

Shalanda Young, Director
Office of Management and Budget
White House
1600 Pennsylvania Ave. NW
Washington D.C. 20500

October 11, 2023

Re: Priorities for immigrant communities in the FY2025 White House budget

Dear Director Young:

The federal government's budgetary decisions have a tremendous impact on the daily lives of people seeking asylum, immigrant communities and border communities. As you prepare the President's annual budget request for Fiscal Year (FY) 2025, we urge you to center the rights and dignity of these communities. Specifically, we urge you to craft a budget that supports a humane, dignified approach to domestic immigration policy by prioritizing funds for adjudication, processing, and community-based respite and support services. Simultaneously, we urge you to downsize budgets for immigration detention, enforcement, and surveillance programs that undermine due process and human rights.

We were pleased to see important advancements in the White House's proposed FY2023 and 2024 budgets, but are concerned that in some cases the administration's actions are at odds with its commitments. For example, both the FY2023 and 2024 White House budgets proposed downsizing the budget for Immigration and Customs Enforcement (ICE) detention, a critical step toward the President's [campaign commitment](#) to end privatized immigration detention. Over the course of the past year, however, ICE significantly *increased* its use of carceral detention facilities and sought additional funding for immigration detention in its August 2023 supplemental funding request. Similarly, although both the FY2023 and 2024 budgets proposed funding for an appointed counsel program in immigration court, we have not seen evidence that the administration actively pushed Congress to prioritize this proposal. The administration, instead, rolled out new enforcement programs that [obstruct](#) access to counsel during the credible fear process.

Over the last year, immigration policy has continued its long-time trend toward a removal-first immigration enforcement system which prioritizes reinforcing the government's ability to carry out "consequences" over building a robust system of adjudication and processing that places due process and fairness first. We believe the budget process offers an important check on that trend. We encourage the White House Office of Management and Budget (OMB), the Departments of Homeland Security (DHS), Justice (DOJ), and Health and Human Services (HHS), to commit to

a funding structure and corresponding policy commitment that will bring transformative change toward a humane and rights-respecting approach.

Specifically, this letter provides the following recommendations for the FY2025 budget (jump-linked for convenience):

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I. Alternatives to detention: Prioritize funding to grow community-based case management programs and downsize the budget for enforcement-based programming

As we explained in our letter last year, ICE’s Alternatives to Detention (ATD) programs have grown at a dizzying pace in recent decades, with little oversight or analysis of methodology. From 2005 to 2023, the appropriated funding for ICE’s ATD account grew by *more than 3,000%* (from \$14,202,000 in FY2005 to \$442,662,000 in FY2023). Under the current administration, the Intensive Supervision Appearance Program (ISAP) enrollment grew from 87,439 people enrolled at the end of January 2021 to more than 300,000 enrolled in mid-2022 and back down to 194,632 as of ICE’s most recently [posted data](#) in September 2023.

As this growth has occurred, the undersigned organizations have expressed grave and ongoing concern that the government runs its ATD programs at odds with best practices, extending ICE’s enforcement footprint rather than decreasing it and failing to meet the needs of those enrolled.

In 2015, a collaborative of more than 400 civil society organizations known as the International Detention Coalition (IDC) completed an [analysis](#) of more than 250 examples of alternatives to detention programming in 60 different countries; this analysis was [updated](#) and expanded upon

in 2022. The IDC found that successful ATD models engage individuals in the immigration process through informative and community-supported programming, contributing to “positive compliance, case resolution, cost, and health and wellbeing outcomes.” Hallmarks of successful programs include case management support centered around individualized needs assessments, robust referrals to community-supported services and the least onerous possible restrictions and compliance requirements.

ISAP programming stands directly in contravention of these established best practices by imposing unnecessarily onerous obligations with little attention paid to individualized needs assessments. Currently, 99.8% of ISAP participants are enrolled in mandatory, onerous technology-based surveillance programs, including GPS-based ankle monitors, telephonic reporting requirements, or — by the far the most common — the SmartLink mobile application, which relies on facial recognition software and can require participants to check in regularly or at any time without notice. Case management services are available only as an “add-on” to these programs, and are often not steeped in the kind of best practices described above.

Community-based case management and humanitarian support programming provide a humane and cost-efficient mechanism to support immigrants undergoing asylum and other case processing. To achieve the greatest level of success, however, these programs *must* be administered and funded outside of ICE and Customs and Border Protection (CBP).

