

CHRISTOPHER S. MURPHY

United States Senate
WASHINGTON, DC 20510

July 11, 2025

The Honorable Kristi Noem
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Secretary Noem:

This letter is in response to the June 13, 2025, notification submitted to the Chair and Ranking Member of the Homeland Security Appropriations Subcommittee by Mr. Jeffrey Bobich, the Director of Financial Management of the Department of Homeland Security (DHS), requesting to reprogram and transfer a total of \$430,884,690 in funding pursuant to section 503 of the DHS annual appropriations act from a variety of sources across DHS. For the reasons below, and many more, I strongly object.

As you know, the American people, communities, stakeholders, and other Committee members do not have visibility into the contents of these notifications, nor are they often aware of their existence. However, given that Congress, on a partisan basis, just authorized over \$165 billion for DHS, a reasonable person must conclude that the funds that would have been repurposed for Immigration and Customs Enforcement (ICE) operations (and other components) identified in this notice, are no longer necessary and can be utilized as Congress originally intended.

For these reasons, I ask that you immediately update the Committee on the continued need for this reprogramming and transfer request considering the unprecedented funding DHS received from House and Senate Republicans last week. For example, ICE's Custody Operations account is typically appropriated approximately \$3.5 billion annually, yet the Republican reconciliation package gave ICE \$45 billion for this same purpose – nearly 13 times more than their annual appropriation. Given this unprecedented funding, I am unclear why this notice is still required, even if it were justified, and I do not expect to see another 503 notice at any point soon.

Before I address the self-created fiscal challenges at ICE, I would like to raise serious concerns with some of the proposed sources for the proposed transfer and reprogramming and note that I will not support repurposing these funds. For example, the proposal includes repurposing funds away from the Federal Emergency Management Agency (FEMA) in the midst of a serious domestic humanitarian and environmental catastrophe in Texas and an ongoing one in North Carolina; it proposes to repurpose United States Citizenship and Immigration Services

(USCIS) funds, the product of bipartisan negotiations; and purports to use “surplus” funds made available by the unlawful decision to terminate the Office of Immigration Detention Ombudsman (OIDO) and the Civil Rights and Civil Liberties (CRCL) offices at DHS, despite authorizing statutes establishing those offices and appropriated funds dedicated to their operation.

This is the administration’s second notification submitted this fiscal year on behalf of ICE, meaning at least twice, ICE has faced the prospect of running out of money. Just as Americans are asked to do nearly every day – to live within their means – ICE is not free to spend more than Congress has authorized. Congress provided reprogramming and transfer authorities to the Department in acknowledgement that there may be circumstances when urgent and unforeseen issues arise that justify the shifting of resources outside of their original purpose. For example, the ongoing natural disasters in Texas and North Carolina might require additional funding *to* FEMA, not away from it. Yet, not one of the proposed purposes in this notification reflects an urgent and unforeseen need. In fact, most of these are self-inflicted shortfalls that were plainly foreseen given the department’s willful and consistent overspending. ICE doesn’t get to spend and spend without limitations and submit the bill to Congress. They must live within their means, just as American families must.

Since the start of this administration, the White House and DHS have directed ICE to spend at an indefensible and unsustainable rate to build a mass deportation army and acquire detention beds far above the level negotiated and funded by Congress. By early February, the Office of Management and Budget (OMB) approved a rare exception apportionment, authorizing ICE to spend an additional \$485 million above the funded level. As you know, exception apportionments are typically used for situations where an agency requires more funds than are automatically available under a continuing resolution (CR) and are not commonly granted. Despite this unusual action by OMB, it was still not enough to cover overspending by ICE, and by April, the Department submitted a notification to transfer \$312,500,000 to ICE which resulted in my May 30, 2025, response opposing such transfer.

This latest notification requests to transfer an additional \$211,570,346 to ICE. If DHS moves forward with this proposal, it means that in total, over \$524 million has been moved from other critical programs to ICE alone. Combined with the additional \$485 million ICE received in the FY25 full-year CR, ICE will have received over \$1 billion in additional funding over their appropriated amount this fiscal year to cover the administration’s overspending - with clear indication that even that amount is insufficient. For example, at the time of the submission of this notice, ICE had approximately 55,000 detention beds, 13,500 above the FY24 funded level of 41,500, which costs American taxpayers an additional half a billion annually. By early July, the agency has now committed to fund over 60,000 beds,¹ all without Congressional approval.

