

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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<https://oversight.house.gov>

January 25, 2022

The Honorable Shalanda D. Young
Acting Director
Office of Management and Budget
725 17th Street N.W.
Washington, D.C. 20503

Dear Acting Director Young:

We write today to continue our oversight of the Biden Administration's failure to adequately secure the southern border, as well as the knock-on effects that failure is having on the United States' response to the COVID-19 pandemic. Specifically, we write to request documents and information related to hundreds of millions of dollars in budget transfers from COVID-19-related programs within the U.S. Department of Health and Human Services (HHS) to respond to the border crisis.

As you are aware, HHS has a statutory obligation under law to care for the unaccompanied children placed in its custody from the Department of Homeland Security (DHS).¹ The Biden Administration has failed to secure the border and regulate the flow of illegal border crossings while incentivizing further irregular migration through its policies, leaving HHS overburdened with an unprecedented number of unaccompanied children. Indeed, HHS received a record 122,000 unaccompanied children in Fiscal Year 2021, with more than 92,000 of those children transferred to HHS just during a six-month period starting in March 2021.² At the peak of the crisis, HHS had more than 22,000 unaccompanied children in custody across its licensed shelters, influx shelters, and emergency intake sites.³

We wrote to HHS on September 16, 2021, requesting documents and information regarding reprogramming within the U.S. Department of Health and Human Services (HHS) of hundreds of millions of dollars within its budget to respond to the ongoing border crisis.⁴ Specifically, we wrote that “[w]e are concerned that these budget transfers are negatively

¹ See 8 U.S.C. § 1232(b).

² Montoya-Galvez, Camilo, *U.S. shelters received a record 122,000 unaccompanied migrant children in 2021*, CBS NEWS (Dec. 23, 2021).

³ Shaw, Adam, *DHS chief Mayorkas says hundreds of migrant kids still coming in daily*, FOX NEWS (May 8, 2021).

⁴ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Xavier Becerra, Sec’y, U.S. Dep’t of Health and Human Serv. (Sept. 16, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/09/Letter-to-Becerra-HHS-Transfers-09162021.pdf>.

impacting other mission-critical functions of HHS and the overall effort to combat the COVID-19 pandemic or respond to a future health crisis.” Now, with an unprecedented spike of COVID-19 cases⁵ corresponding with a scarcity of tests,⁶ it appears that our fears are being realized.

We remain concerned about reports that in August 2021, HHS transferred \$589 million from other mission critical programs to cover the costs of continuing to care for unaccompanied children.⁷ Congress intended those funds for vaccine “planning, distribution, monitoring and tracking,” including \$187.5 million for the Centers for Disease Control and Prevention and \$225 million for the National Institutes of Health.⁸ HHS also reportedly diverted \$2.1 billion from other health initiatives to cover the cost of caring for the surge in unaccompanied children last May.⁹ HHS diverted \$850 million intended to rebuild the Strategic National Stockpile, which was strained by the COVID-19 pandemic. HHS also diverted another \$850 million intended to expand coronavirus testing¹⁰—and meanwhile, the country is facing a dramatic shortage in COVID-19 tests.¹¹

On January 11, 2022, Senator Susan Collins raised these very concerns and questions with HHS’s Assistant Secretary for Preparedness and Response (the ASPR) during testimony before the Senate Committee on Health, Education, Labor & Pensions.¹² The ASPR failed to provide answers to Senator Collins. Despite the size of the transferred funds and their relation to COVID-19 testing availability and pandemic response, the witness did not offer details about how the transferred money may have affected the original programs. She only claimed HHS could lawfully make these transfers without citing under what authority. Ultimately, she indicated that she would have to take back questions related to these budget transfers to financial experts within HHS.¹³

Unfortunately, HHS has thus far failed to respond to our initial letter with documents and information we requested. This information is essential for Committee Republicans to conduct important oversight. As we wrote to HHS last year, “it strains credibility that these huge transfers will have no impact on HHS mission critical functions or the Administration’s efforts in combatting the COVID-19 pandemic.” Americans now face an alarming scarcity of COVID-19 tests and as the sheer number of COVID-19 cases continue to rise across the country, we demand to know exactly how the border crisis has exacerbated challenges in responding to the pandemic.

⁵ Daily Trends in Number of Covid-19 Cases in the United States Reported to the CDC, CENTERS FOR DISEASE CONTROL AND PREVENTION (last accessed Jan. 11, 2022).

⁶ Liptak, Kevin, et. al, *Biden is dogged by a testing shortage he had vowed to fix*, CNN News (Dec. 28, 2021).

⁷ Shaw, Adam, *HHS diverting millions in funding marked for vaccine efforts to housing migrant children*, FOX NEWS (Aug. 27, 2021).

⁸ *Id.*

⁹ Cancryn, Adam, *Biden admin reroutes billions in emergency stockpile Covid funds to border crunch*, POLITICO (May 15, 2021).

¹⁰ *Id.*

¹¹ De Vynck, Gerrit & Jacob Bogage, *Rapid coronavirus tests are hard to find – unless you work for Google or play in the NBA*, WASH. POST (Jan. 13, 2021).

¹² Addressing New Variants: A Federal Perspective on the COVID-19 Response, Hearing before the Senate Committee on Health, Education, Labor & Pensions, 117th Cong. (Jan. 11, 2022) (Testimony of Dawn O’Connell, Assistant Secretary for Preparedness and Response, U.S. Dep’t of Health and Human Serv.).

¹³ *Id.*

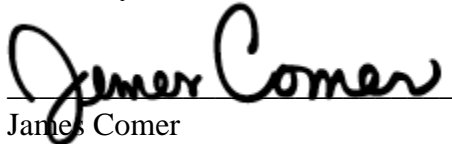
We now also write to the Office of Management and Budget (OMB) to request more information on these budget transfers within HHS, the legal authority on which they were based, as well as any analysis of the impact of those budget transfers on the Administration's COVID-19 response. To assist Republicans on the Committee in conducting important oversight of these issues, please provide the following information, covering the time period January 20, 2021, to the present, no later than February 8, 2022:

1. All documents and communications referring or relating to the need to reprogram millions of dollars within HHS's budget to cover the costs of caring for unaccompanied children, as well as any alternatives that were explored by HHS or OMB;
2. All documents and communications referring or relating to any analysis of the impact of the reprogramming of such funds from their originally intended purposes;
3. All documents and communications referring or relating to whether the reprogramming of such funds will have an impact on the government's ability to respond to the COVID-19 pandemic or any future health crisis;
4. All documents and communications referring or relating to any analysis of the legal authority or authorities permitting the reprogramming of millions of dollars within HHS's budget to cover the costs of caring for unaccompanied children;
5. All documents and communications between OMB and HHS or OMB and DHS referring or relating to DHS's efforts to mitigate the unprecedented surge of unaccompanied alien children and relieve the strain on HHS operations;
6. All documents and communications between OMB and HHS referring or relating to funding of custody and care of unaccompanied alien minors;
7. All documents and communications from OMB to HHS authorizing such budget transfers.

To make arrangements to deliver documents or ask any related follow-up questions, please contact Committee on Oversight and Reform Republican Staff at (202) 225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you for your consideration of this important issue and your cooperation with this inquiry.

Acting Director Young
January 25, 2022
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Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, prominent "J" and "C".

James Comer
Ranking Member
Committee on Oversight and Reform

cc: The Honorable Carolyn Maloney, Chairwoman
Committee on Oversight and Reform