We urge the White House and federal agencies to:

- 1) Request increased funds for the DHS Case Management Pilot Program (CMPP), an existing program that provides an alternative model for immigration processing and support that meets the best practices described above. CMPP is funded through the Federal Emergency Management Agency (FEMA) and managed by a National Board chaired by the DHS Officer for Civil Rights and Civil Liberties and including non-profits known and trusted by immigrant and refugee communities. We urge the White House and DHS to significantly increase requested funds for this important program, while ensuring independent monitoring and evaluation to identify both best practices and areas for improvement in the future.*
- 2) Request decreased funds for the ISAP program and the Young Adult Case Management Program, as part of a shift away from enforcement-centered ATD programming.*
- 3) Request funds to develop an Asylum Seeker Case Management Program funded through HHS, as proposed in the FY2023 Senate DHS draft bill. Through the Office of Refugee Resettlement, HHS has the appropriate orientation and expertise to develop and support programming for arriving asylum seekers that would draw from the services provided through the agency’s refugee resettlement programming.*

II. Detention: Continue to seek significantly decreased funding for ICE Custody Operations while ensuring increased oversight and improved access to services for those detained

The administration is coming under increasing scrutiny for its failure to [address long-standing, persistent and irremediable abuses](#) in ICE's largely privatized detention system. NPR recently revealed the administration's efforts to keep records hidden from public view that shed light on the severity of the system's abuses, which have led to deaths and long-lasting trauma for those detained. The detention system is proven to be [racist in its application](#), with more Black immigrants subject to detention and more likely to be abused while detained. Human rights advocates and [government investigations](#) alike have connected the dots between these harms and the profit motives of private prison corporations and [county jails](#). Yet, despite a [campaign promise](#) to end privatized detention entirely, the Biden administration has doubled the number of people it detains on a daily basis and increased the percentage of privatized facilities from [79 to 91 percent](#).

Continuing to funnel taxpayer dollars to an unnecessary network of jails that threaten the health and safety of those detained is bad governance. We were pleased to see the White House's proposed FY2023 and 2024 budgets include a requested decrease in funding for immigration detention, down from funding to support the detention of 34,000 individuals daily to 25,000. We urge the White House and DHS to again seek decreased funds.

We urge the White House and federal agencies to:

- 1. Continue to request decreased funding for ICE custody operations, to no higher than the funds requested in the FY2024 budget proposal that supported an average daily population of 25,000 people.*
- 2. Include in the DHS budget appendix a proposed provision to limit unnecessary prolonged detention by clarifying that "custody" in the immigration context can be met through release under conditions, mirroring the definition in the criminal context. This provision was included as section 219 of the Senate's FY2023 draft DHS appropriations bill.*

III. Appointed counsel in immigration court: Request sufficient funds to ensure legal representation for all indigent adults, families and children facing removal

More than one and a half million people are currently navigating the immigration court system without a lawyer — [more than 60%](#) of the entire population in proceedings. Legal counsel is proven to [drastically increase](#) the prospect of a person winning relief. Legal representatives also play a crucial role by making clients aware of the often complex rules and procedures in immigration court. Although immigration law is civil in nature, its consequences are severe and

life-changing. Winning or losing in immigration court can determine whether a person is permanently separated from their loved ones. For asylum seekers, the wrongful denial of protection can — and often tragically does — mean [deportation to one's death](#).

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.

We were pleased to see the FY2023 and FY2024 budgets include requests for significant investments in legal access and orientation programming while seeking funds to develop a funded representation program for adults, families and children. However, we are concerned that the White House's stated commitment to legal representation for immigrant communities has not been represented in the administration's actions. Such programs are even more critical now, given the administration's fast track, expedited adjudication programs such as the [dedicated docket for families](#), ["enhanced" expedited removal](#) in CBP custody and the [FERM program](#). These programs have left legal service providers scrambling to meet the needs of people rushed through asylum screenings at such a rapid rate that they are often already facing a final removal order by the time they have their first consultation with an attorney.

We urge the White House and federal agencies to:

- 1. Continue to pursue the legal representation funding sought in the FY2022 and 2023 budget requests, including robust funding for legal access programs as well as new funding to ensure all indigent people facing removal are provided lawyers.*
- 2. Continue to pursue the legal representation funding sought in the FY2023 budget for unaccompanied children, including robust funding for post-release services and child advocates and sufficient funding to ensure universal representation for all unaccompanied children facing removal.*

IV. Enforcement and surveillance: Decrease CBP surveillance programs and ICE and Border Patrol's over-sized agent corps while ensuring robust CBP processing capacity

Since DHS's creation twenty years ago, funding has increased dramatically for CBP and ICE agents and for surveillance technology that has essentially militarized the southern border. Much of this funding reflects a shift in U.S. immigration policy that dates back to 1994, when the Clinton administration began to embrace intentionally harsh immigration and border enforcement policies as a way to "deter" future migration. These policies, however, have failed both in terms of the stated deterrence goals and because of the harms and deaths they routinely cause. Migration data reveals on its face that [deterrence-based policies have not resulted](#) in a significant and sustained reduction of overall numbers of unauthorized migration. Second, and

more importantly, these policies have created an increasing death toll, with [record deaths](#) as harsh border policies push people toward ever-more-dangerous routes to seek safety.

