

Congress of the United States
Washington, DC 20515

September 25, 2013

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

We write to express our strong opposition to funding requests for the Department of Homeland Security (DHS) that include specific numbers of immigration detention beds. Any such requests provide the groundwork for a Congressional mandate that requires Immigration and Customs Enforcement (ICE) to maintain a mandatory minimum number of immigration detention beds per day and spend over \$2 billion annually on immigration detention. In FY13, Congress required ICE to fill at least 34,000 immigration detention beds on any given day.¹ The bed mandate compromises ICE's ability to satisfy its stated enforcement priorities and accomplish detention reform. Although we applaud the 6.5% reduction in your request for FY14, we believe requests for funding a predetermined number of detention beds should be eliminated altogether. An arbitrary number of detention beds needed by ICE leads to ineffective immigration enforcement, runs contrary to American values of due process, and is a wasteful use of taxpayer dollars.

A major symptom of our broken immigration system is the excessive spending on detaining hundreds of thousands of immigrants annually, particularly when effective and less expensive alternatives to detention can, and should, be used. We are unaware of any other law enforcement agency with a statutory requirement to detain a minimum number of individuals. The use of detention beds should be determined by ICE based on whether detention is required for particular individuals. Such a determination should be premised on an individualized assessment of flight risk and danger posed to the public. Mandating government spending on an arbitrary, predetermined number of detention beds is contrary to the best practices in law enforcement and the Department of Homeland Security's priorities to reform the detention system.²

Moreover, immigration detention is authorized solely to facilitate the appearance of individuals charged with removability at future court dates and compliance with orders of removal, a point recently emphasized by Julie Myers Wood, former Assistant Secretary of Homeland Security for ICE under former President George W. Bush.³ There is no punitive

¹ Comm. on Appropriations Report, 201, *available at* <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt492/pdf/CRPT-112hrpt492.pdf>.

² ICE Fact Sheets on Detention Reform, *available at* <http://www.ice.gov/news/library/factsheets/#reform>; ICE Detention Reform Accomplishments, *available at* <http://www.ice.gov/detention-reform/>.

³ Julie Myers Wood & Steve J. Martin. "Smart alternatives to immigrant detention," *The Washington Times* (March 28, 2013), *available at* <http://www.washingtontimes.com/news/2013/mar/28/smart-alternatives-to-immigrant-detention/>.

authority to detain individuals charged with violating our civil immigration laws. Ms. Wood has pointed out that alternatives to detention are not only fiscally responsible, but also extremely effective; individuals in alternatives to detention programs have a 96% appearance rate in immigration court.⁴

In an environment of fiscal restraint, mandating that a federal agency adhere to a spending minimum on detention beds severely limits the ability of ICE to wisely use its detention authority and reduce costs for unnecessary detention. Currently, ICE spends \$159 per detainee – amounting to \$5.05 million per day and over \$2 billion annually spent on immigration detention – when alternatives to detention are available that cost as little as 70 cents to \$17 a day.⁵

We respectfully recommend that future budgetary requests reject a detention bed mandate. As outlined above, the mandate severely limits the flexibility of ICE to respond to current enforcement needs or changing conditions. Given ongoing financial pressures, it is critical to reexamine why ICE is tethered to an inflexible quota of detention beds. We therefore urge you to not request a preset level of detention bed funding as you draft the FY15 Presidential budget.

We appreciate your prompt attention to this matter and look forward to a response. We also look forward to continuing to work with you in the future.

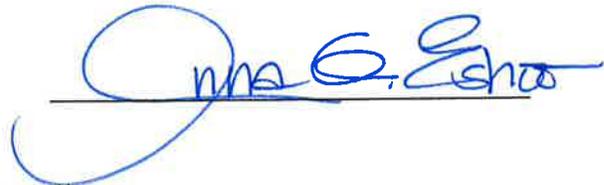
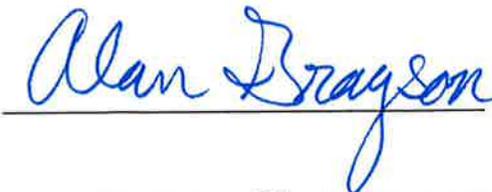
Sincerely,



Bill Foster
Member of Congress



Theodore E. Deutch
Member of Congress



cc: Cecilia Muñoz, Director, Domestic Policy Council

⁴ *Id.*

⁵ *Id.*

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