



Dos & Don'ts

Border and Immigration Policy and the FY2024 Funding Debates

October 2023

There is a lot on the line as Congress debates spending legislation for Fiscal Year 2024. Immigrants and refugees have always been a source of strength for our nation, and the current arrivals fleeing unprecedented upheaval across the globe are no different. In the short run, funds are needed to ensure that newcomers can be processed efficiently and humanely and that local governments aren't forced to divert resources from other critical needs. Proposals to build more walls, expel or block those seeking protection, further militarize the border, or detain more people will make the process crueler, but will have little impact on the numbers arriving to our shores.

In recent weeks and months, there have been efforts to seize the immediate appropriations process to leverage permanent and counterproductive changes that would undermine the integrity of the U.S. asylum and/or immigration system. Attempting to make lasting immigration law changes in the heat of a particularly chaotic appropriations season is a recipe for legislation that will cause enduring harm with potential for additional significant unintended and catastrophic consequences. Our organizations are united in supporting a humane, fair, and smart approach to border and immigration policy.

The below provides a more detailed guide.

HELPFUL	HARMFUL
<p>Sufficiently Fund Customs and Border Patrol (CBP) Office of Field Operations (OFO) for Processing Capacity</p> <p>→ <i>Context:</i> The part of CBP responsible for screening and processing travelers and migrants at ports of entry is the OFO (officers in blue uniforms), <i>not</i> the Border Patrol (agents in green uniforms). It is imperative that OFO have the funding it needs to screen and process people as they arrive at the border to seek asylum or other forms of protection. OFO currently processes 1,450 people per day with appointments from the CBP One app at only eight ports of entry across the southwest border. While significant, this number has not increased since June 30, 2023. In addition, OFO needs sufficient resources to screen and process individuals who approach the port seeking humanitarian protection without appointments.</p> <p>→ <i>Current funding:</i> OFO receives \$5 billion and Border Patrol Operations \$5.4 billion in FY2023.</p> <p>→ <i>Learn more:</i> Washington Office on Latin America, Resource page, Beyond the Wall; American Immigration Council, Beyond A Border Solution: How to Build a Humanitarian Protection System That Won't Break, May 2023.</p>	<p>Do Not Increase Funding for Border Patrol Agents</p> <p>→ <i>Context:</i> Surging funds toward CBP Border Patrol Agents would amplify punitive enforcement programs without addressing any of the processing and infrastructure demands facing CBP. Border Patrol agents operate between ports of entry and carry out enforcement operations for DHS. Even in the face of increased migration on a global scale, Congress has increased funding for Border Patrol agents at a much faster and steeper pace than for OFO officers who engage in processing and screening. Increasing funding for the Border Patrol, which has historically struggled with hiring and with abuse and corruption allegations among its corps, does not increase border security or reduce abuses.</p> <p>→ <i>Learn more:</i> American Immigration Council, The Cost of Immigration Enforcement and Border Security, January 2021; Washington Office on Latin America and Kino Border Initiative, Abuses at the U.S.-Mexico Border: How to Address Failures and Protect Rights, August 2023.</p>

HELPFUL	HARMFUL
<p data-bbox="100 298 1010 472">Increase Funding for U.S. Citizenship and Immigration Services (USCIS) for Employment Authorization and Other Application Processing, Backlog Reduction, and Integration Funding</p> <p data-bbox="142 526 1010 1159">→ <i>Context:</i> Cities and localities providing reception services to newly arrived migrants continue to call on the Biden administration to increase access to employment authorization and protection such as Temporary Protected Status. A major obstacle is the grave backlogs for employment authorization and other types of relief that are adjudicated by USCIS. USCIS also houses the Asylum Corps, whose offices conduct asylum screening interviews and adjudications. Because Congress has largely assumed USCIS would function through fee funding, the agency is starved for resources. USCIS’s need for additional funding is central and central to efficient border and migration processing. It is also critical that USCIS receive sufficient funding for the Citizenship and Integration Grant Program, which helps set up new Americans for economic and social success.</p> <p data-bbox="142 1213 961 1333">→ <i>Learn more:</i> American Immigration Lawyers Association, Modernizing Immigration: Real Solutions for Structural Change, April 2023.</p>	<p data-bbox="1062 298 1959 380">Do Not Fund New Processing or Reception Facilities That Take a Punitive Approach to Processing</p> <p data-bbox="1092 433 1969 938">→ <i>Context:</i> Many of our organizations have long encouraged the government to develop a new approach to border infrastructure including reception centers run by civil society. However, many recent proposals omit important safeguards. Reception facilities should never be operated or controlled by an enforcement agency such as Immigration and Customs Enforcement (ICE) or CBP, and freedom of movement should never be restricted. Reception centers should be time-limited for the purpose of processing, with the goal of people moving toward their final destinations within a few days to pursue their asylum case or other immigration relief and receiving referrals for continuing services, as needed.</p> <p data-bbox="1092 992 1938 1068">→ <i>Learn more:</i> Women’s Refugee Commission, Backgrounder: European Migrant Reception Models, October 2022.</p>