The number of Border Patrol agents has doubled and the number of ICE officers has tripled [since 2003](#). These increases, combined with rampant corruption and abuse and the harsh policies described above, have created a pervasive [climate of fear](#) among immigrant and border communities and have contributed to the erosion of constitutional and civil rights for Black, Brown and Indigenous people living and visiting the borderlands. Meanwhile, agreements to deputize local law enforcement agencies to engage in immigration enforcement actions under the [287\(g\) program](#) continue to exacerbate racial profiling and other unconstitutional and abusive local police practices.

We were concerned to see the White House's August 2023 request for supplemental funding include a request for more than \$100 million in surveillance technology for the border, including funding for the Homeland Advanced Recognition Technology System (HART), a sweeping biometrics storage database that is used for wide-ranging enforcement and surveillance purposes, with very little transparency. Civil rights, immigrant rights and privacy advocates have [documented](#) how the HART database is turning out to be a windfall for military contractors and big tech at the expense of privacy and [fundamental rights](#). The Government Accountability Office [reported](#) last year that HART was in breach of cost and schedule goals due to “ongoing risks associated with technical development, program requirements and test efforts.” The National Immigrant Justice Center and other legal service providers [have documented](#) the ways in which DHS's reliance on unreliable data systems such as HART prejudice people seeking asylum and other forms of relief in the United States.

We urge the White House and federal agencies to:

- 1. Seek decreased funding for CBP surveillance programs that harm border communities and have not been shown to impact migration patterns, including: biometric surveillance collection programs such as HART, unmanned aerial vehicles, automatic license plate readers, facial recognition technology, tethered blimps, thermal imaging technology, surveillance towers, and wide-area surveillance.*
- 2. Request scaled down funding for ICE and Border Patrol agents and ensure robust funding to expand processing capacity.*
- 3. Request funds to mitigate environmental and other harms caused by the construction of border walls (and do not request any additional border wall or barrier construction funds).*

V. Border reception: Continue to request increased funds for the Shelter and Services Program; work with Congress to create non-carceral, humanitarian reception models at the border

Robust funding for civil society and local government to address the needs of people arriving at the border to seek safety is a central component of a humane approach to orderly border policy. Localities and non-governmental organizations alike continue to provide a dignified welcome to people seeking safety in our communities, without adequate funds or support from the federal government.

We are pleased to see the White House working with Congress to develop the Shelter and Services Program (SSP), which transitioned funding from FEMA's Emergency Food and Shelter Program to a new grant making body to support localities and nonprofits assisting newly arrived migrants. For many shelters, these funds are a lifeline that allow them to provide food, clothing, basic medical aid, legal information, and transportation support for individuals recently released from DHS custody. However, we note that many organizations providing respite services [have found the administration](#) to be largely unresponsive to [stakeholder recommendations](#) in its initial allocation of SSP funds. In particular, the undersigned are concerned that FEMA and CBP allocated SSP funds without providing potential recipients the opportunity to demonstrate need, and that FEMA and CBP have implemented onerous reporting requirements that limit shelters' ability to provide humanitarian services to those in need.

SSP is a crucial financial support mechanism for shelters and local communities welcoming new arrivals. However, SSP funds are only available to be used for those who have been released from DHS custody within 45 days. Beyond this initial period, asylum seekers and the communities welcoming them receive little-to-no federal support. In addition to scaling up community-based case management, additional funding programs beyond SSP should be created to support the longer-term reception needs of asylum seekers, including in final cities of destination.

Of further concern, the recently issued White House request for supplemental appropriations included a request for flexibility to use funds to develop "community-based reception facilities." Many of the undersigned and partner organizations have long [encouraged](#) the government to develop a new approach to border processing infrastructure including reception centers run by civil society. However, we have cautioned that such facilities should never be operated or controlled by an enforcement agency such as ICE or CBP, and that freedom of movement should never be restricted for people residing in the facility. It is concerning to see the administration turning to a promising model but subverting it by abandoning key best practices.

