

Funding U.S.-Mexico Border Barrier Construction: Current Issues

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The construction of barriers on the U.S.-Mexico borders to control unauthorized crossings has been a matter of significant debate since President Donald Trump made construction of a border wall a key element of his campaign for the presidency. This Insight provides a brief overview of the funding history for these barriers, and how the current administration is redirecting federal funds to support construction of additional mileage.

Border Barriers Under Presidents George W. Bush and Barack Obama

In the decade prior to President Trump's election, Congress had appropriated almost \$2.5 billion to U.S. Customs and Border Protection (CBP), a component of the Department of Homeland Security (DHS), to construct more than 650 miles of primary barriers along the southwest border. This includes approximately 350 miles of primary barriers designed to restrict the flow of pedestrians, and approximately 300 miles of primary barriers to restrict the flow of vehicles in areas where unauthorized border crossing on foot was less of a concern. Funding for construction of border barriers in this period largely ended in FY2011.

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Border Barriers Under President Trump

Shortly after his inauguration in January 2017, President Trump signed an [Executive Order](#) that called for the construction of a border wall. In March, the President submitted a [supplemental appropriations request](#) for FY2017, which included almost \$1 billion to begin planning and construction. (At the time, annual appropriations requested for FY2017 by the Obama Administration had yet to be resolved by Congress.)

In response to this and subsequent requests from the Trump Administration totaling more than \$8.27 billion through FY2019, Congress has provided almost \$3.1 billion for border barrier construction through DHS appropriations. Funding has been provided with [conditions](#) that the barriers are built in certain border patrol sectors and meet certain design requirements. Most of this funding has been used to replace or upgrade existing miles of primary border barriers. CBP indicated in a November 1, 2019, [press statement](#) that funding has been identified to construct approximately 509 miles of “border wall system,” which includes approximately 110 miles of additional mileage within the CBP’s Rio Grande Valley sector.

In response to Congress not providing to DHS the level of border barrier construction funding requested by the Administration, the White House has sought to redirect other federal resources, appropriated and otherwise, to support border barrier construction in FY2019 and FY2020. These efforts include a \$601 million transfer of resources from the Treasury Forfeiture Fund to CBP. Although CBP has received the funding, none of it has been obligated for construction as of the end of FY2019.

Most of the redirected funding for border barriers being sought by the Administration is through the Department of Defense (DOD). Between February 2019 and September 2019, President Trump undertook a series of executive actions that redirected \$6.1 billion in FY2019 defense funds to 17 border barrier construction projects identified by DHS.

Of this amount, DOD made \$2.5 billion available using 10 U.S.C. §284, a statute that allows the transfer of defense funds for the purpose of supporting other agencies’ counterdrug activities (e.g., the construction of roads and fencing to block drug smuggling corridors across international boundaries). The remaining \$3.6 billion, which the Secretary of Defense made available by indefinitely deferring ongoing military construction projects, was authorized under 10 U.S.C. §2808, following the [declaration of a national emergency](#) by the President in February 2019.

Although unresolved court actions have delayed the obligation of some border barrier construction funds, DOD has generally proceeded with barrier project execution on an expedited timetable.

FY2020 Funding

The Administration is seeking \$5 billion for border barrier construction for CBP in the FY2020 DHS Appropriations Act. The House Appropriations Committee provided no funding in its FY2020 bill (H.R. 3931) for border barriers. In addition, the bill restricts the ability to transfer or reprogram funds for border barrier construction and proposes to rescind \$601 million from funding appropriated to DHS for border barriers in FY2019. The Senate Appropriations Committee reported a DHS spending bill (S. 2582) that included \$5.0 billion for border barrier construction.

As part of its FY2020 budget request to Congress, the Administration also sought \$7.2 billion in military construction funds for border barrier construction projects. This includes \$3.6 billion to replenish (or backfill) military construction projects deferred by the use of 10 U.S.C. §2808, and an additional \$3.6 billion for new border barrier projects.

House-passed FY2020 [defense authorization](#), [defense appropriations](#), and [military construction appropriations](#) bills include provisions that would constrain the Administration from providing additional funding for border barriers using defense funds, although final versions have not been enacted.

Who Actually Builds the Barriers?

Border barrier construction is generally carried out by private sector firms through contracts awarded by the U.S. Army Corps of Engineers (USACE), which is part of DOD. DHS transfers its funds to the USACE under an Economy Act agreement to manage the real estate work involved and perform construction, while DOD funds its barrier construction under the authorities in the above-mentioned statutes, and uses USACE to manage the real estate work and perform construction. As projects funded by DHS appropriations and under §284 are completed, the barriers will be transferred to CBP to operate and maintain. However, border barriers constructed under §2808 will officially be a part of the Department of the Army's real property inventory, and it is unclear whether they will be transferred to CBP.

For More Information

Information on the history of and DHS funding for construction of barriers on the U.S.-Mexico border can be found in CRS Report R45888, *DHS Border Barrier Funding*.

More detailed information on the Administration's request for border barrier funding through DOD can be found in CRS Report R45937, *Military Funding for Southwest Border Barriers*.

Information on the court cases related to the Administration's efforts to fund barrier construction in the absence of additional appropriations to CBP can be found in CRS Report R45908, *Legal Authority to Repurpose Funds for Border Barrier Construction*.

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