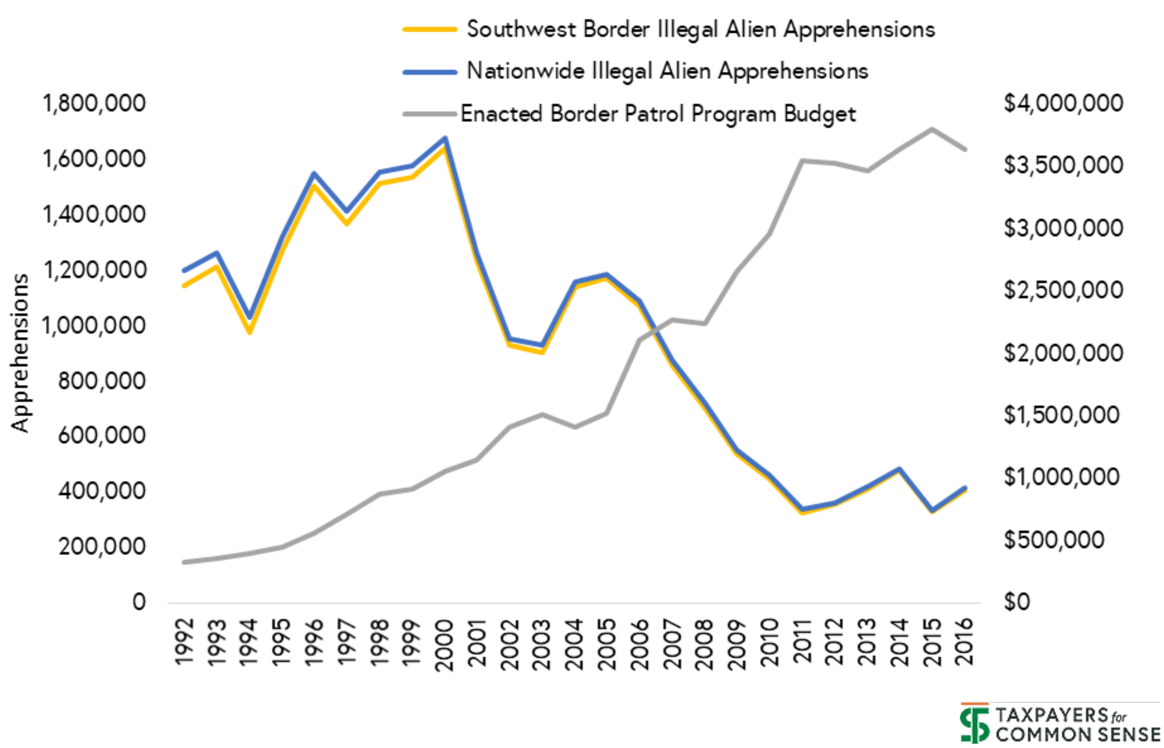
Policy Brief on Border Security Profiteering

August 2018

This brief provides some context for the recent acceleration of federal spending on border security and immigration. In recent years, Congress has authorized a wide range of expensive initiatives aimed at increasing security on the southwest border and reducing the number of unauthorized immigrants in the U.S.

These efforts include biometric tracking of individuals entering the country, physical fencing, "virtual fencing," and other technological solutions. In each instance, implementation of these programs has been fraught with cost overruns, inefficiencies, and other oversight problems that have ultimately wasted taxpayer money, while contractors have profited.

Although unauthorized entries at the southwest border have decreased over time, the Department of Homeland Security's failure to provide adequate oversight to contractors has resulted in millions of wasted dollars. This is also an important trend to consider, as the White



House has requested significantly more resources for border security even as the incidence of illegal alien apprehensions has steadily declined.

Recent Executive Orders issued by President Trump depend on and significantly add to ineffective or obsolete border security initiatives that began more than a decade ago, without regard to the failures or lessons learned. The track record of many previous and existing programs, including physical barriers along the border, SBINet, and biometric screening suggest there are significant challenges and potential for waste as new resources flow into these and other initiatives.

