

Proposal for Reform of the Shelter and Services Program

Congressman Ruben Gallego

Table of Contents

Executive Summary	Page 2
Background: Why Reforms Are Necessary	Page 3
Explanation of Solutions	
Data Sharing	Page 4
Reimbursement Reform	Page 5
Financial Certainty	Page 6
Jurisdictional Clarity	Page 7
Spending Oversight	Page 8
Law Enforcement Grant Program	Page 9

Executive Summary

Since its creation in the Fiscal Year 2023 omnibus appropriations package, the Shelter and Services Program (SSP) has been riddled with challenges. Principal among these are the imminent fiscal cliffs that many border entities have faced due to drastically lower funding levels for SSP versus previous funding awards under the Emergency Food and Shelter Program – Humanitarian (EFSP-H).

Under SSP, border communities also face challenges stemming from unnecessarily stringent data sharing requirements and arbitrary caps on reimbursements. Altogether, these challenges have placed significant strains on local governments and fiscal agents at a time when they were already being asked to do more with less.

In the months since SSP was initially rolled out, I have been in constant conversation with stakeholders from border communities throughout Arizona to hear directly from them about the challenges they've faced under the new program. These stakeholders include local elected officials, nonprofits, and first responders.

The vast majority of the challenges we have seen stem from a lack of prescribed parameters for SSP, the creation of which in the F23 Omnibus came through just one sentence in report language. My proposed reforms will give far more clarity and structure to a program that is vital to the security and wellbeing of border communities and accounts for hundreds of millions of dollars in federal spending.

The reforms put forward in this proposal are as follows:

- **Data Sharing:** Allow Customs and Border Protection (CBP) to share information with county and local governments so SSP recipients can meet program requirements.
- **Reimbursement Reform:** Include explicit statutory formulas regarding funding distributions, reimbursement processes, opportunities for stakeholder input, and more.
- **Financial Certainty:** Reauthorize the Shelter and Services program at a level of \$1.5 billion per year to fund the needs of all communities.
- **Jurisdictional Clarity:** Explicitly include 'migrant releases into the United States' as an area of jurisdiction for the Federal Emergency Management Agency (FEMA), which administers SSP.
- **Spending Oversight:** Create new oversight standards for funding that is disbursed to communities experiencing influxes of migrants. These shall apply to SSP, but also to any similar programs authorized in the future for additional purposes.
- **First Responder Grant Program:** Create a new emergency supplemental grant program within DHS that cities, counties, tribes, and states can use for the operations of law enforcement, first responders, and emergency operation centers during migrant surges.

Each reform is expanded on in more detail later in this proposal, and each one can be adjusted based on emerging needs from border communities and other stakeholders.

Background: Why Reforms Are Necessary

Historically, many of the initial services provided to people released from DHS custody, including shelter services, first occur in the communities and counties of border states- like my home state of Arizona. In the past, these services were supported through federal funding by the Emergency Food and Shelter Programs – Humanitarian (EFSP-H), which directed resources to municipalities, counties, and non-profits to provide services to migrants released into their communities. The purpose of surging resources to border states is simple – regardless of somebody’s ultimate destination, border communities deal with the immediate needs of people released from government custody, including shelter.

As part of the Fiscal Year 2023 Consolidated Appropriations Act, the Shelter and Services Program (SSP) was funded to provide shelter and other eligible services to non-citizen migrants released from DHS custody. SSP was created to replace ESFP-H, and this transition has taken place throughout 2023.

Challenges began arising immediately. In my own state of Arizona, multiple counties faced fiscal cliffs as imminent as *two months* due to sharp decreases in funding that coincided with surges in migrant encounters along our state’s border. These alarming numbers were compounded by other flaws in the SSP formula, including arbitrary caps on categories like transportation and non-congregate shelter, and misunderstandings in the funding needs of different regions within border states. For example, Phoenix/Maricopa County was designated as an interior area rather than a major transportation hub through which migrants frequently travel to their final destinations.