Overspending at ICE is evident elsewhere with unprecedented increases in transportation costs and funding for the 287(g) program, costs all borne by the American taxpayer. With over 600 new 287(g) agreements, reduced oversight functions, a lack of transparency with the public, and an emphasis on the new Task Force model, there are serious concerns that insufficient training is taking place to conduct immigration enforcement activities. ICE spent \$23,143,000 to

¹ Of the 60,044 beds paid for, 881 detainees held in the El Paso soft-sided facility are being paid for by the Department of Defense.

effectuate 287(g) programs in FY 2024. In FY 2025, the agency has already spent almost \$29 million² and seems poised to expand this effort with nearly no oversight.

Furthermore, DHS continues to rely on other Federal agencies, such the Department of Defense (DOD), to augment its own operations with near zero-visibility from the public, violating long-standing appropriations laws. As of April 4, 2025, Enforcement and Removal Operations (ERO) has received the support of 16,819 non-ERO law enforcement personnel to assist in ERO targeted operations.³ For example, USCIS has provided over 400 support staff to ERO to date with an option to go up to 1,000 details. Not only is this an augmentation of the funds Congress provided for a specific purpose, USCIS is the exclusive agency that addresses legal immigration, a concept which President Trump allegedly supports. Augmenting ERO officers with USCIS officers certainly means that USCIS officers will be unable to work on their agency's mission, a point lost to no one.

Additionally, I remain concerned about the Shelter and Services Program (SSP) which I originally shared with you when you came to present a portion of the DHS budget on May 8, 2025. SSP funds are the result of an identified need to support the relieving of overcrowding in Customs and Border Protection's (CBP) short-term holding facilities and border and receiving communities who assist CBP. They are designed to ensure that non-federal entities do not bear the cost of an exclusively federal function and returns taxpayer dollars directly to non-governmental organizations, state, and local communities. Furthermore, the funding enacted in Fiscal Year 2024, carried through the CR, was the result of bipartisan negotiations. Democrats compromised and accepted Republican priorities so that we could get additional funding in SSP. If the result of these bipartisan agreements is not respected by your agency, then I fail to see why Democrats should compromise at all, calling the entire bill negotiation into question.

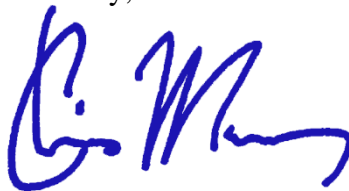
Furthermore, earlier this year DHS transferred \$32 million from SSP to ICE, the full amount permissible under law, and has recently asserted that "shelter" means "detention" (so that the entire fund can be raided for detention beds), and as I understand it, has plans to fund various immigration enforcement efforts with these humanitarian funds. The clear purpose of the shelter and services fund is to support humanitarian services - food, housing, and medical care for example - to non-federal entities supporting noncitizens *released* from custody. Therefore, using these funds to detain noncitizens, or to give to state and local law enforcement to arrest and detain noncitizens, is a patently clear purpose violation. Firstly, the funds are plainly appropriated for noncitizens 'released' from CBP custody, and secondly, there is no reasonable interpretation that could equate the requirement to provide food, housing, and healthcare for those released from CBP's physical custody as permitting ongoing physical detention where a noncitizen is not free to leave. If true, it is an astounding violation of the law.

For the reasons above, I strongly object to the reprogramming and transfer requests. As DHS acquires over \$165 billion as a part of the Republican reconciliation package, it is my strong desire that more of the work of the Appropriations Committee is transparent so that Americans can understand how their government spends their tax dollars.

² ICE has spent \$28,739,000 in Fiscal Year 2025 on the 287(g) program.

³ This includes officer, agent, and non-law enforcement personnel. HSI does not track the number of agents assisting the agency in daily immigration enforcement.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Murphy', with a stylized, flowing script.

Christopher S. Murphy
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations