

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

July 11, 2023

The Honorable Kay Granger
Chairwoman
Committee on Appropriations
H-307 The Capitol
Washington, DC 20515

Dear Chairwoman Granger:

Since the start of the 118th Congress, the Committee on the Judiciary and its Select Subcommittee on the Weaponization of the Federal Government have been conducting oversight to address the problems created by the Biden Administration and to protect fundamental civil liberties. This work has generated a number of potential reforms that the House of Representatives can advance through its “power of the purse.” We appreciate your willingness to work with us to identify ways to utilize the appropriations process to constrain out-of-control federal agencies, hold the Biden Administration accountable, and most importantly protect the fundamental civil liberties of the American people. As the Committee on Appropriations considers the funding bills for fiscal year 2024, we respectfully write to recommend several areas of potential reforms.

- ***Immigration enforcement and border security.*** Since President Biden took office in 2021, border officials have encountered more than 5.5 million illegal aliens along the southwest border,¹ and the Biden Administration has released into American communities over 2 million illegal aliens encountered along the southwest border.² The Biden Administration’s open-border policies have led to a number of suspected

¹ U.S. Customs and Border Protection, *Southwest Land Border Encounters*, DEP’T OF HOMELAND SECURITY (last accessed May 17, 2023), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> [hereinafter CBP Southwest Land Border Encounters].

² *Texas v. Biden*, Case No: 2:21-cv-00067-Z (N.D. Texas 2022) (Brief For America First Legal Foundation As Amicus Curiae In Support of Respondents, Defendants’ Monthly Report For Mar. 2022, Defendants’ Monthly Report For April 2022, Defendants’ Monthly Report For May 2022, Defendants’ Monthly Report For June 2022); MPP Reimplementation Report, July 2022, MPP Reimplementation Report, Aug. 2022, MPP Reimplementation Report, Sept. 2022, MPP Reimplementation Report Oct. 2022, MPP Reimplementation Report Nov. 2022, MPP Reimplementation Report, Dec. 2022, MPP Reimplementation Report, Jan. 2023, MPP Reimplementation Report, Feb. 2023, provided to Committee Staff by U.S. Dep’t of Homeland Security. MPP Reimplementation Report, Mar. 2023, provided to Committee Staff by U.S. Dep’t of Homeland Security.

terrorists entering our country. The crisis at the border is a direct result of the radical policies of President Biden and Secretary Mayorkas, and it affects American communities all across the country. The Committee recommends prohibiting taxpayer dollars from being used to implement the Biden Administration's radical immigration policies.

- ***Reining in abusive federal law enforcement agencies.*** The Committee and Select Subcommittee have received startling testimony about egregious abuses, misallocation of federal law-enforcement resources, and misconduct within the leadership ranks of the FBI. We recommend that the appropriations bills eliminate any funding for the FBI that is not absolutely essential for the agency to execute its mission, including as a starting point eliminating taxpayer funding for any new FBI headquarter facility and instead examining options for relocating the FBI's headquarters outside of the Washington, D.C. metropolitan area. We also recommend tying funding for the FBI to specific policy changes—such as requiring the FBI to record interviews—that will promote accountability and transparency at the FBI.
- ***Protecting FBI whistleblowers.*** The Committee and Select Subcommittee have received whistleblower testimony from several current and former FBI employees who chose to risk their careers to expose abuses and misconduct in the FBI. We ask that the Appropriations Committee include language in the Justice Department appropriations bill prohibiting retaliation against FBI whistleblowers, including by prohibiting taxpayer dollars from being used to pay the salary of any Justice Department or FBI employee who is found to have retaliated against a whistleblower.
- ***Protecting Freedom of Speech online.*** The Committee and the Select Subcommittee are also conducting robust oversight of how federal agencies collude with companies and other intermediaries to censor speech. Information obtained by the Committee and the Select Subcommittee suggests that federal agencies have sought, whether directly or indirectly, to censor, discourage, or chill online public discourse. We respectfully request language in fiscal year 2024 appropriations bills prohibiting taxpayer funds from being used to censor Americans online or to classify speech as so-called “mis-, dis-, or mal-information.” We also ask that the Appropriations Committee eliminate taxpayer dollars going to the Global Engagement Center and other governmental and non-governmental entities that are engaged in speech suppression.
- ***Protecting the Second Amendment.*** The Committee is also examining the Biden Administration's attacks on fundamental Second Amendment rights at the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). In two recent regulatory actions, the ATF has circumvented the will of Congress and flouted the Second Amendment. Accordingly, we recommend prohibiting taxpayer funds from being used to implement ATF radical regulations concerning pistol braces or so-called “ghost guns.”