The process for creating the new SSP program skipped key steps in transparency and consultation with groups on the ground. The previous EFSP-H program had been implemented and improved upon over multiple years in close collaboration with border communities and non-profits. Now, those same entities have been purposely frozen out under SSP, putting at risk years of valuable experience and coalition building in Arizona and other states.

SSP’s shortcomings are a humanitarian, public safety, and governance failure. Not only is providing food and shelter to migrants important for their own health and wellbeing, preventing strains on local resources is vital to everyone who lives in border communities. Local governments and nonprofits who have gone above and beyond in recent years have been blindsided by new SSP requirements that have one purpose – divert resources away from border communities.

Congress has a unique ability and absolute obligation to take steps to fix SSP. As a Congressionally appropriated program, we must learn from the ways that federal officials have failed border communities this year and step in to correct these failures on behalf of our constituents. It is our responsibility to make sure that local governments and nonprofits have the resources to maintain their work now and into the future.

Data Sharing

Problem:

Each non-citizen entering the United States is assigned a unique A-number by the Department of Homeland Security. Many agencies within DHS use these numbers to track progress and access information throughout immigration proceedings. Reports indicate that future rounds of SSP funding will require local governments and non-profits to submit A-numbers for every person they assist to be reimbursed for associated costs.

The vast majority of migrants arrive at shelters with their A-number and are able to share it with local governments and NGOs on their own. However, for reasons including clerical errors, lost papers, or damaged paper information packets, some migrants arrive without a record of their A-number. If a local community processes a large group of people without A-numbers, it could cost them thousands of dollars and put their operations at risk.

Arizona's border communities have been told that they will not receive help from Customs and Border Protection (CBP) or any other federal agency in checking A-numbers before submitting for reimbursement. And, if just a few numbers are off on a reimbursement application the entire application could be denied.

How It Will Work:

Allow CBP to share information with county and local governments in order to fulfill new requirements for federal funding through the Shelter and Services Program. This is targeted at A-numbers for the current requirements but can be written into statute more broadly to account for emerging future needs.

To address data security concerns, safeguards will be put in place to ensure that only the data necessary for grant applications shall be shared, and only with necessary fiscal agents.

SSP Reimbursement Reform

Problem:

Within weeks of the announcement of procedures and requirements for first-round SSP funding, local governments and nonprofits raised several serious concerns about hurdles that would keep the money from reaching its intended recipients and serving its intended purpose. These challenges were as fundamental as where funding had been allocated and how formulas were set up. There are also arbitrary caps on how much funding could be used for transportation and non-congregate shelter.

Border entities that have been working with federal officials for years, including cities, counties, and non-profits, were not consulted throughout the SSP setup process, and little justification was given for some of the decisions that were made. To make matters worse, funding was diverted wholesale away from border states to non-border states, a purposeful but mysterious decision by leadership at FEMA and CBP.

The following parameters for reforming the SSP reimbursement process are the direct result of conversations with fiscal agents on the ground in Arizona and can be added to as conversations continue.

How It Will Work:

- There shall not be a cap on funding for transportation and non-congregate shelter.
- No less than 60% of funding shall go to border states.
- Any formulas used by agencies to distribute funding must be made public.
 - There should be at least one opportunity for public comment and stakeholder feedback on formula construction.
- Participation as a fiscal agent or funding recipient should be voluntary. If a local group does not have the capacity to act in either role, they should be able to coordinate with agencies to transfer their funding and responsibilities to other eligible groups in their region.
 - This transfer should not mean that the region loses their funding.
- Should the program be reimbursement-based:
 - Reimbursements shall be processed in a timely manner (not over 30 days).
 - Recipients shall be able to submit for reimbursement once a week, with an appeals process for more frequent reimbursements in extenuating circumstances.
- Deadlines for applications and required materials shall be in local time, not solely Eastern Standard Time

Financial Certainty

Problem:

Due to uncertainty in Congressionally directed funding, local governments and NGOs across the country are unable to predict how much SSP funding they will receive in coming months. This has led to instability, competition between border and non-border communities for finite resources, and inability to enter longer-term, cost-effective contracts for necessary services.

Border communities should not have to wait until the last minute to learn how much funding they will receive, or compete amongst themselves for a small, insufficient pot of money after funding was diverted away from border states. The current system has resulted in unnecessary upheaval and cost inefficiencies.

