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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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July 23, 2020

The Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

This letter responds to the June 30, 2020, notification submitted to the Committee by Mr. Troy Edgar, Chief Financial Officer (CFO) of the Department of Homeland Security (DHS), to transfer and reprogram fiscal year 2020 funding.

The Committee does not concur with the proposed use of \$169,300,000 in U.S. Customs and Border Protection (CBP) funding sources, including the diversion of:

- \$24,600,000 appropriated for Remote Video Surveillance Systems;
- \$59,000,000 appropriated for aircraft recapitalization;
- \$47,600,000 appropriated for non-intrusive inspection equipment;
- \$19,000,000 appropriated for the Incident Driven Video Recording System Program (IDVRS);
- \$17,100,000 appropriated for Construction and Facilities Improvements; and
- \$2,000,000 appropriated for aircraft sensors.

In identifying these funding sources, the Department appears to be targeting what have been clear Committee priorities in support of CBP's border security and trade and travel missions. Following the Department's dismissal of the Committee's non-concurrence with elements of its July 26, 2019, section 503 notification, I can only interpret the proposed use of these funds as a further deterioration of the comity that had been carefully nurtured between the Committee and the Department prior to the current Administration.

I am particularly concerned about the proposal to redirect nearly all of the funding Congress appropriated above the request in fiscal year 2020 for IDVRS during a time when our country is embroiled in a debate over the use of force by law enforcement officers. Body worn

cameras help both to ensure that law enforcement officers are held accountable for any abuses of their authority and to protect officers against any false allegations of abuse. This technology is, in fact, essential for helping to ensure public trust. The suggestion in the notification that IDVRS is not viable because it lacks sufficient funds for full deployment and sustainment is not credible, as it could be made as easily for any program in development, including border barrier construction.

The Committee understands the significant challenge posed by the reduction in fee revenue associated with the COVID-19 pandemic but encourages the Department to turn to other discretionary funding sources as offsets or to submit a formal request to Congress for supplemental funding. I would also encourage you to reconsider the proposed realignment of some activities that are currently funded through discretionary appropriations to being supported by fee revenue.

I urge you to work with the Committee to identify alternatives to these proposed funding sources for addressing requirements identified in the Department's June 30, 2020, letter. The alternative is for Congress to reduce or eliminate the Department's transfer and reprogramming authorities, the first step toward which the House Committee recently took during its markup of the Department's fiscal year 2021 funding bill.

The Committee does not concur with the proposed use of \$21,300,000 for proposed surge operations on the southern border in the Laredo and Rio Grande Valley Sectors. Despite repeated requests, CBP has failed to provide quantifiable metrics that might justify this proposed operation, such as month-to-month comparisons of "got-aways" and "turn backs" or checkpoint apprehensions of individuals hidden in tractor trailers – both of which were cited in the notification as justification for the increase. It should be noted that while this Administration continues to use title 42 authority to immediately expel approximately 90 percent of all encountered migrants, the number of migrants in CBP custody is at an historically low level, which should help free up more Border Patrol agents to apprehend "got-aways" and carry out checkpoint inspections.

It is also very concerning that DHS is proposing to send more than 800 CBP personnel from across the country to an area where the number of COVID-19 infections has been rising at an alarming rate and where hospitals are at their capacity. Given the increasing number of CBP personnel who have contracted COVID-19 in the course of their duties – including many who have not survived the infection – it does not appear that the proposed surge has adequately taken into account the health and safety of the workforce.

I would also note the significant incongruence between the proposed redeployment of CBP personnel to support the Border Patrol at the southern border at the same time that Border Patrol personnel are being redeployed to the interior of the country under an abuse of authorities under section 1315 of title 40. No reprogramming to support the Border Patrol at the border

should move forward as long as the Department continues to divert Border Patrol agents away from their border security mission.

The Committee does not concur with the proposed increase of \$4,121,552 for the Immigration and Customs Enforcement (ICE) Office of the Principal Legal Advisor (OPLA) for an additional 63 positions. The Administration proposes to increase OPLA staffing in the fiscal year 2021 budget request and any decision to move forward with such hiring in fiscal year 2020 impinges on congressional prerogatives for the coming year and potentially creates a funding shortfall related to the out-year costs of these new positions.

The Committee concurs with the reprogramming and transfer proposals not otherwise mentioned in this letter.

Sincerely,

A handwritten signature in cursive script that reads "Lucille Roybal-Allard".

Lucille Roybal-Allard
Chairwoman
Subcommittee on Homeland Security