Using jail-like facilities to shelter arriving families and individuals seeking safety or a better life in the United States criminalizes the very act of migration and [puts lives at risk](#). In addition to ensuring that people have freedom of movement, reception centers should be time-limited for the purpose of processing, with the goal of people moving on toward their final destinations within a few days and receiving individualized referrals for continuing services as needed. These principles are critical to ensuring that arriving migrants are willing and able to trust that the services provided within the center are toward a goal of fair case adjudication and integration, not enforcement.

We encourage the White House and federal agencies to:

- 1. Continue to seek additional funds for the SSP to support newly-arrived migrants released from DHS custody who need humanitarian assistance.*
- 2. Address the [concerns](#) raised by stakeholder organizations regarding the distribution and coordination of funds, and ensure that the SSP operates in a more consultative and transparent manner going forward.*
- 3. Propose and request funding for a new program that supports the longer-term reception needs of arriving asylum seekers in receiving communities.*
- 4. Ensure that any plans to construct or develop new reception facilities at the border are operated outside of ICE and CBP's purview, ensure freedom of movement, and follow the best practices outlined above.*

VI. Address the USCIS backlog: Request sufficient funding for USCIS to promptly reduce the growing backlog and ensure efficient intake and processing

USCIS is facing a significant case backlog and processing times that have sharply increased in recent years. This has resulted in individuals falling out of status, families being separated, and businesses losing needed employees. The [most recent data](#) confirms that the agency had more than 8,800,000 applications and petitions pending as of March 2023, including over 1,500,000 applications for employment authorization. Overall median processing times grew by [approximately 85 percent](#) from FY2017 through July of FY2023. Processing times have been steadily growing for many years, but delays for certain high-volume forms have increased dramatically in recent years.

Increased funding from Congress is necessary and proven to help address the dire consequences of these issues on families, employers, and workers throughout the United States. For example, in FY2022, USCIS was able to use additional appropriated funding to authorize overtime, increase staffing, and leverage new processes in order to adjudicate double the amount of immigrant visas than in years past and to reduce delays for certain form types.

In FY2022, Congress appropriated a total of \$275,000,000 for USCIS backlog reduction, far less than what is needed to fully address the processing issues currently plaguing the agency. In FY2023, no funding was appropriated to address the USCIS backlog. Despite the FY2024 [budget requesting](#) \$264 million, the House Homeland Security appropriations bill did not provide any funding for backlog reduction. While the Senate bill's inclusion of [\\$143 million to specifically address the work authorization application backlog](#) is commendable, this funding is far from sufficient to resolve the significant and growing backlog afflicting USCIS and its stakeholders and the processing delays for the many benefit types that have resulted.

To ensure efficient reduction in the agency's backlog and the restoration of our system of legal immigration, the DHS budget must include targeted and consistent funding for backlog reduction and processing efficiency in FY2025 and beyond. In FY2025, the President's Budget should request at least \$400,000,000 specifically for application processing and the reduction of backlogs within USCIS asylum, field, and service center offices, as well as intake delays.

In addition, DHS should continue to support requests for continued appropriations by providing regular reports detailing USCIS's use of funds allocated by Congress that are targeted for backlog reduction and the impact of appropriated funds on both the backlog and overall intake and processing efficiency. The information provided can be similar to that requested in the [Case Backlog and Transparency Act of 2022](#). USCIS should also provide regular updates on the use of funds to support initiatives such as electronic processing, a review of form length and content to reduce unnecessary delays in filing and adjudicating applications and petitions, and improvements in transparency and customer service for customers facing significant delays. Continued updates on the agency's efforts to address these issues and the impact of appropriated funds will help support future funding requests.

We encourage the White House and federal agencies to:

- 1. Request increased and targeted funding of at least \$400,000,000 to address backlog reduction, intake delay, and facilitate efficient processing of all cases and form types at USCIS asylum, field, and service center offices.*
- 2. Request appropriated funds for DHS to provide regular reports detailing how appropriated funding is being utilized, as well as its impact on backlog reduction and overall efficiency.*

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We appreciate your attention to these matters and would welcome the opportunity to meet with you to discuss these priorities at greater length. With questions or for scheduling, please contact Heidi Altman at the National Immigrant Justice Center at haltman@heartlandalliance.org.

Sincerely,

American Immigration Council
Black Alliance for Just Immigration
Church World Service
Human Rights First
National Immigrant Justice Center
Southern Border Communities Coalition
Women's Refugee Commission