

United States Senate
WASHINGTON, DC 20510

April 16, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Lloyd J. Austin III
Secretary
Department of Defense

Dear Secretary Austin:

Federal agencies may submit a Request for Assistance (RFA) to obtain the support of other federal agencies, including the Department of Defense (DOD), for specific agency needs.¹ In April 2018, the DOD began supporting Customs and Border Protection (CBP) to prepare for a significant increase of foreign nationals flooding the southwest border.² Specifically, “DOD sent personnel from military services’ active components, and state governors—with the approval of the Secretary of Defense—activated members from their National Guards into a title 32, U.S. Code, duty status,”³ including “5,815 active component personnel to support CBP in anticipation of a substantial number of foreign nationals arriving at the southwest border.”⁴ DOD also obligated “at least \$841 million from FY 2018 through May 2020 to support CBP’s southwest border operations.”⁵ During the Trump administration in FY 2020, Southwest Border encounters at the U.S.-Mexico border were 400,651 as compared to 1.95 million in FY 2021 and a record high of 2.76 million in FY 2022 during the Biden administration.⁶

As a result of reversing the previous administration’s immigration policies and projects at the southwest border, President Biden has incentivized illegal immigration and created a historic immigration crisis. This crisis has resulted in DOD’s continued support of southern border operations and increased cost to the American taxpayer. Initially, DOD approved support to the Department of Homeland Security (DHS) and CBP through September 30, 2021, but agreed to continue supporting DHS and CBP through FY 2024.⁷

¹ GAO, GAO-21-356, *Southwest Border Security: Actions Are Needed to Address the Cost and Readiness Implications of Continued DOD Support to U.S. Customs and Border Protection* (Feb. 23, 2021), at 7, <https://www.gao.gov/assets/d21356.pdf>; see also https://www.gao.gov/products/gao-21-356#summary_recommend (Updates as to the status of the GAO recommendations).

² *Id.* at 7.

³ *Id.*

⁴ *Id.* at 8.

⁵ *Id.* at 28.

⁶ U.S. Customs and Border Protection, *Southwest Border Migration FY 2020* (last modified: Sep. 19, 2023), <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2020>; see also U.S. Customs and Border Protection, *Nationwide Encounters* (last modified: April 12, 2024), <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁷ *Supra* note 1.

The Government Accountability Office (GAO) published a report in February of 2021 regarding DOD's support at the southern border titled, "*Southwest Border Security: Actions Are Needed to Address the Cost and Readiness Implications of Continued DOD Support to U.S. Customs and Border Protection.*"⁸ GAO found that "DOD did not fully evaluate the costs of providing the requested support or the impact these assignments could have on unit readiness."⁹ For example, "DOD did not track as border support activity costs the cost of the U.S. Army Corps of Engineer's support for the construction requested by DHS."¹⁰ GAO also found that DOD does not typically submit its section 1014 reports, which include costs for supporting CBP's Southwest Border security operations, to Congress on time.¹¹

GAO made six recommendations to DOD and one to DHS that included consultation with DOD. These recommendations focused on DOD's practices for documenting and assessing cost estimates, including support of border barrier construction projects, and impacts to military readiness.¹² DOD concurred with one recommendation and did not concur with the other five.¹³ As of April 16, 2024, according to GAO, none of the recommendations to DOD have been closed.¹⁴

It is imperative that DOD continue to review and develop plans to ensure responsible use of taxpayer dollars and military readiness in light of the increasing national security and humanitarian crisis at the Southwest Border. Accordingly, please answer the following questions no later than April 30, 2024:

1. What steps has DOD taken to close each open recommendation from GAO's February 23, 2021, report? Provide all records.¹⁵

⁸ *Id.*

⁹ *Id.* at 10.

¹⁰ *Id.* at 35. (The Secretary of Defense may provide support for the counterdrug activities or activities to counter transnational organized crime of any other federal department or eligible law enforcement agency, including for the purposes of constructing roads, fences, and installation of lighting to block drug smuggling corridors across international boundaries of the United States).

¹¹ *Id.* at 53; *see also* Emails on File with Senate Budget Committee Staff

¹² *Id.* at 54-55.

¹³ *Id.* at 76-78.

¹⁴ *Supra* note 1 (Updates as to the status of the GAO recommendations). According to GAO: "(Recommendation 1) As of July 2023, DOD hasn't taken any action to address this recommendation. (Recommendation 2) As of July 2023, DOD hasn't taken any action to address this recommendation. (Recommendation 3) As of July 2023, DOD hasn't taken any action to address the recommendation. (Recommendation 4) In July 2023, [GAO] requested an update on status of the subsequent Section 1014 reports, and DOD did not respond. (Recommendation 5) As of July 2023, DOD has not taken any action in response to this recommendation. (Recommendation 6) In March 2023, DHS shared positive steps toward implementing our recommendation, including a multi-year DOD drawdown plan that identifies investments to address capability gaps currently filled by DOD personnel. Then in November 2023, DHS provided GAO an update that Customs and Border Protection will continue to coordinate with DOD to define "End of Mission" section of DHS's fiscal year 2024 Request for Assistance, so it clearly states how both agencies will know when the mission has been completed. (Recommendation 7) In February 2023, DOD continued to disagree with this recommendation, citing that it does not commit to Defense Support of Civil Authorities missions for multiple years, especially if that support may be provided without reimbursement. DOD further stated that DHS reliance on its support presents a national security risk should DOD forces, capabilities, and resources be necessary for a major overseas contingency."

¹⁵ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether they resulted in final documents)."

2. What is the total cost, per fiscal year, of DOD's support to DHS and its component agencies at the Southwest Border?
3. What impact does the border crisis, and the resulting DOD support to DHS and its component agencies, have on military readiness?
4. What kind and how many materials does DOD store as a result of President Biden's Proclamation 10142, which paused the building of the boarder wall?¹⁶ What is the total estimated annual cost, since the proclamation, to store these materials? Provide all records.

Thank you for your attention to this important matter. If you have any questions, please contact Tucker Akin on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

¹⁶ Proclamation No. 10142, 86 F.R. 7225 (Jan. 27, 2021).