Executive Order	Requirements
Executive Order 13767	instructs DHS to construct a wall or other physical barriers along the U.S. southern border and to hire an additional 5,000 U.S. Border Patrol agents
Executive Order 13768	instructs federal agencies to ensure that U.S immigration law is enforced against all removable individuals and directs ICE to hire an additional 10,000 immigration officers
Executive Order 13780	directs agencies to develop a uniform baseline for screening and vetting standards and procedures; and establishes nationality-based entry restrictions with respect to visa travelers and refugees

This review is intended to show the importance of making sound investments in strategies that are tailored to address the problem in question. Creating a political imperative to deploy strategies and technologies that are unlikely to work, without the necessary planning and oversight, will continue this pattern of wasting taxpayer dollars to the benefit of contractors. Acknowledging the missteps of the recent past will help policymakers avoid repeating them.

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)

The US-VISIT program began in 2004 when DHS awarded Accenture a four-year contract[1] worth up to $10 billion to set up a system to collect, maintain, and share data on selected foreign nationals entering and exiting the United States through the use of digital finger scans and photographs. Two years into the original contract with Accenture, the GAO reported that DHS had not yet articulated how US-VISIT would align with other emerging land border security initiatives and mandates, and that neither DHS nor Congress was in a good position to allocate program resources.[2] Among the issues that made alignment difficult was that U.S. government fingerprint databases store the prints of all ten fingers while US VISIT scanned only two fingerprints. These kinds of relatively basic differences were not resolved in a timely way.

By 2007, most points of entry included a biometric identifier for individuals entering the United States, but not for those exiting the country. This was and continues to be a major shortcoming of the program, as the largest contributor to illegal immigration to the U.S. is foreign individuals overstaying temporary visas.[3] Without a capability to identify foreigners exiting the country, the US-VISIT program had no way of collecting or reporting overstay data.

> "Right now, we do not know how the system will work, who will be covered, what technologies will be deployed, and, how much the whole thing will cost..."
>
> -Then-Rep. Jim Turner (D-TX)

In 2008, the GAO reported:

> *Despite long-standing legislative requirements and a sizable investment of time and resources, DHS has yet to clearly define the second major component of its strategic solution – exit. … Even though the program is now into its sixth year of activity, and more than a billion has been invested in it … DHS has yet to fully define and economically justify a comprehensive exit capability, including a plan describing what the capability will be, and how, when, and at what cost it will be delivered … it continues to invest in the program without first knowing that its decision will produce cost-effective and affordable results.*[4]

As then-Rep. Jim Turner (D-TX) said in a statement at the time, "Right now, we do not know how the system will work, who will be covered, what technologies will be deployed, and, how much the whole thing will cost."

He added that the contract gives "unprecedented authority to a private contractor to design and build a border security system for the United States that will have long term implications for our national security, our international relations, and the economies of border communities across the country."

Accenture continued to get contracts to work on US-VISIT[5] in 2011. As of July 2013, DHS still had not implemented a biometric exit capability and could not reliably report data on overstays. In 2017, the GAO reported progress in testing biometric exit capabilities, but stated that various longstanding planning, infrastructure, and staffing challenges remained.[6] Although the program began in 2004, the U.S. Customs and Border Protection (CBP) set 2018 as its goal for initial implementation of a biometric exit capability in at least one airport.

The US Visit program is a good example of the proliferation of waste when a program is initiated without adequate planning and oversight, and the opportunities that creates for contractors to reap profits at the expense of taxpayers. As GAO reported:

> *For almost 4 years, DHS has continued to pursue US-VISIT without producing the program's operational and technological context. … At the same time, DHS has launched other major security programs without defining the relationship between US-VISIT and these programs. DHS has yet to economically justify its investment in US-VISIT increments or assess their operational impacts.*[7]

> "[DHS] continues to invest in the program without first knowing that its decision will produce cost-effective and affordable results."
>
> -Government Accountability Office

The DHS awarded billions of tax dollars to government contractors over the last decade, and yet it is still struggling to meet the basic requirements originally established by Congress.