HELPFUL	HARMFUL
<p data-bbox="132 300 982 427">Support Better Coordination Between the Federal Government, States, Localities and Non-Governmental Organizations Supporting New Arrivals</p> <p data-bbox="142 479 989 857">→ <i>Context:</i> Cities, localities, and non-governmental organizations providing shelter and services to recent arrivals continue to urge the federal government to strengthen communications, planning and coordination. Human Rights First and other organizations have called on the White House to create a Task Force to coordinate this task. Congress can support this effort with funding and a continued focus on humane solutions for the humanitarian challenges at the border.</p> <p data-bbox="142 909 999 1198">→ <i>Learn more:</i> Human Rights First, Policy Solutions Brief, Upholding and Upgrading Asylum, October 2023; Washington Office on Latin America, Migration Can't Be Blocked But It Should Be Managed, October 2023; Women's Refugee Commission, Welcoming and Supporting People Seeking Asylum: Lessons Learned in New York City and Portland, Maine, September 2023.</p>	<p data-bbox="1066 300 1955 378">Do Not Support the Dangerous and Extreme Structural Changes to Asylum and Immigration Law Found in H.R. 2</p> <p data-bbox="1094 430 1976 894">→ <i>Context:</i> In the context of the spending negotiations, Members of Congress have put forward legislation that entail massive and dangerous rewrites of federal immigration law. We share the broad consensus that federal immigration law is broken, but these vehicles will make existing problems worse, not better. H.R.2 is an extremist bill that would criminalize large swaths of the undocumented population and fundamentally dismantle the U.S. protection system—stripping most people seeking asylum from gaining employment authorization and hurting children through rapid deportation programs and mandatory detention.</p> <p data-bbox="1094 946 1955 1066">→ <i>Learn more about H.R. 2:</i> Human Rights First, American Immigration Council, National Immigrant Justice Center and Asylum Seekers Advocacy Project, H.R. 2 Section-by-Section.</p>

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<p data-bbox="128 298 989 380">Increase Funding for the Shelter and Services Program (SSP)</p> <ul style="list-style-type: none"> <li data-bbox="142 435 1016 727">→ <i>Context:</i> SSP is a new grant-making body that supports cities, localities and non-governmental organizations assisting newly arrived migrants. These funds are often described as a “life line” supporting the provision of food, clothing, basic medical aid, legal information, and transportation support for people recently released from Department of Homeland Security (DHS) custody. <li data-bbox="142 776 993 857">→ <i>Current funding:</i> SSP is funded through CBP at \$800 million in FY2023. <li data-bbox="142 906 957 987">→ <i>Learn more:</i> Congressional Research Service, Shelter and Services Program FY2023 Funding, August 2023. 	<p data-bbox="1081 298 1942 380">Do Not Increase Funding for a Wall, Including a “Smart Wall,” or CBP Surveillance Programs</p> <ul style="list-style-type: none"> <li data-bbox="1096 435 1969 987">→ <i>Context:</i> Funding has increased dramatically for CBP surveillance technology since DHS’s creation, resulting in a militarized environment for border communities. Deterrence-based policies have not resulted in a sustained reduction of overall numbers of unauthorized migration, instead raising the death toll as harsh border policies push people toward ever more dangerous routes to seek safety. Until the pandemic, arrivals were much higher under Trump’s cruel policies than under Obama. DHS biometrics programs like the Homeland Advanced Recognition Technology System (HART) receive ever-increasing appropriated dollars with little transparency, despite serious privacy and civil rights concerns. <li data-bbox="1096 1036 1976 1287">→ <i>Learn more:</i> Southern Border Communities Coalition, Resource Page, Border Militarization; National Immigrant Justice Center, Caught in the Web: the Role of Transnational Data Sharing in the U.S. Immigration System, December 2022; American Immigration Council, Rising Border Encounters in 2021: An Overview and Analysis, March 2022.

