

National Security

Pentagon approves diversion of military construction funds for Trump's wall

By [Paul Sonne](#) and
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Defense Secretary Mark T. Esper agreed Tuesday to free up \$3.6 billion from the Pentagon budget for President Trump's border wall by effectively defunding 127 military construction projects using emergency authorities.

Esper determined that the use of the military construction funds was necessary to support American forces deployed to the southern border with Mexico under the national emergency that Trump declared in mid-February. The formal determination allows Trump, under an obscure statute in the federal code overseeing the military, to tap the funds appropriated for other purposes without sign-off from Congress.

The Pentagon declined to disclose which projects would be defunded. Chief Pentagon spokesman Jonathan Rath Hoffman said the list would be made available later this week after the Defense Department notifies lawmakers with affected projects in their districts and foreign embassies with affected projects in their countries.

During a briefing Tuesday, top Pentagon officials said the \$3.6 billion will fund 11 projects providing 175 miles of new or reconstructed wall along the border with Mexico and help reduce the need for American troops deployed there. Barriers will be reinforced or replaced with bigger walls in some places, while stretches of wall will be built in other locations. Among the projects the money will fund is a new wall along the U.S. military's [Barry M. Goldwater Bombing Range in Arizona](#), which abuts the border with Mexico, officials said.

"This funding will all go to adding significantly new capabilities to [the Department of Homeland Security's] ability to prevent illegal entry," Hoffman said. "In areas where we go from, say, a vehicle barrier to a 30-foot wall, we will have a significantly new set of capabilities that didn't exist previously."

The Pentagon will take the \$3.6 billion from 127 military construction projects that Congress has funded in recent years. About half of the \$3.6 billion will come from projects within the United States and its territories; the other half will come from projects the U.S. military was planning in foreign countries.

The Pentagon said the projects weren't being canceled and wouldn't be delayed so long as Congress agreed to "backfill" the funds and again appropriate money for them.

"The way we are describing it is really 'deferred,' " Deputy Undersecretary of Defense Elaine McCusker said. "If Congress were to backfill the projects in our request, none of the projects would be delayed. But we do realize that this could cause some delay. They're definitely not canceled."

Democrats have balked at the suggestion, noting that Congress funded the projects in question and shouldn't have to "backfill" and fund them again.

"The Administration's irresponsible decision to transfer funds from appropriated U.S. military construction makes America less safe and dishonors the Constitution," House Speaker Nancy Pelosi (D-Calif.) said in a statement. "The President is negating the Constitution's most fundamental principle, the separation of powers, by assaulting our Congressional 'power of the purse,' and is undermining the oath of office we take to protect and defend the Constitution and the American people."

She said canceling "military construction projects at home and abroad will undermine our national security and the quality of life and morale of our troops, making America less secure."

Sen. Jack Reed (R.I.), the ranking Democrat on the Senate Armed Services Committee, warned that future presidents would try to tap money for their own desired initiatives through emergency declarations if courts don't rule against the administration's border emergency.

"With this move, President Trump is shortchanging our troops and taxpayers and forcing them to bear the burden of his broken, preposterous campaign promise," Reed said. "Defense spending is supposed to be for national defense. There is no credible reason to divert these funds, and doing so in this manner could disrupt national security efforts."

Military construction money finances projects ranging from renovating schools on U.S. military bases to expanding naval piers to accommodate more submarines. An [analysis](#) by The Washington Post earlier this year found that projects in Puerto Rico and initiatives to help European nations deter Russia were particularly vulnerable to being defunded.

The Pentagon underscored that the military construction projects weren't being scrapped and said the money would be spent only as it was needed to fund the wall contracts. The Pentagon also suggested it would be seeking ways for Congress and foreign nations to still pay for affected projects.

"These projects are important," Hoffman said at Tuesday's briefing. "The intent in prioritizing funds in this manner is to provide time to work with Congress to determine opportunities to restore funds, as well as work with our allies and partners on improving cost burden-sharing for the overseas construction projects."

Hoffman said the Pentagon prioritized projects based on protecting those that were critical to the military's readiness and the National Defense Strategy.

House Democrats, who have uniformly opposed Trump's emergency declaration at the border, have vowed not to "backfill" the money — a promise that Rep. Debbie Wasserman Schultz (D-Fla.), who leads the House panel overseeing money for military construction projects, reiterated on a caucus-wide call Tuesday.

There are about 3,000 active-duty troops and 2,000 National Guardsmen serving on the U.S. border. Trump deployed them to help support U.S. Customs and Border Protection, which has been coping with large numbers of arrivals of primarily Central American migrant families.

A [statute](#) in U.S. code, known as Section 2808, allows the defense secretary, during national emergencies requiring the use of the armed forces, to carry out construction projects in support of the troops without the approval of Congress.

Trump, [who is scrambling to fast-track border wall construction before next year's election](#), announced the national emergency following the longest government shutdown in U.S. history, which stemmed from his dispute with Congress over how much to fund the projects. Trump said he declared the national emergency so he could build the wall faster.

"I could do the wall over a longer period of time," the president [said](#) in February. "I didn't need to do this, but I'd rather do it much faster."

After Trump declared the national emergency, Chairman of the Joint Chiefs of Staff Gen. Joseph F. Dunford Jr. was asked to conduct an assessment determining whether certain border wall projects proposed by the Department of Homeland Security would support U.S. troops.

Dunford concluded that they would, according to Hoffman because they would allow the Defense Department “to reprioritize forces conducting military missions that assist DHS in gaining operational control of the southern border, thereby making the use of military personnel more effective and efficient.”

The projects will mark the first time that the administration has tapped the Defense Department dollars that the national emergency allowed Trump to access since the declaration in February.

In the months since, the Trump administration has used a different law that didn't require a national emergency declaration to access Pentagon funds for the wall. The administration has allocated about \$2.5 billion from the Pentagon budget for wall-related construction projects in Arizona, California and New Mexico using a counterdrug [law](#), which permits the Defense Department to construct fences in drug-smuggling corridors for federal, local, tribal and state agencies.

The Supreme Court recently allowed those projects to proceed after lower courts froze them pending legal action from the American Civil Liberties Union and others. The Supreme Court [ruled](#) only on whether the freeze was warranted. Federal courts are expected to hear arguments on the legality of the construction projects later this year.


The administration is also planning to use \$601 million from the Treasury Forfeiture Fund for construction of the wall. [According to the Associated Press](#), Customs and Border Protection plans to spend the money on projects in the Rio Grande Valley in Texas. A national emergency declaration [isn't required](#) to access those Treasury funds.

The ACLU has said it will continue to challenge Trump's use of emergency authorities to tap Pentagon funds for the wall in court.


“The fact that the government sat on these so-called ‘emergency funds’ for seven months further confirms that this is nothing but an unlawful power grab,” said Dror Ladin, staff attorney with the ACLU's National Security Project.

“We'll be back in court very soon to block Trump's latest effort to raid military funds for his xenophobic wall,” he added.

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