Physical Fencing and the Secure Fence Act

In October 2006, President George W. Bush signed into law the Secure Fence Act of 2006. Among other things, the bill required DHS to erect hundreds of miles of additional fencing along our southern border within 18 months. CBP reported spending $2.3 billion from Fiscal Year 2007 through Fiscal Year 2015 to deploy border fencing along the southwest border.[8] Yet, in 2017 the GAO found that "CBP has not developed metrics … to assess the contributions of border fencing to its mission."[9]

The Secure Fence Act of 2006 was advertised as authorizing "the construction of hundreds of miles of additional fencing along our Southern border … more vehicle barriers, checkpoints, and lighting to help prevent people from entering our country illegally; … and the use of advanced technology like cameras, satellites, and unmanned aerial vehicles to reinforce our infrastructure at the border."[10]

Average Cost per Mile of Completed Southwest Border Fence Replacement Projects, Fiscal Years 2011-2016

Name of Fence Replacement Project	Sector	Miles Replaced	Total Cost (millions)	Average Cost Per Mile (millions)
Nogales	Tucson	2.8	$19.19	$6.85
Douglas I	Tucson	6.1	$25.41	$4.16
Douglas II	Tucson	3.4	$15.86	$4.61
San Luis	Yuma	1.8	$7.80	$4.33
Total		**14.1**	**$68.26**	**$4.84**

Source: U.S. Customs and Border Protection. | GAO-17-331

The design and implementation of the Secure Fence Act were flawed in ways that virtually guaranteed cost overruns, high profits for contractors, and losses for taxpayers. The original legislation directed DHS to construct 850 miles of fencing along the 2000 mile southern border. This was amended by the 2008 consolidated appropriations bill to require 700 miles of fencing. The amendment also gave the Secretary of Homeland Security wide latitude in the type of fencing, depending on the terrain of various portions of the border.

The scale of fencing planned was initially estimated to cost $2.4 billion for enough fencing to span about one third of the border. In 2009 GAO estimated that the original construction costs of the fence would be $2.8 million to $3.9 million per mile.[11] But many of the cost estimates did not include maintenance of fence miles, which were significant:

- In 2009, CBP estimated that maintaining this fencing would cost more than **$1 billion over 20 years**.[12]
- The U.S. Army Corps of Engineers estimated costs for maintaining a specific 370 miles of fencing would range from **$5 and $8 million per mile each year**.[13]
- The Congressional Budget Office estimated annual maintenance costs at 15 percent of construction costs, meaning taxpayers would be asked to pay at least **$8 billion to maintain the fence over its 25-year life cycle.**[14]

Moreover, the authority given to the Secretary of DHS to waive any federal law to expedite border fence construction had other cost implications. Waiving laws like the National Environmental Policy Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Resource Conservation and Recovery Act means environmental review processes can be short-circuited or avoided altogether. Both the intent and practice of those reviews protect taxpayers from potentially serious and costly future liabilities, which means the unknown future costs of any clean-up would be left to the taxpayers, letting the responsible private parties off the hook.

Virtual Fencing/SBInet

Based on The Secure Fence Act of 2006, DHS turned back to an earlier idea to create a "virtual fence" on both the northern and southern borders. What in 2006 would be called the Secure Border Initiative had actually started in 1997. It was called the Integrated Surveillance Intelligence Service (ISIS) and consisted of 10,000 sensors and 200 camera towers along both the northern and southern borders.

This program was ineffectual for several reasons:[15]

- Databases of input from the different cameras and sensors were never integrated to allow them to share information;
- Bad weather degraded sensors' abilities; and
- Government managers at the General Services Administration were found to have exercised "inadequate contractor oversight, insufficient competition and incorrect contracting actions."