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<p data-bbox="142 298 972 380">Increase Funding for Legal Representation and Legal Orientation Programs for Adults</p> <ul style="list-style-type: none"> <li data-bbox="142 435 1003 724">→ <i>Context:</i> More than 60% of people defending against deportation in U.S. immigration courts do not have a lawyer. Legal counsel is proven to drastically increase the prospect of a person obtaining protection and plays a crucial role in ensuring court efficiency. Legal orientation programming is a critical safety net, but funding is woefully inadequate to meet the need. <li data-bbox="142 776 1003 896">→ <i>Current funding:</i> The Legal Orientation Program is funded at \$29 million through the Department of Justice’s Executive Office for Immigration Review in FY2023. <li data-bbox="142 948 1003 1026">→ <i>Learn more:</i> American Immigration Lawyers Association, Resource Page, Legal Representation in Immigration Court. 	<p data-bbox="1178 298 1843 334">Do Not Increase Funding for ICE Detention</p> <ul style="list-style-type: none"> <li data-bbox="1094 386 1969 763">→ <i>Context:</i> Despite the existence of effective, humane, and far less expensive alternatives, ICE continues to utilize a punitive system of incarceration for those facing administrative removal proceedings. Abuse and avoidable deaths remain endemic to the detention system, thwarting decades of attempted reform. Evidence shows that legal representation and community-based support services are a more humane and effective method of ensuring compliance at immigration court hearings. <li data-bbox="1094 815 1969 1026">→ <i>Learn more:</i> Tom Dreisbach, National Public Radio, Government’s Own Experts Found ‘Barbaric’ and ‘Negligent’ Conditions in ICE Detention, August 2023; American Immigration Council, 11 Years of Government Data Reveal That Immigrants Do Show Up for Court, January 2021.

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<p data-bbox="100 298 1010 380">Increase Funding for the Case Management Pilot Program (CMPP) funded through FEMA</p> <ul style="list-style-type: none"> <li data-bbox="142 435 1010 850">→ <i>Context:</i> CMPP is a pilot program that provides community-based case management services to support immigrants undergoing asylum and other case adjudication. This alternative model for immigration processing is designed to follow internationally and domestically established best practices for alternatives to detention. CMPP is funded through FEMA and managed by a National Board chaired by the DHS Office for Civil Rights and Civil Liberties, including non-profits known and trusted by immigrant communities. <li data-bbox="142 906 1010 938">→ <i>Current funding:</i> CMPP is funded at \$20 million in FY2023. <li data-bbox="142 993 1010 1110">→ <i>Learn more:</i> CMPP landing page; Center for American Progress, Immigrants and Asylum Seekers Deserve Humane Alternatives to Detention, July 2022. 	<p data-bbox="1056 298 1965 380">Do Not Increase Funding for ICE Alternatives to Detention (ATD) Programs</p> <ul style="list-style-type: none"> <li data-bbox="1098 435 1965 850">→ <i>Context:</i> The cluster of programs funded through ICE’s ATD appropriation has grown at a dizzying pace in recent decades—more than 3,000% from 2005 to 2023, with scant oversight. These programs are not used as alternatives to detention but are instead a monitoring and surveillance program for immigrants undergoing immigration proceedings in the United States. ICE’s ATD programs are run largely at odds with best practices for case management, extending ICE’s enforcement footprint rather than decreasing the use of detention. <li data-bbox="1098 906 1965 1110">→ <i>Learn more:</i> American Immigration Council, Alternatives to Detention: an Overview, July 2023; Human Rights Watch, Report on Alternatives to Immigration Detention: Pilot Programs Point Way to Rights-Respecting Models, November 2021.