How It Will Work:

Authorize the Shelter and Services Program at a level of \$1.5 billion per year.

Budget justification: In total, SSP distributed \$363.8 million in 2023. Of that, Arizona received \$10 million, in contrast to the \$40 million they needed based on past funding levels and projected demand for services. To compensate for that difference, current funding levels were multiplied by four (\$1.455 billion). This number was then rounded up to account for administrative costs, so that they are not taken out of the money sent directly to communities. This number is also similar to the \$1.4 billion that President Biden recently included in his supplemental funding request to Congress (October 20, 2023).

To avoid future uncertainty, this program should be fully funded in each year's appropriations process.

Federal Jurisdictional Clarity

Problem:

Although SSP was authorized under Customs and Border Protection, it has thus far been administered by the Federal Emergency Management Agency (FEMA). Per conversations with FEMA, this is because FEMA has a standing grant administration structure that can more quickly send resources to impacted communities.

However, in conversations around necessary reforms to SSP, FEMA has asserted that they are unable to make changes to the program since the border is not within their mission space. The lack of clarity regarding who is supposed to be designing and administering this grant program has made reform virtually impossible, and more Congressional direction to agencies is crucial.

How It Will Work:

Amend FEMA's mission (6 U.S.C. 313) to explicitly include 'migrant releases into the United States', or similar terminology, as an area of jurisdiction for the agency. This will give them greater ability to respond to the challenges that emerge within SSP as border communities administer funding.

Spending Oversight

Problem:

As with any grant program, it is important that funds are being spent appropriately by fiscal agents and grant recipients. However, since SSP was created with one sentence, there is no codified structure in place for oversight and accountability.

By establishing commonsense reporting requirements, similar to many of those used under EFSP-H, Congress can ensure that the money is being used correctly. Grant recipients, the vast majority of whom have a proven record of fiscal responsibility, can demonstrate the vital work they are doing to assist both migrants and local community members.

How It Will Work:

Create new standards for oversight of the humanitarian funding that is disbursed to communities experiencing influxes of migrants – these shall apply to SSP, but also to any similar programs authorized in the future for emerging needs.

For any future shelter and services grant programs related to migrant assistance:

- Recipients of assistance will be required to keep all records related to the provision of said assistance, which would be needed to facilitate an effective audit. Records can be in an electronic format.
- Any audits conducted by recipient entities or national oversight boards shall be published on the relevant Department's website, with all personally identifiable or sensitive information redacted.
- For any audits where an entity is found to be out of compliance with requirements, that entity will be allowed to submit an explanatory statement and what steps they are taking to reach compliance.
- Recipients must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200) and submit reports of all audits to Congress.
- The Comptroller General will also have access to the program's books, documents, papers, and records for purposes of conducting an audit.
 - This includes any national organizational board set up by the program, and any subsidiaries thereof.
- A grant program's administering agency may provide technical assistance.

First Responder Grant Program

Problem:

Local police departments are barred from directly enforcing immigration laws. However, first responders, particularly local law enforcement, field significantly more calls related to organized criminal activity, loitering, trespassing, and emergency response during migrant surges along the southern border.

Even without violent criminal conduct, every call to a police department, fire department, or Emergency Operations Center (EOC) increases strain on resources and personnel, making it harder for them to help taxpaying permanent residents.

Increased operations are stretching the resources of local governments, police, and fire departments to the limit. Without additional funding, many local leaders and decision-makers face a choice – provide only vital services to long-term residents and ignore certain emergency calls that they determine to not be top priority, or devote resources towards responding to an increasing migrant population.

How It Will Work:

Create a new emergency supplemental grant program within DHS that is available to cities, counties, tribes, and states. Funding can be used for the operations, staffing, and overtime needs of law enforcement, first responders, and emergency operation centers.

DHS should be given the discretion to send supplemental funding to locations that are seeing immediate upticks in activity based on CBP and Immigration and Enforcement (ICE) data on migrant encounters and street releases (as applicable). Priority should be given to border communities to receive this funding.