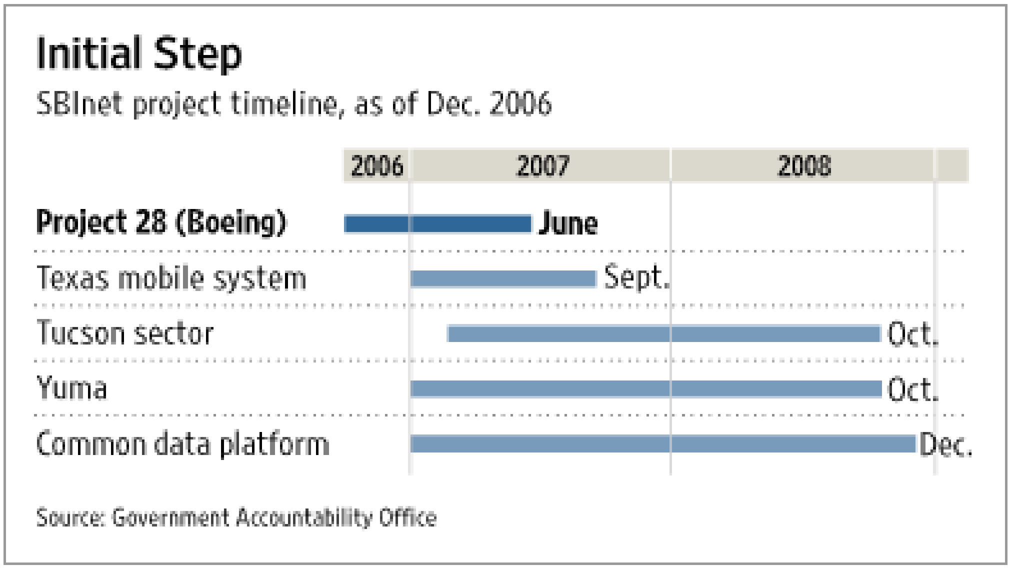
After costing at least $340 million by 2004, ISIS was transformed into America's Shield Program (ASI)[16]. In this iteration it cost another $2.5 billion taxpayer dollars and was subsequently subsumed into the Secure Border Initiative (SBInet.)

The Boeing Corporation won the SBInet contract as the "lead system integrator" of a large team of government contractors for an enormous project that was awarded without specifying a price ceiling. A price estimate by the DHS Inspector General was $2 billion, though it rose quickly and precipitously to as high as $30 billion.

The original cost estimate should have been immediately suspicious since ISIS and ASI had just billed taxpayers close to $3 billion with no discernible results. But Congress went along, and billions more were appropriated for a virtual fence that never actually came to fruition or operated as advertised.

The prototype portion, called Project 28 and slated to be completed by June 2007 along a 28-mile stretch in Arizona, missed its deadline when software meant to tie the program's technological elements together failed to work. As coordinating the technologies proved more difficult than expected and deadlines were missed, Congress started "fencing" funds in late 2007. Fencing funds is a halfway measure Congress can take to exert some pressure on and control of procurement programs by withholding appropriations for a project until certain milestones or thresholds are met.

The GAO testified before the House Homeland Security Committee in 2009 that the sensors used in the SBINet system still suffered from too many false detections and were vulnerable to bad weather, despite the fact that the military has effectively used camera and sensor



Graph via the Wall Street Journal

technology to track enemy movements for years at a much lower cost.

And while SBInet technology deployment for the southwest border was planned to be complete in Fiscal Year 2009, the completion date had slipped to 2016.

Regardless, a number of contractors and their friends in Congress applied their own pressure to keep the money flowing to this troubled program. Not until 2010 did then-DHS Secretary Janet Napolitano finally terminate the Boeing contract.

SBInet is a case study in the dangers of relying too heavily on a prime contractor to fulfill broad operational goals without adequate oversight. Like the other border security programs discussed here, the environment of open-ended government contracts and the willingness of Congress to appropriate more money despite significant warnings, led to a massive waste of tax dollars.

The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013

Even unsuccessful efforts to invest in additional border security measures reinforce the lessons of poorly structured programs that waste taxpayer dollars while enriching contractors.