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<p data-bbox="111 300 1003 427">Increase Funding for Legal Representation, Child Advocates and Post-Release Services for Unaccompanied Children</p> <ul style="list-style-type: none"> <li data-bbox="144 479 968 641">→ <i>Context:</i> It is particularly shameful that after decades of outcry, unaccompanied toddlers and children continue to appear in U.S. immigration courts, opposite a federally funded prosecutor, without a lawyer beside them. <li data-bbox="144 693 953 898">→ <i>Current funding:</i> The Department of Health and Human Services' Office of Refugee Resettlement received \$750 million in appropriated funds for legal services, child advocates, and post-release services for unaccompanied children in FY2023. <li data-bbox="144 950 951 1154">→ <i>Learn more:</i> Church World Service, National Immigrant Justice Center, Women's Refugee Commission & Young Center for Immigrant Children's Rights, Unaccompanied Children Priorities for Fiscal Year 2024 Continuing Resolution, September 2023. 	<p data-bbox="1272 300 1745 332">Do Not Fund Family Detention</p> <ul style="list-style-type: none"> <li data-bbox="1094 384 1955 677">→ <i>Context:</i> The detention of children, regardless of duration, causes trauma resulting in life-long damage. DHS's own medical experts have warned Congress of the "risk of lasting physical and mental health injury associated with child detention," noting that "there is no amount of programming that can ameliorate the harms created by the very act of confining children to detention centers...." <li data-bbox="1094 729 1969 1021">→ <i>Learn more:</i> Protected Whistleblower Disclosure to Congress, Ongoing Risks of Harm from Detention to Migrant Children and Families, May 2021; Letter From More than 300 Non-Governmental Organizations to the President Opposing Family Detention, March 2023; Women's Refugee Commission, Why Detaining Families Cannot Be the Answer to Increased Migration and Displacement, March 2023.

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<p>Support Regional Migration Solutions in the Americas</p> <p>→ <i>Context:</i> Humanitarian and development financing initiatives in coordination with the United Nations Refugee Agency, UNHCR, and the International Organization for Migration are needed for stabilization, regularization programs, migration pathways, and integration initiatives. This should include, but not be limited to, expanded access to refugee, labor, and family-reunification migration pathways through Safe Mobility Offices and deeper support for successful existing regional initiatives.</p> <p>→ <i>Learn more:</i> UNHCR, Press Release: One Year After the Los Angeles Declaration, June 2023; International Organization for Migration (IOM), IOM Statement on the Los Angeles Declaration on Migration and Protection, June 2022.</p>	<p>Do Not Support Foreign Assistance for the Purposes of Removals By Using the Economic Support Fund (ESF) or Other Funds</p> <p>→ <i>Context:</i> ESF funds are designed to promote economic development, democracy, and stability in recipient countries. Reprogramming ESF funds for foreign country repatriation operations to block migrants and asylum seekers headed to the United States for protection raises critical ethical, legal, and diplomatic concerns and would establish a dangerous precedent.</p> <p>→ <i>Learn more:</i> Congressional Black Caucus & Congressional Hispanic Caucus Urge Biden to Halt Deportation Funding for Panama, October 2023.</p>

Endorsing Organizations:

American Civil Liberties Union (ACLU) • American Immigration Council • Americans for Immigrant Justice • America's Voice • Asian Americans Advancing Justice | AAJC • Coalition for Humane Immigrant Rights • Coalition on Human Needs • Community Change Action • Hope Border Institute • Human Rights First • Illinois Coalition for Immigrant and Refugee Rights • Immigration Hub • National Immigrant Justice Center • National Immigration Law Center • New York Immigration Coalition • NETWORK Lobby for Catholic Social Justice • Service Employees International Union •

Southern Border Communities Coalition • United We Dream • Welcome With Dignity • Witness at the Border •
Women's Refugee Commission • Young Center for Immigrant Children's Rights