



The United States Department of Health & Human Services
&
The United States Department of Homeland Security

Dear Member of Congress:

We continue to experience a humanitarian and security crisis at the southern border of the United States, and the situation becomes more dire each day. On May 1, 2019, the Administration requested \$4.5 billion in emergency appropriations for the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS), the Department of Defense, and the Department of Justice to address the immediate humanitarian crisis at our southern border. We write today to ask that you appropriate this funding as soon as possible.

We cannot stress enough the urgency of immediate passage of emergency supplemental funding. This funding will provide resources that our Departments need to respond to the current crisis, enable us to protect the life and safety of unaccompanied alien children (UAC), and help us to continue providing the full range of services to the children in our custody.

While Congress has been considering the request, the average daily number of UAC in U.S. Customs and Border Protection (CBP) custody has grown from nearly 870 on May 1 to more than 2,300 today. This is because the number of arriving children greatly exceeds existing HHS capacity. As of June 10, 1,900 processed UAC were in CBP custody awaiting placement in HHS care. However, HHS had fewer than 700 open beds in which to place them. HHS has significantly increased the rates at which we are discharging children to sponsors, but UAC are waiting too long in CBP facilities that are not designed to care for children.

This is a direct result of the unprecedented number of arriving children. As of June 10, DHS has referred over 52,000 UAC to HHS this fiscal year (FY), an increase of over 60 percent from FY 2018. Preliminary information shows nearly 10,000 referrals in May – one of the highest monthly totals in the history of the program. If these numbers continue, this fiscal year HHS will care for the largest number of UAC in the program's history. HHS continues to operate near capacity, despite placing UAC with sponsors at historically high rates. HHS is working diligently to expand its bed capacity to ensure that it can keep pace, and based on the anticipated growth, HHS expects its need for additional bed capacity to continue.

On May 17, the Administration notified Congress of an anticipated deficiency in HHS's Office of Refugee Resettlement's (ORR) UAC program, as required by law. Absent an emergency appropriation, HHS anticipates running out of funding as soon as this month. The Anti-Deficiency Act, which is a criminal statute, requires HHS to take actions to minimize the deficiency and only to fund operations that are essential for the safety of human life and protection of property – similar to those activities allowed during a government shutdown. In the last few weeks, because of rapidly depleting funds caused by the border surge, ORR was required by law to scale back or discontinue awards, and had to instruct grantees that new awards cannot be used for UAC activities that are not directly necessary for the protection of life and property, including education services, legal services, and recreation. This was done solely to ensure full compliance with the Anti-Deficiency Act and stretch existing funds as far as possible for the life and safety of children.

ORR would not have had to take these actions to preserve essential operations if requested supplemental funding had been provided. If Congress acts quickly to provide the requested supplemental funding to address the border surge, ORR will be able to restore these services. Until such funding is provided, ORR will only be able to pay for essential services to protect life and safety.

It is unprecedented for a critical child welfare program to run out of funding, and ORR is in close contact with grantees about expected impacts. Once the UAC program is entirely out of funding, grantees will have to care for children with no federal reimbursement until an emergency appropriation is enacted. It is unclear if grantees would be operationally able to continue caring for UAC, as many are small nonprofit organizations. This funding lapse could also negatively impact grantees' willingness to care for UAC over the longer term and ORR's immediate ability to add new child care facilities to address the overflow of children in DHS border facilities that were not designed for children. Our valued federal employees in ORR who care for children and place them with sponsors would be required to work without pay.

It is not only the UAC program that will be impacted. On May 16, HHS notified Congress that the Anti-Deficiency Act requires HHS to reallocate up to \$167 million from Refugee Support Services (RSS), Victims of Trafficking, and Survivors of Torture to the UAC program if activities do not meet the criteria in 31 U.S.C. § 1515(b)(1)(B). Last week, HHS informed the state refugee coordinators and refugee resettlement grantees in 49 states and the District of Columbia that ORR was withholding third quarter funding for those programs. The RSS program addresses barriers to employment for refugees such as: social adjustment, interpretation and translation, day care for children, and citizenship and naturalization. Again, this was not a decision that ORR wanted to make, or took lightly. HHS's hand was forced by the current funding situation and the law. HHS must ensure that it is fully compliant with the Anti-Deficiency Act and that HHS stretch its existing funds as far as possible to protect the life and safety of children who are presently, or should be, in HHS care.

While the primary concern of both of our Departments is the safety of children in our care, DHS faces changing dynamics at the border that continue to stress its ability to respond. For example:

- More groups are illegally entering the United States, and they are getting larger.
 - On May 29, U.S. Border Patrol (USBP) agents apprehended over 1,000 migrants illegally crossing from Mexico as one group, overtaking border operations. Over 400 migrants were apprehended within five minutes only two weeks before.
- The number of migrants has escalated, with more vulnerable populations arriving.
 - In May 2019, an average of more than 4,650 people daily illegally crossed into the United States or arrived at ports of entry without proper documentation. In May 2017, the daily average was under 650 illegal crossings per day.
 - May 2019 experienced more than 144,000 total enforcements on the southern border, a 32 percent increase over the previous month and the highest monthly total since March 2006. This follows two months exceeding 100,000 – sustained levels not seen in over 12 years.
 - As of June 10, 2019, more than 17,000 people are in CBP custody, including over 2,500 UAC.
 - The USBP apprehended nearly 85,000 individuals in family units in May 2019 along the Southwest border. An additional 4,100 individuals in a family unit were deemed inadmissible at Southwest border ports of entry. The vast majority of these individuals have been released into the country due to a lack of space and authority to detain them. By comparison, in all of FY 2012, USBP apprehended just over 11,000 individuals in a family unit.
- Border Patrol agents are spending more than 50 percent of their time caring for families and children, providing medical assistance, driving buses, and acting as food service workers instead of performing law enforcement duties.
- Border Patrol agents are making on average 70 trips to hospitals every day to urgently get care to these individuals, further diminishing their ability to perform their official duties.
- The Centralized Processing Center in McAllen, Texas, and other CBP facilities have experienced outbreaks of flu which has required standing up separate quarantine facilities to reduce the risk of further exposing children and other vulnerable populations to infectious disease. While agents are providing the best care possible, these groups need more appropriate care, and they need it now.

If DHS does not receive additional funding, it will be forced to take drastic measures in August that will impact other critical programs that support DHS missions throughout the country. All DHS components, including the Transportation Security Administration, the Federal Emergency Management Agency, the Cybersecurity and Infrastructure Security Agency, the Coast Guard, and portions of CBP supporting legal trade and travel will be required to redirect manpower and funding to support measures to address the crisis.

In addition to the supplemental, it is clear that we need bipartisan legislation to address the causes of this crisis. We urge Congress to take swift action to provide the necessary funding to address the severe humanitarian and operational impacts of this crisis and to enact reforms to the root causes of these problems so that they do not persist into the future.

Thank you for your most immediate attention to this matter. A copy of this response will also be sent to your state's executive leadership.

Sincerely,



Alex M. Azar II
Secretary
U.S. Department of Health &
Human Services



Kevin McAleenan
Acting Secretary
U.S. Department of Homeland
Security