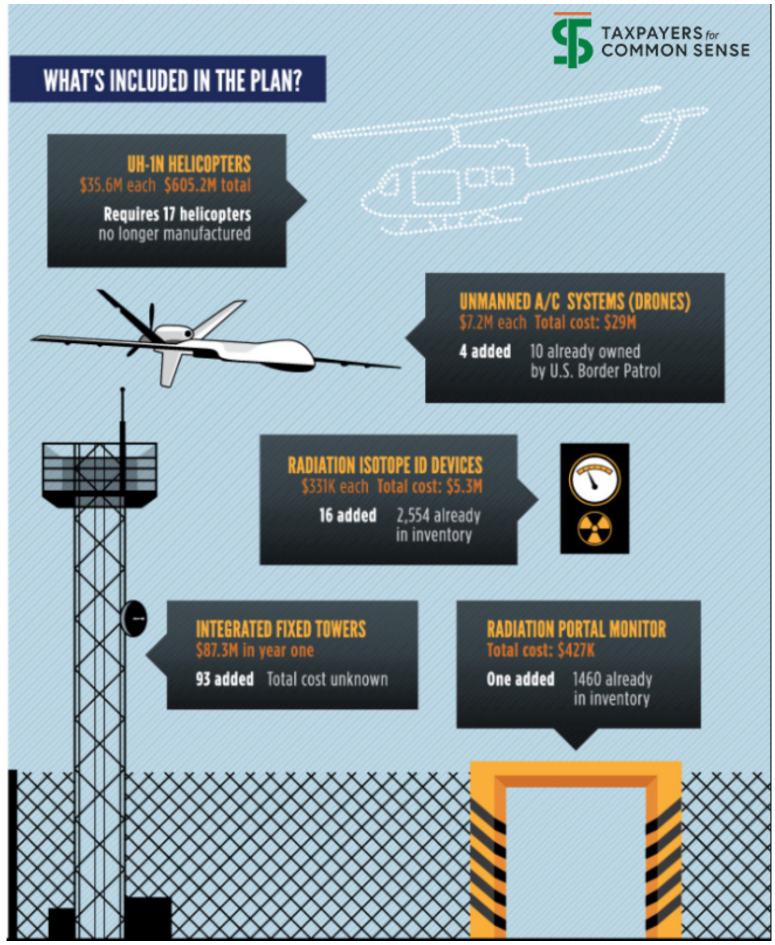
The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 initially included relatively limited investments in border security focused on personnel. During Senate debate on the legislation a strange amendment was accepted that took a wish list of technologies from the Customs and Border Protection bureau of DHS and inserted it into the text of the bill. In the minutiae of congressional process, putting such a list into the bill

System	# of items/units	Contractor(s)
Integrated Fixed Towers	93	Elbit Corporation (Israel)
Remote Video Surveillance Systems	488	General Dynamics
(A) Mobile Video Surveillance Systems	140	FLIR Systems
(B) Agent-portable surveillance Systems	23	Venture TEC
(C) Mobile Surveillance capability Systems	69	FLIR Systems
Unattended Ground Sensors (seismic, imaging and IR)	4595	Government Buys, Inc.
Handheld Thermal Imaging Systems	820	FLIR Systems
Fiber-optic Tank Inspection Scopes	43	Optim
License Plate Reader	28	DRS
Card Reader System	2	APL Access; Kastle Systems
Backscatter	5	American Science Engineering
Portable Contraband Detectors	37	GE Homeland Protection Systems
Radiation Isotope ID Devices (RIID)	16	SAIC

TAXPAYERS for COMMON SENSE

text leaves absolutely no maneuvering room for the Executive branch. This is Congress' way of saying the department must do something – in this case purchase exactly the hardware contained in the amendment – once the funds are appropriated. The amendment would have added an additional $12 billion[17] in spending, on top of the estimated $30 billion for the dramatic increase in the number of CBP officers.