The Honorable Kay Granger


July 11, 2023

Page 3

The Committee and the Select Subcommittee appreciate the important role the appropriations process plays in holding the federal government accountable to taxpayers. Thus, on behalf of the Committee and the Select Subcommittee, enclosed please find an initial list of suggested priorities to be included in the fiscal year 2024 appropriations bills. Our oversight and legislative efforts to date have informed these proposals, which will hold the federal government accountable to the American people. By utilizing the power of the purse, Congress can ensure that the federal agencies are working for the people of this country—not weaponized against them. These proposals are just a beginning. As the 118th Congress progresses, the Committee and Select Subcommittee will continue to conduct oversight to inform legislative proposals that will uphold fundamental freedoms and secure American liberties.

Thank you for your consideration and we look forward to continuing to work with you on these important issues.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

Commerce, Justice, and Science and Related Agencies Appropriations Riders

1. Challenging Politically Sensitive Investigations

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used to conduct a politically sensitive investigation until the Department of Justice establishes a policy requiring non-partisan career staff to oversee such investigations. Politically sensitive investigations include those investigations of elected officials and their family members, political candidates and their family members, political organizations, religious organizations, and members of the media.

2. Whistleblower Retaliation

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to pay the salary of a Department of Justice or Federal Bureau of Investigation employee who is found to have retaliated against a whistleblower or suppressed a Department of Justice or Federal Bureau of Investigation employee's constitutional rights under the First Amendment.

3. 302 FBI Interview Recording

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available in this Act may be used in an interview conducted in connection with an investigation of a Federal offense or an investigation in which the agency is assisting a State, local or tribal law enforcement agency unless that interview is recorded using electronic audio recording equipment. The requirement applies with respect to custodial and noncustodial interviews, but does not apply with respect to communications with confidential informants. The requirement does not apply to interviews of non-United States persons conducted outside the United States. Recordings of these interviews shall be retained for 10 years.

4. Moving FBI Headquarters Out of Washington, D.C.

Sec. ____ PROHIBITION ON USE OF FUNDS.—The Committee remains concerned about the politicization of federal law enforcement power emanating from FBI Headquarters in Washington, D.C. The centralization of FBI operations in the National Capitol Region has led to duplication of activity best left to the respective field offices, contributed to reduced autonomy in local field offices, and allowed improper political influence to taint law enforcement investigations and activity. None of the funds made available in this Act may be used to build a new FBI headquarters. In addition, the FBI is directed to submit an operational plan within 90 days to move the FBI Headquarters out of the National Capitol Region. The operational plan should also consider the existing resources and infrastructure available at the FBI's Redstone Arsenal Campus in Huntsville, AL.

5. United States Marshal Service Protecting Justices

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act may be used to implement a policy that discourages United States Marshals Service employees or personnel from fully enforcing 18 U.S.C. § 1507.

6. Executive Office for Immigration Review

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used for the Executive Office for Immigration Review until the Department of Justice provides to the House Committee on the Judiciary all documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, sent or received by the following individuals:

- a. Attorney General Merrick Garland;
- b. Deputy Attorney General Lisa Monaco;
- c. Principal Deputy Assistant Attorney General Brian Boynton;
- d. Director of the Executive Office for Immigration Review David Neal;
- e. Deputy Director of the Executive Officer for Immigration Review Mary Cheng;
- f. Chief Immigration Judge Tracy Short;
- g. Principal Deputy Chief Immigration Judge Daniel Weiss;
- h. Senior Counsel to the Deputy Attorney General Margy O'Herron;
- i. Assistant Chief Immigration Judge Rebecca Walters;
- j. Assistant Chief Immigration Judge David Cheng;
- k. Former Acting Deputy Director of the Executive Office for Immigration Review Charles Adkins-Blanch; and
- l. Chief Immigration Judge Shelia McNulty

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used for the Executive Office for Immigration Review until the Department of Justice provides to the House and Senate Committees on the Judiciary all documents and communications referring or relating to the hiring and termination procedures for immigration judges for the period January 20, 2021, to the present.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used by the Executive Office for Immigration Review to make grants or enter into contracts or cooperative agreements to provide legal representation for aliens in removal proceedings.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used by the Executive Office for Immigration Review to conduct diversity, equity, and inclusion trainings.

