing, and social services for an endless flow of illegal aliens that the Administration is unlawfully shepherding into the country.

If Republicans want to truly address the border crisis, they must oppose this radical supplemental request, and strengthen and pass the House DHS appropriations bill in September. In the eventuality that Congress must consider a short-term extension of federal funding through a continuing resolution at the end of the fiscal year, Republicans must stand firm and refuse to support any such measure that does not include H.R. 2.

If the federal government cannot perform the basic task of securing the border, it should not be funded.

Lora Ries is Director of the Border Security and Immigration Center at The Heritage Foundation. **RJ Hauman** is Visiting Advisor in the Border Security and Immigration Center

Endnotes

1. Office of Management and Budget, letter to Kevin McCarthy, Speaker of the U.S. House of Representatives, August 10, 2023, <https://www.whitehouse.gov/wp-content/uploads/2023/08/Final-Supplemental-Funding-Request-Letter-and-Technical-Materials.pdf> (accessed August 29, 2023).
2. Statement, “Senators Murray and Collins Issue Statement on Biden Administration Supplemental Funding Request,” U.S. Senate Committee on Appropriations, August 11, 2023, <https://www.appropriations.senate.gov/news/majority/senators-murray-and-collins-issue-statement-on-biden-administration-supplemental-funding-request> (accessed August 29, 2023).
3. Office of Management and Budget, letter to Kevin McCarthy, Speaker of the U.S. House of Representatives.
4. Ibid.
5. Joseph Simonson, “Inside Biden’s Nearly \$1 Billion Migrant Housing Plan,” *The Washington Free Beacon*, August 14, 2023, <https://freebeacon.com/biden-administration/inside-bidens-new-migrant-housing-plan/> (accessed August 29, 2023).
6. Anna Giaritelli, “Biden Transition Official Caught on Camera Saying Border Crisis Is ‘Boom for Business,’” *Washington Examiner*, August 9, 2023, <https://www.washingtonexaminer.com/policy/immigration/biden-transition-official-caught-border-crisis-boom-business> (accessed August 29, 2023).
7. U.S. Department of Homeland Security, Office of Inspector General, “ICE Spent Funds on Unused Beds, Missed COVID-19 Protocols and Detention Standards while Housing Migrant Families in Hotels,” April 12, 2022, <https://www.oig.dhs.gov/sites/default/files/assets/2022-04/OIG-22-37-Apr22.pdf> (accessed August 29, 2023).
8. USASpending.gov, “Family Endeavors, Inc.,” <https://www.usaspending.gov/recipient/145a4154-d747-d57b-bd6a-5c438e9f82d5-C/latest> (accessed August 29, 2023).
9. Erin Dwinell and RJ Hauman, “Congress Should Stop Funding the Biden Administration’s Open Borders,” Heritage Foundation *Commentary*, April 14, 2023, <https://www.heritage.org/immigration/commentary/congress-should-stop-funding-the-biden-administrations-open-borders>.
10. Anna Giaritelli, “Federal Funding Recipient Red Cross Gives Immigrants Maps to US–Mexico Border,” *Washington Examiner*, March 9, 2023, <https://www.washingtonexaminer.com/policy/immigration/red-cross-immigrants-maps-to-us-mexico-border> (accessed August 29, 2023).
11. U.S. Department of Homeland Security, Office of Inspector General, “FEMA Should Increase Oversight to Prevent Misuse of Humanitarian Relief Funds,” March 28, 2023, <https://www.oig.dhs.gov/sites/default/files/assets/2023-03/OIG-23-20-Mar23.pdf> (accessed August 29, 2023).
12. H.R. 4367, Report No. 118–123, 118th Congress, 1st Session, <https://www.congress.gov/bill/118th-congress/house-bill/4367/text> (accessed August 29, 2023).
13. Lora Ries and RJ Hauman, “FY 2024 Homeland Security Appropriations Bill Is Strongest in Years, But Has Room for Improvement,” Heritage Foundation *Factsheet* No. 252, July 14, 2023, <https://www.heritage.org/budget-and-spending/report/fy-2024-homeland-security-appropriations-bill-strongest-years-has-room>.
14. Lora Ries, “Biden’s Misleading New Asylum Rule Is a Gimmick Atop a Shell Game,” *The Daily Signal*, February 24, 2023, <https://www.dailysignal.com/2023/02/24/bidens-misleading-new-asylum-rule-is-a-gimmick-atop-a-shell-game/>.
15. Simon Hankinson, “‘Alternatives to Detention’ for Illegal Aliens: Effective with Mandatory Tracking for Entire Process,” Heritage Foundation *Background* No. 3767, May 12, 2023, <https://www.heritage.org/immigration/report/alternatives-detention-illegal-aliens-effective-mandatory-tracking-entire>.
16. Alejandro Mayorkas, “Guidelines for the Enforcement of Civil Immigration Law,” Memorandum to Tae D. Johnson, U.S. Department of Homeland Security, September 30, 2021, <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf> (accessed August 29, 2023).
17. Kerry E. Doyle, “Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion,” Memorandum for All OPLA Attorneys, U.S. Immigration and Customs Enforcement, April 3, 2022, https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf (accessed August 29, 2023).
18. H.R. 2, Secure the Border Act, 118th Congress, 1st Session, <https://www.congress.gov/bill/118th-congress/house-bill/2/text?s=3&r=1&q=%7B%22search%22%3A%5B%22Secure+the+Border+Act+HR+2%22%5D%7D> (accessed August 29, 2023).
19. Kevin Roberts, “Congress Must Not Hold Hurricane Funds Hostage for More Ukraine War Money,” *The Hill*, August 16, 2023, <https://thehill.com/opinion/international/4149293-congress-must-not-hold-hurricane-funds-hostage-for-more-ukraine-war-money/> (accessed August 29, 2023).