This laundry list of congressionally mandated programs would directly benefit specific government contractors, who were lobbying for passage of the legislation as a way to create jobs in specific districts. But because the list was out of date, some of the technology was already obsolete. In fact, a helicopter that was specifically mandated in the bill language was no longer being manufactured. Ultimately these efforts failed and the House and Senate were never able to reach a consensus agreement between their two different versions of the bill.



With the Secure Fence Act and subsequent bills meant to channel federal tax dollars to construction of a border wall and other border security hardware, Congress ignored the potential long-term costs of maintaining new infrastructure in an effort to reward campaign contributors and corporate constituents. Meanwhile, DHS has struggled to formulate evaluation methods to demonstrate the effectiveness of a border wall in the context of its overall efforts even as Congress has continued to allocate substantial resources. Other border security projects have suffered a similar fate.

From Virtual Unreality back to a Physical Border Wall

Shortly after taking office, President Trump issued a series of executive orders that dramatically increase requirements for federal spending on border security and immigration. The orders increase hiring, establish new standards and procedures, and require implementation of new technology along the southern border. They will pose significant challenges and additional spending for the federal agencies responsible for carrying out these orders, especially DHS. Following the release of these orders, the White House submitted a budget request to Congress in March 2017 for an additional $3 billion just for DHS to implement these orders.[18]

> "...take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border... to most effectively achieve complete operational control"
>
> **-President Donald Trump in a January 25, 2017 Executive Order**

Given the history of many border security initiatives, and the potential for profiteering by government contractors when federal agencies are awarding huge contracts on short timelines, there is an obvious need for greater accountability and transparency of this new border security spending, and Congress should not appropriate additional funds without enhanced safeguards against waste, fraud, and abuse. Experience has shown that quickly accelerating government spending can lead to substantial waste, particularly in an area like border security that has a history of costly false starts and dead ends like those described above. And the failure of federal agencies to establish reliable performance metrics to keep pace with outlays of tax dollars creates an environment ripe for abuse.

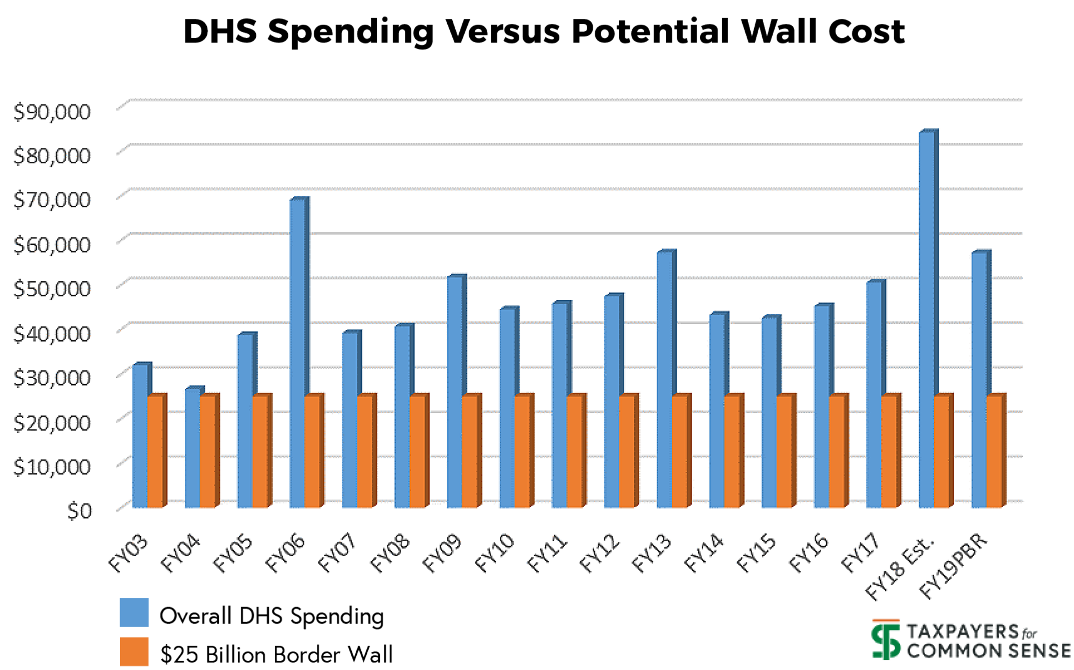
Constructing a border wall suffers from the same problems other border security projects have faced, that despite the awarding of billion-dollar government contracts over many years, there is little or no data to support the idea that this money is actually slowing or stopping illegal border crossings. Similarly, a huge influx of federal money in a relatively short period has resulted in a lack of adequate metrics that would allow federal agencies to assess contractor performance, while it has also given members of Congress opportunities to direct federal funding to specific recipients.

