



Improving ICE Compliance with Congressional Reporting Requirements

TRANSPARENCY RECOMMENDATIONS

February 2024

Immigration policy experts and legal service providers developed the following recommendations with the goal of improving public access to information that Congress has required U.S. Immigration and Customs Enforcement (ICE) to disclose. We note that this is not an exhaustive list of current reporting requirements and welcome the opportunity to discuss other areas:

- **Compliance with congressional reporting requirements relating to ICE detention contracts:**
 - **Background:** ICE is required to publish contracts for all detention facilities, including all task orders and modifications. ICE has not yet made public all of its contracts for currently active facilities, and many of the contracts that are available are missing modifications and task orders.
 - **Example:** ICE's contract with Caroline County, Virginia, was set to expire in June 2023, and the contracts published online do not include any modification extending the period of performance for the contract.
 - **Example:** there is a lack of transparency relating to the contract for ICE's Migrant Operations Center, located on Guantanamo Bay Naval Base. DHS has posted a contract with MVM Inc. to provide guards at the facility, confirming that it is currently in operation. In the past, however, the GEO Group was the contractor operating the facility, and ICE has not made public its contract with the GEO Group or any other operator involved in the facility.
 - **Recommendation:** ICE should review all modifications and contract updates over the last year and ensure that these are updated on a monthly basis.

- **Compliance with congressional reporting requirements to publish requests for proposals and airline contracts:**
 - Background: The FY2023 House Appropriations [Report](#) requirements included additional reporting requirements, including requiring ICE to publish Requests for Information (RFIs) and Requests for Proposals (RFPs) for any new or extended ICE detention contracts and a consolidated compilation of all contract documents for each of the airline contracts or subcontracts ICE uses for removal flights. These records have not been made publicly available.
 - **Recommendation:** *ICE should make public its plans to fulfill the FY2023 appropriations requirements, and comply with its requirements to publish all RFIs, RFPs, and airline contracts.*
- **Review of redacted information to maximize transparency:**
 - Background: Congress directed ICE to provide the House Appropriations Committee a “written explanation for each such redaction along with an unredacted version of each such document” and instructed ICE to “refrain from redacting contract records that are released without redactions in full by local governments that are parties to the contract,” for any information in the contracts that ICE claims requires redaction under FOIA.
 - ICE publishes contracts and other records with large redactions, withholding information that should be available to the public without providing justification for the withholdings.
 - Example: the contract with MVM Inc. for the Guantanamo Bay Migrant Operation Center is heavily redacted, including redactions over the date that the modifications were signed.
 - **Recommendation:** *ICE should make public its justifications for withholding information from its contracts, and cite to the FOIA exemptions, as instructed by Congress in appropriations law.*
- **Publishing inspection reports:**
 - Background: ICE is required to publish its compliance inspection reports on a regular basis. However, the reports are incomplete and missing inspections for certain facilities, such as the inspection report for the Guantanamo Bay Migrant Operation Center.
 - The FY2023 House Appropriations [Report](#) requirements also included additional reporting requirements, including requiring ICE to publish technical assistance reviews and pre-occupancy inspection reports.
 - **Recommendation:** *Review the inspections for all facilities to ensure the full reports are made public, and comply with the FY2023 requirements by publishing all technical assistance reviews and pre-occupancy inspection reports.*
- **Reporting on inspections and tracking failed inspections:**
 - Background: ICE is required to terminate contracts with facilities that fail two inspections in a row. As of FY2022, Office of Detention Oversight (ODO) is the primary entity responsible for the inspections. ICE’s [detention management spreadsheet](#) currently lists the rating for the last ODO inspection, but not the second to last, making it difficult to track when a facility fails two inspections in a row.

- Example: ICE inspections note that the Cache County Jail facility in Utah has failed two inspections in a row, due to the fact that the jail refused multiple inspections from occurring. However, there is no way to determine whether ICE has terminated the contract with the facility.
- **Recommendation:** *List the two previous inspections for ODO inspections, not the Nakamoto inspections. Provide notice when a facility fails two inspections in a row, and publicize the corresponding close-out memo.*
- **ICE detention data reporting:**
 - Background: ICE is required to report publicly on its detention figures on a bimonthly basis. DHS has been required to release these figures since FY2020.¹
 - ICE fails to list certain facilities in its spreadsheet known to be in use. For example, ICE does not list the Guantanamo Bay Migrant Operation Center in its list of facilities.
 - **Recommendation:** *ICE should ensure it is in compliance with congressional requirements and reporting on all detention facilities with ongoing contracts, not only the facilities housing people at the time of reporting.*
- **Reporting requirements on ICE's reliance on gang databases:**
 - Background: ICE was required to conduct a comprehensive evaluation of the accuracy of the databases ICE uses to issue immigration detainer requests (FY2022 House Appropriations report, reiterated in the FY2023 House Appropriations [Report](#)).
 - ICE and CRCL were supposed to provide an update to the Appropriations Committee not later than 180 days after the date of enactment of the FY2022 Appropriations law, but failed to do so.
 - **Recommendation:** *Provide the briefing to members of Congress on the accuracy of databases ICE uses to issue detainer requests, and make the evaluation available to the public.*
- **FOIA Library improvements:**
 - Background: There are currently different sections of the ICE FOIA Library that contain ICE detention contracts. It is difficult to navigate the site and locate new or modified contracts.
 - **Recommendation:** *ICE should combine sections with contracts for detention facilities and publish contracts in a manner that is organized chronologically, to allow for review by release date (in the same way that the State Department FOIA reading room allows).*
- **Publishing contract data:**
 - Background: DHS recently started [posting](#) a daily report of new DHS contracts over \$4 million. The daily reports are not compiled in a centralized location, making it difficult to

¹ Sec. 216 of the FY2023 omnibus DHS bill continues required public reporting in section 216 of the FY2021 DHS appropriations act, which continued the requirements at section 218 of the FY2020 DHS appropriations act in addition to new length of stay reporting requirements.

get a full picture of the DHS contracts currently in use. The current format requires that advocates save the list of contracts on a daily basis.

- **Recommendation:** *DHS should publish a full spreadsheet with the complete list of contracts, updated on a daily basis.*
- **Publish the guidance, policies, and data relating to ICE’s Alternative to Detention (ATD) Program:**
 - Background: ICE has not published guidance for referral, placement, escalation, and de-escalation decisions first requested in [FY2019](#) and reiterated in the FY2023 House Appropriations [Report](#). While ICE launched an [ATD landing page](#) at the end of 2022, it contains only general enrollment information. Moreover, ICE did not provide congressionally required reporting for FY 2017-2020 on the Intensive Supervision Appearance Program (ISAP) which was ICE’s ATD program until April 11, 2022. Most recently, ICE announced that it intends to issue new ATD standards under the name of [Release and Reporting Management](#) (RRM) via a Request for Information.
 - **Recommendation:** *For the current or any future ICE ATD program, ICE should be required to publish on a public website complete guidance and policies on referral, placement, escalation, and de-escalation of noncitizens instead of generalized factors or summaries.*

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