

Funding U.S.-Mexico Border Barrier Construction: Current Issues

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The construction of barriers on the U.S.-Mexico border to control unauthorized crossings has been a matter of significant debate since former President Donald Trump made construction of a border wall a key element of his campaign. This Insight provides a brief overview of the funding history for these barriers. On January 20, President Joe Biden issued a proclamation directing agencies to pause additional construction and obligation of funds pending collection of information and development of a plan to redirect some of the resources that had been dedicated to barrier construction, consistent with applicable appropriations law.

Border Barriers Under Previous Administrations

Presidents George W. Bush and Barack Obama

In the decade prior to President Trump's election, Congress had appropriated almost \$2.5 billion to U.S. Customs and Border Protection (CBP), a component of the Department of Homeland Security (DHS), to construct more than 650 miles of primary barriers along the southwest border. This includes approximately 350 miles of primary barriers designed to restrict the flow of pedestrians and approximately 300 miles of primary barriers to restrict the flow of vehicles in areas where unauthorized border crossing on foot was less of a concern. Funding for construction of border barriers in this period largely ended in FY2011.

President Donald J. Trump

Shortly after his inauguration in January 2017, President Trump signed an [Executive Order](#) that called for the construction of a border wall. In March, the President submitted a [supplemental appropriations request](#) for FY2017, which included almost \$1 billion to begin planning and construction. (At the time, annual appropriations requested for FY2017 by the Obama Administration had yet to be resolved.)

In response to this and subsequent requests from the Trump Administration totaling more than \$13.27 billion through FY2020, Congress provided almost \$4.47 billion for border barrier construction through

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DHS appropriations. Funding has been provided with [conditions](#) that the barriers are built in certain border patrol sectors and meet certain design requirements.

In response to Congress not providing DHS the level of border barrier funding requested by the Administration, since FY2019, the White House has redirected other federal resources to support border barrier construction. These efforts included a \$601 million transfer of resources from the Treasury Forfeiture Fund to CBP.

Most of the redirected funding for border barriers sought by the Administration was through the Department of Defense (DOD). In 2019, President Trump undertook a series of executive actions that redirected \$6.1 billion in FY2019 defense funds for border barrier construction projects identified by DHS.

Of this amount, DOD made \$2.5 billion available using General (and Special) Transfer Authority, and 10 U.S.C. §284, a statute that allows the transfer of defense funds for the purpose of supporting other agencies' counterdrug activities (e.g., the construction of roads, fencing, and lighting to block drug smuggling corridors across international boundaries). The remaining \$3.6 billion, which the Secretary of Defense made available by indefinitely deferring ongoing military construction projects, was authorized under 10 U.S.C. §2808, following the [declaration of a national emergency](#) by the President in February 2019.

As part of its FY2020 budget request to Congress, the Administration sought \$7.2 billion in military construction funds for border barrier construction projects. This included \$3.6 billion to replenish (or *backfill*) military construction projects deferred by the use of 10 U.S.C. §2808 and an additional \$3.6 billion for new border barrier projects. Congress did not authorize or appropriate this funding.

On February 13, 2020, the Trump Administration again used its General and Special Transfer Authority and 10 U.S.C. §284 to [reallocate \\$3.8 billion](#) of FY2020 DOD appropriations to support border barrier construction. Defense [authorization](#) and [appropriations](#) committees in the House opposed this reprogramming. The House attempted to include restrictions on border barrier funding in the FY2020 [Homeland Security appropriations](#), [defense authorization](#), [defense appropriations](#), and [military construction appropriations](#) bills, but the provisions in the House-passed measures were not enacted, and the Senate did not vote on legislation to reverse the reallocations.

Although court actions delayed the obligation of some border barrier construction funds, DOD generally proceeded with barrier project execution, prioritizing projects on the basis of its assessment of the feasibility of execution, as opposed to DHS priorities.

FY2021 Funding

The Administration sought \$1.96 billion for CBP in the FY2021 DHS Appropriations Act to construct approximately 82 miles of border barrier system. Funding was not included in the House committee-reported bill, but \$1.96 billion was in the Senate majority draft legislation. The consolidated appropriations act for FY2021 included \$1.375 billion for border barrier construction.

Border Barriers Under the Current Administration

On the day of his inauguration, January 20, 2021, President Joseph R. Biden [terminated](#) the Trump Administration's national emergency with respect to the southern border, stating: "It shall be the policy of my Administration that no more American taxpayer dollars be diverted to construct a border wall." The proclamation went on to direct a pause in construction and obligation of funds related to construction of barriers, to the extent permitted by law, and directed agencies to collect a range of data with consideration to repurposing barrier related contracts:

The Secretary of Defense and the Secretary of Homeland Security, in coordination with the Secretary of the Treasury, the Attorney General, the Director of the Office of Management and Budget, and the heads of any other appropriate executive departments and agencies, and in consultation with the Assistant to the President for National Security Affairs, shall develop a plan for the redirection of funds concerning the southern border wall, as appropriate and consistent with applicable law. The process of developing the plan shall include **consideration of terminating or repurposing contracts** with private contractors engaged in wall construction, **while providing for the expenditure of any funds that the Congress expressly appropriated for wall construction, consistent with their appropriated purpose.**

-- Proclamation 10142 of January 20, 2021
(emphasis added to highlight purpose)

The deadline for production of the plan was March 21, 2021.

For More Information

Information on the history of and DHS funding for construction of U.S.-Mexico border barriers can be found in CRS Report R45888, *DHS Border Barrier Funding*.

Detailed information on the Administration's request for border barrier funding through DOD can be found in CRS Report R45937, *Military Funding for Southwest Border Barriers*.

Information on court cases related to the Administration's efforts to fund barrier construction in the absence of additional appropriations to CBP can be found in CRS Report R45908, *Legal Authority to Repurpose Funds for Border Barrier Construction*.

Author Information

William L. Painter, Coordinator
Specialist in Homeland Security and Appropriations

Christopher T. Mann
Analyst in Defense Policy and Trade

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