Follow the Money to the Pentagon

After President Trump issued the Executive Order requiring construction of the border wall, cost estimates for building the entire wall settled on roughly $25 billion. Because this amount is equal to almost half the DHS annual budget, some members of Congress and the President suggested funding for the border wall should come out of the $700 billion Pentagon budget. *(See our chart comparing the DHS budget to the cost of a $28 billion wall on page 11)*

In April of 2017, the House Armed Services Committee included a provision in the Fiscal Year 2018 defense policy bill prohibiting the use of Pentagon funding for a border wall.[19] In response, two Republican Representatives, Steven Palazzo and Trent Kelly from Mississippi offered an amendment to strip the language prohibiting the use of Department of Defense money for a border wall through the use of a highly unusual "self-executing" rule. The maneuver was successful. By voting on the "rule" that allowed consideration of the Pentagon spending bill, members of Congress were now also voting to strike the provision that specifically prohibited using Pentagon dollars to build the wall.

Though it seemed unusual that two members from a state with no international land border should offer such an amendment, the picture became clearer when W.G. Yates and Sons Construction of Philadelphia, Mississippi, was later named one of four finalists by the Trump Administration for construction of the wall. According to the Center for Responsive Politics, Rep. Palazzo has received $10,800 in campaign contributions from Yates Construction.



In July 2017, the House considered the "Making America Secure" combined appropriations bill that included $1.6 billion for construction of the border wall from the Pentagon portion of the bill. TCS publicized this budget gimmick, and the bill was changed to require the $1.6 billion to come from DHS. The Fiscal Year 2018 omnibus appropriations bill signed by the president in March 2018 also included funds for fencing and other barriers, but only from the DHS portion of the act.

As recently as June 2018, President Trump continued to argue that the border wall should not be funded incrementally through the annual appropriations process. Press reporting described congressional negotiators explaining to the president that the draft Fiscal Year 2019 DHS appropriations bill fully funds the amount his administration requested for the wall: $1.6 billion, and not the full $25 billion he is now insisting upon. With this kind of pressure on Executive Branch subordinates and Legislative Branch interlocutors, fiscal conservatives must remain vigilant if they are going to stop these kinds of budget shenanigans and the parochial parade of government contractors looking to line their pockets with help from their hometown member of Congress.

Conclusion

The border wall is just the most recent iteration of a years-long debate in America about border security. The debate is driven more by emotions than by facts, and many Americans living on the northern side of the border with Mexico have deep concerns about the negative environmental and aesthetic effects of having a huge barrier running through their communities. They also have grave concerns about the ability of any physical barrier to accomplish the task President Trump has set: to end illegal immigration.

The common thread among the failures and wasteful projects are efforts to accelerate contracts and processes to meet a political imperative, rushed and incomplete cost estimates, and inadequate oversight.

This brief only looks at a few of the many border security initiatives perused by the DHS in recent years. The common thread among the failures and wasteful projects are efforts to accelerate contracts and processes to meet a political imperative, rushed and incomplete cost estimates, and inadequate oversight. The critical lesson from these experiences is the potential for waste, fraud, and abuse that is created by awarding large government contracts without adequate planning and continuous oversight.

These lessons seem particularly relevant to the circumstances the DHS now faces, as President Trump has ordered for massive increases in border security and immigration enforcement efforts, and Congress is not providing adequate oversight of federal agency and contractor performance.

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