Sec. ____ The Attorney General shall provide on a monthly basis to the House and Senate Committees on the Judiciary the number of immigration judges who did not hear cases during the previous month.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated by this Act may be used by the Department of Justice to promulgate a regulation regarding asylum law and process or regarding administrative closure of cases in immigration court.

Sec. ____ LIMITATION ON USE OF FUNDS.—Of the funds made available by this Act or otherwise made available for fiscal year 2024 for the Executive Office for Immigration Review, not more than 75 percent may be obligated or expended until the date on which the Secretary submits to the House and Senate Committees on the Judiciary a report detailing the number of veterans of the U.S. Armed Forces hired as immigration judges each year since January 2018 and explaining the reason(s) for any decrease in such number from year to year.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used for the Executive Office for Immigration Review until the Office provides to the House and Senate Committees on the Judiciary an explanation as to why it no longer posts publicly its immigration judge hiring procedures and until such procedures are posted publicly.

7. No Funding for Asylum Law Regulations or Immigration Court Administrative Closures

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used by the Department of Justice to promulgate a regulation regarding asylum law and process or regarding administrative closure of cases in immigration court.

8. No Funding for Civil Action Settlements – Aliens

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act may be used by the Department of Justice as a payment of a compromise settlement made in relation to a civil action brought by an alien who is inadmissible under section 212(a)(6)(A) or (7)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A) or (7)(A)(i)(I)), or who entered the United States in violation of section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)), in connection with conduct described in any such section, unless expressly authorized by law.

9. Weaponization of the ATF and Abuse of Rulemaking Authority

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act may be used, or transferred to another Federal agency, board, or commission to be used, to implement any part of the Bureau of Alcohol, Tobacco, Firearms, and Explosives final rule entitled “Factoring Criteria for Firearms with Attached Stabilizing Braces” (88 Fed. Reg. 6478) (Jan. 31, 2023).

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act may be used, or transferred to another Federal agency, board, or commission to be used, to litigate in defense of the Bureau of Alcohol, Tobacco, Firearms, and Explosives final rule entitled “Factoring Criteria for Firearms with Attached Stabilizing Braces” (88 Fed. Reg. 6478) (Jan. 31, 2023).

10. Department of Justice – Third Party Settlement Funding

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to facilitate or enter into any agreement on behalf of the United States in settlement of Federal claims or charges, including agreements settling civil litigation, accepting plea agreements, or deferring or declining prosecution in a criminal matter, that directs or provides for a payment, loan, or other good or service of value to any nongovernmental person or entity that is not a party to the dispute or a victim of the conduct subject to the claims or charges.

11. Department of Justice – School Boards

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to implement the Attorney General’s October 4, 2021, memorandum entitled “Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff.”

Department of State, Foreign Operations, and Related Programs Appropriation Riders

1. Global Engagement Center

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to staff or operate the Global Engagement Center.

2. Refugee Related Provisions

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to process an application for the Central American Minors Program or any successor program.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be used to designate foreign nationals residing in Mexico and awaiting entry into the United States on the Mexico side of the United States border as of May 19, 2023 for Priority 2 processing under the refugee resettlement priority system unless such Priority 2 designation is expressly authorized by a subsequent Act of Congress.

3. State Department Funds for Israeli Judicial Reform Efforts

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to oppose Israeli judicial reform efforts.

Financial Services and General Government Appropriations Riders

1. Mis/Dis/Mal - Information

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to label communications by United States persons as misinformation, disinformation, or malinformation, whether such labeling is done only by Federal personnel or in conjunction with private entities or individuals.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act or any other Act shall be used, or transferred to another Federal agency, board, or commission to be used, to review, process, or approve any application for a Federal grant, contract, cooperative agreement, or other agreement by any individual or organization that labels communications by United States persons as misinformation, disinformation, or malinformation.

Homeland Security Appropriations Riders

1. Prohibits Funds for the Biden Administration asylum regulation

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to implement, administer, or enforce the rule entitled “Procedures or Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers” (87 Fed. Reg. 18078).

