

# United States Senate

WASHINGTON, DC 20510

August 11, 2023

The Honorable Alejandro Mayorkas  
Secretary  
United States Department of Homeland Security  
Washington, D.C.

The Honorable Deanne Criswell  
Administrator  
Federal Emergency Management Agency  
Washington, D.C.

The Honorable Troy A. Miller  
Acting Commissioner  
U.S. Customs and Border Protection  
Washington, D.C.

Dear Secretary Mayorkas, Administrator Criswell, and Acting Commissioner Miller:

We write to express our disappointment that, despite our detailed recommendations, the Department of Homeland Security (DHS) has failed to establish a workable Shelter and Services Program (SSP) that adequately meets Arizona communities' needs.

In the fiscal year 2023 Consolidated Appropriations Act (FY 23 Appropriations), Congress tasked the Department of Homeland Security's (DHS) components, Customs and Border Protection (CBP) and Federal Emergency Management Agency (FEMA), with establishing the SSP to serve the demands of the border and relieve overcrowding of CBP's short-term holding facilities and support decompression. Providers within border communities, including nongovernmental organizations (NGOs) and local governments, are on the frontlines of CBP's decompression efforts, providing shelter, transportation out of holding facilities to shelters and transportation hubs, and other critical services to ensure the health and safety of communities and migrants. On June 12, 2023, FEMA announced the first tranche of funding allocations for the SSP, the methodology for which clearly does not prioritize border providers and threatens the ability of these providers to continue services.

For years, across multiple administrations, Arizona communities have been paying the price for Washington's failures on the border and have been using their own limited resources to help manage migration influxes. For far too long, the federal government has relied on local communities to do its job for them. Since 2019, Pima County has coordinated transportation and/or shelter for over 200,000 migrants who were processed by CBP and released in Arizona. Due to the insufficient and inappropriate allocation of SSP funding, Pima County has indicated it will be unable to continue providing migrant services starting in April 2024. Additionally, the Regional

Center for Border Health (RCBH) in Yuma, Arizona, has provided transportation for the majority of migrants released by CBP in Yuma County since early 2021. Prior to and in the early days of RCBH taking the lead on migrant services and coordinating transportation, the City of Yuma was forced to declare a state of emergency twice since 2019 due to the unmanageable number of migrants released at the border without local coordination or the resources to assist migrants.

To help ease the strain on Arizona communities, Congress provided funding for migrant services through the existing Emergency Food and Shelter Program (EFSP), a program authorized by the McKinney-Vento Homeless Assistance Act of 1987, which is administered by FEMA and allocates funding through the EFSP National Board. In the FY 2023 Appropriations bill, Congress provided \$800 million for a new Shelter and Services Program, to be managed by FEMA, to support “sheltering and related activities” provided by NGOs and localities to help relieve overcrowding in short-term holding facilities of CBP. Congress also gave FEMA the ability to distribute up to \$785 million of the \$800 million through the existing EFSP. FEMA took advantage of that authority when it allocated \$425 million, more than half of the funding, through the EFSP in May of 2023.

On June 12, 2023, FEMA announced the first tranche of SSP funding allocations totaling \$291 million. Applications were due on July 12, 2023, for this funding. Arizona received approximately \$23.9 million of this funding. In comparison, New York City received \$104.6 million, significantly more than any Southwest border state. A second tranche of funding for the remaining funds totaling \$72.8 million will be made available before the end of the fiscal year; however, FEMA has not yet released details for how those funding allocations will be decided.

These funding allocations demonstrate the failure of your agencies to prioritize the border communities that are on the frontlines. Due to insufficient funding, Arizona localities and NGOs will likely run out of SSP funding in early 2024. SSP has not been established to adequately meet the needs of border communities and the critical providers operating in the border environment. The program is proving problematic and your agencies’ poor management is causing Arizona to lose vital partners in our border management network. At a time when Arizona is experiencing an influx in migration, especially in remote areas of Arizona’s border during extreme heat weather, we need your agencies to immediately correct mistakes made with SSP and ensure Arizona receives the support and funding needed to manage this border crisis.<sup>1</sup>

In order to keep our communities and migrants safe, your agencies must take immediate steps to significantly improve SSP management. If your agencies cannot take immediate steps to correct the SSP, we demand that you allow the proven Emergency Food and Shelter Program to allocate the remaining \$72.8 million in SSP funding to avoid disruption to humanitarian services that could worsen the crisis on the border.

For SSP to work effectively and as intended by Congress, DHS must include the following elements:

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<sup>1</sup> NBC News, “Over 1,300 migrants cross the border into Arizona daily, despite record heat,” (Aug. 5, 2023), <https://www.nbcnews.com/politics/immigration/1300-migrants-cross-border-arizona-daily-record-heat-rcna98253>

1. **Allocate all Remaining SSP Funding to Border Communities.** Congress intended this funding to support two main goals: ease the burden on local communities and help decompress CBP short-term facilities. Despite Congressional intent, the Department allocated just under \$130 million to Border State communities in the first SSP tranche, which is less than 45 percent of the \$291 million total. Arizona received just 8 percent of the total funding allocated, which also did not account for changed service needs, including new locations on the border where services are now needed. As a result, Phoenix and Tucson are expected to exhaust their funding by early 2024 or sooner depending on migration flows. If Arizona communities are unable to sustain their migrant service network, Arizona will see mass street releases, resulting in a humanitarian and security crisis. The remaining \$72.8 million must be allocated to border communities.
2. **Adjust Expense Caps.** Currently, the SSP guidelines set spending caps on hotel non-congregate shelter and capital improvements. Even with the COVID-19 national emergency ended, there is still a need for non-congregate shelter to isolate communicable diseases, such as chickenpox, and prevent outbreaks in congregate shelter settings and in the broader community. Additionally, SSP guidelines allow up to \$250,000 for capital improvement projects. However, these amounts are not sufficient to meaningfully increase NGO capacity. The Department must allow NGOs to access this funding in amounts that would allow them to acquire or meaningfully expand and modify shelter capacity.
3. **Improve Communication and Clarify Expectations.** Grant recipients report that FEMA's responsiveness to their questions have significantly worsened after moving to the Shelter and Services Program. FEMA must meaningfully work with stakeholders to ensure they understand the program's expectations, especially when these expectations change over time. Additionally, some NGOs still have outstanding questions about how to use SSP funds to purchase bottled water, which is not considered a grocery but is lifesaving in the Arizona summer heat. FEMA must clarify appropriate uses of funds, and ensure the SSP covers vital services, like providing water in the extreme heat desert climate.
4. **Improve the Application Process.** We consistently hear from applicants that the SSP application appears to be a poorly repurposed disaster preparedness grant application form, and does not reflect the actual SSP funding requirements. As a result, FEMA has had to request additional information from recipients and has set unworkable deadlines for responses. Some of these requests have been sent on weekends or with less than 24-hours' notice. FEMA has also mistakenly misinterpreted application materials due to the poor application structure. Any mistakes in the applications must be proactively determined and addressed by FEMA and not placed as another hurdle on providers who are focusing on providing services on the border.
5. **Mitigate Unnecessary Financial Risks for Grant Recipients.** Arizona attracts many visitors and events throughout the year, which can put transportation services and hotel rooms in high demand. Therefore, when Arizona expects the need to decompress CBP facilities, migrant service providers sometimes must reserve buses or lodging in advance to ensure they are available when needed. However, this creates a margin of error where some beds or bus seats may not be filled. Currently, FEMA has no flexibility for

reasonable margins of error, putting the financial burden entirely on communities. FEMA must revisit their guidelines to reduce unnecessary financial burdens on grant recipients.

6. **Set Reasonable Documentation Requirements.** The Department must set reasonable documentation requirements that do not curtail the efficiency of this program. For example, if NGOs are required to provide alien numbers (A-numbers) or other documentation for each migrant they receive in their care, then the Department must contemporaneously provide a secure and user-friendly system to store and submit this information. The Department must avoid setting unrealistic requirements, which would only complicate the process and negatively affect border communities.
7. **Funding for Medical Triage.** Many migrants who arrive at a shelter have acute medical needs, and if not treated at or by the NGO, must go out into the community for care at local clinics and hospitals. This forces local communities and medical facilities to shoulder the burden of uncompensated medical expenses. We have heard that the Department is considering capping medical expenditures within SSP. We strongly urge that the Shelter and Services Program continue to give NGOs the flexibility to conduct medical triage to help migrants with acute medical concerns, including screening for acute medical needs and other medical conditions.


If DHS is unable to swiftly implement these improvements and correct its allocation formula in order to prioritize border communities, then it must move the remaining SSP funding to the Emergency Food and Shelter Program, which has managed humanitarian funds for the past two years and already has the infrastructure to effectively and efficiently do so.

Additionally, DHS must provide Congress with timely information about the plans for the SSP so that we may work together to ensure this program works as Congress intended. Given the importance of this funding for Arizona providers and border communities, it is imperative that our offices have a thorough understanding of how SSP funding decisions are made by FEMA. We request that you respond in writing, or alternatively provide a briefing to our offices, on the following requests for information:

1. The CBP release and destination data used to determine the \$363.8 million in allocations announced on June 12, 2023.
2. The EFSP-H request data used to determine the \$363.8 million in allocations announced on June 12, 2023.
3. Any information or projection data used to assess the funding need of Southern border states.
4. Any information or projection data used to assess the funding need of non-Southern border states.
5. The considerations made by FEMA and CBP with regard to eligible uses of funds.

We expect that you will meet with our staff to discuss this program as soon as possible and no later than August 25, 2023.

Sincerely,



Kyrsten Sinema  
U.S. Senator



Mark Kelly  
U.S. Senator