2. Prohibits the termination of 287(g) agreements unless the DHS Inspector General has found violations of the 287(g) terms and conditions

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to reduce participation in or substantively diminish the delegation of law enforcement authority authorized under section 287(g) of the Immigration and Nationality Act, except as provided in section XXX of this Act.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds provided under the heading “U.S. Immigration and Customs Enforcement— Operations and Support” may be used to continue a delegation of law enforcement authority authorized under section 287(g) of the Immigration and Nationality Act (8 14 U.S.C. 1357(g)) if the Department of Homeland Security Inspector General determines that the terms of the agreement governing the delegation of authority have been materially violated.

3. Prohibits Funds from being Used to Implement the Mayorkas Enforcement Priorities Memorandum

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to implement, administer, or otherwise carry out the activities and policies described in the memorandum issued by the Secretary of Homeland Security on September 30, 2021, entitled “Guidelines for the Enforcement of Civil Immigration Law” or described in the memorandum issued by Kerry Doyle, Immigration and Customs Enforcement Principal Legal Advisor on April 3, 2022, entitled “Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion.”

4. Prohibition on funds for the Disinformation Governance Board

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to establish or support the activities of a Disinformation Governance Board at the Department of Homeland Security, or any other similar entity carrying out activities relating to disinformation in a similar manner or to a similar extent to such a Board.

5. Precludes Abortion Funding

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act for “U.S. Immigration and Customs Enforcement” may be used to pay for or facilitate an abortion, except where the life of the mother would be endangered if the fetus would be carried to term, or in the case of rape or incest and none of the funds appropriated or otherwise made available by this Act for “U.S. Immigration and Customs Enforcement” may be used to require any person to perform, or facilitate in any way the performance of, any abortion.

6. Precludes Gender Affirming Care Funding for Aliens in DHS Custody

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to administer hormone therapy medication or perform or facilitate any surgery for any person in custody of U.S. Immigration and Customs Enforcement for the purpose of gender-affirming care.

7. Prohibition on Funds related to Misinformation

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to: (a) classify or facilitate the classification of any communications by a United States person as mis-, dis-, or mal-information; or (b) partner with or fund nonprofit or other organizations that pressure or recommend private companies to censor lawful and constitutionally protected speech of United States persons, including recommending the censoring or removal of content on social media platforms.

8. Unaccompanied Alien Children

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to transfer an unaccompanied alien child to Health and Human Services custody if such unaccompanied alien child has not been screened for criminal and gang history that occurred in such unaccompanied alien child’s country of origin or country of last habitual residence.

9. Alien Admission – Unaccredited Academic Institutions

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to admit an alien based on a Form I-20 issued by a college, university, or other academic institution that is not accredited.

10. No Funding for Commonwealth of the Northern Mariana Islands Parole

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated or otherwise made available by this Act may be made available to parole into the Commonwealth of the Northern Mariana Islands, for the purpose of temporary visit for business or pleasure without a visa, an alien who is a national of the People’s Republic of China.

Labor, Health and Human Services, and Education Appropriation Riders

1. Unaccompanied Alien Children

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated by this Act may be used to place an unaccompanied alien child in HHS custody with a sponsor if such unaccompanied alien child has not been screened for criminal and gang history that occurred in such unaccompanied alien child’s country of origin or country of last habitual residence, and if the Committees on the Judiciary of the House and Senate have not been notified that HHS plans to place such unaccompanied alien child who is found to have a criminal or gang history in such unaccompanied alien child’s country of origin or country of last habitual residence, with a sponsor.

Sec. ____ PROHIBITION ON USE OF FUNDS.—None of the funds appropriated by this Act may be used to transfer an unaccompanied alien child in HHS custody with a sponsor in any case where such unaccompanied alien child has been convicted of a crime, or has a pending criminal charge relating to gang affiliation or activity, in such unaccompanied alien child’s country of origin or country of last habitual residence.

Sec. ____ LIMITATION ON USE OF FUNDS.—Of the funds appropriated by this Act or otherwise made available for fiscal year 2024 for the Office of Refugee Resettlement not more than 80 percent may be obligated or expended until the date on which the Secretary submits to

The Honorable Kay Granger

July 11, 2023

Page 11

the appropriate congressional committees the Estimate of Detention Space Report required by 8 USC 1232 (a)(5)(C).