

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

September 6, 2023

Ms. Jacqueline Stevens
601 University Place, 2d floor
Political Science Department
Evanston, IL 60208

**RE: Stevens v. ICE 20-cv-2725
ICE FOIA Case Number 2020-ICLI-00042
Supplemental Release**

Dear Ms. Stevens:

This letter is a supplemental response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). Your client seeks records relating to the following Freedom of Information Act requests: 2018-ICFO-56530, 2020-ICFO-18634, 2019-ICFO-33429, 2019-ICFO-29171, 2018-ICFO-59138, and 2019-ICFO-24680. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

For this production, ICE is making a discretionary re-release of 199 pages of records. ICE has reviewed the pages and determined that 77 pages will be released in full and portions of the remaining 122 pages will be withheld pursuant to FOIA Exemptions (b)(4), (b)(6), (b)(7)(C) and (b)(7)(E) as described below. The pages will retain their original Bates numbers.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption covers two categories of information in federal agency records: (1) trade secrets; and (2) information that is commercial or financial, obtained from a person (which may include corporations or state governments), and privileged or confidential, which is both customarily and actually treated as private by the submitter of the information. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2362-63 (2019). I have reviewed the responsive documents, the submitter's objections to release, and relevant case law, and I have determined that portions of the responsive records are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy

interests of the non-public-facing individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, investigators, or individuals performing their official duties in connection with a law enforcement agency, in not being unwarrantably associated with alleged criminal activity or becoming targets for revenge by begrudged individuals. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of the non-public-facing individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis Sr.
Supervisory Paralegal Specialist

Enclosure: 199 pages

J-2 – Quality Assurance Surveillance Plan (QASP)

Functional Area	Performance Requirements	Performance Measure	Method of Surveillance	Acceptable Quality Level	Deduction or Withholding Criteria
Staffing*	<p>Vendor shall have scheduled* and working* on-site*, 100% of the position codes listed in J-1-Site Staffing Matrix and as updated in future contract modifications, according to J-3– Position Descriptions.</p>	<p>The count of the number of position codes listed as vacant or filled as per J-11-Site Status Report</p> <p><i>An employee shall keep the same position code for the duration they are employed on the contract unless otherwise approved in writing by the Contracting Officer's Representative. <u>C OR.</u></i></p> <p><i>No other criteria other than “filled”, “vacant”, or “on hold” as per the J-11 Site Status Report, is used to describe the status of a position code.</i></p> <p><i>-Unfilled position codes-due to a contract modification, will be exempt from assessment for 45 days from the date of modification, On day 46 it will be reported as filled or vacant (unless “on hold”) on the J-11 Site Status Report.</i></p>	<p>J-11-Site Status Report. Vendor shall provide the completed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100% of position codes at each site as per J-11-Site Status Report will be scheduled and working on-site.</p> <p>Contractor must submit a waiver for consideration to the COR/CO to fill a vacant full-time<u>full-time</u> position code with part time or temporary staff (multiple or single employee). Waivers will be evaluated on a case by case basis and shall not exceed 60 days without written permission from the COR/CO.</p> <p>No site may exceed 20%<u>part20%-part</u> time or temporary assigned staff at any given time.</p>	<p>-The monthly amount invoiced per site will be reduced by the sum of deductions applicable to each labor category at that site.</p> <p>LVN/LPNs < 85% = 0.25% < 80% = 0.50% < 75% = 1.00% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>RNs < 88% = 0.25% < 83% = 0.50% < 78% = 1.00% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>MLPsAPPs < 90% = 0.25% < 83% = 0.50% < 78% = 1.00% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>MHPsBHPs < 90% = 0.25% < 83% = 0.50% < 78% = 1.00% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>Techs/Assistants < 92% = 0.25% < 87% = 0.50% < 82% = 1.00% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>MD/DO-DDS-Pharm < 75% = 0.25% <XX%=5.00% - See Site Specific Critical Staffing Level- QASP Appendix I</p> <p>Site Specific Critical levels for each facility are</p>

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<p>e-QIP Submission Initiation for Contract Modification - Staff Additions - Vacancy</p>	<p>The Contractor will have thirty (30) calendar days from the date of the fully executed contract modification, or effective date of a vacancy, to submit an e-QIP initiation request (with position code) for qualified candidates for those positions.</p> <p>The e-QIP Submission, and Start Date Functional Area timelines are applicable thereafter to staff added under a contract modification, or vacancy.</p>	<p>The number of calendar days from the date of the fully executed contract modification, or vacancy, until the submission of e-QIP initiation request for qualified candidates for those positions.</p>	<p>J-11-Site Status Report. Vendor shall provide the completed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100% of contract modification staff additions, or vacancies, will have e-QIP initiation requests submitted for qualified candidates within thirty (30) calendar days.</p>	<p>identified on the QASP Appendix 1.</p> <p>Metrics will be reported in CPARS.</p>
<p>Backfill* For Nursing Staff</p>	<p>The Contractor will provide RN and LVN/LPN backfill for contractor Shift-Call-Out's*</p>	<p>Count of the number of Shift - Call Out's successfully and unsuccessfully backfilled.</p> <p><i>A Call Out shift will be considered successfully backfilled if 50% of that shift has been staffed</i></p>	<p>J-11-Site Status Report. Vendor shall provide the completed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100% of Shift - Call Out's requiring backfill will receive backfill.</p>	<p>Metrics will be reported in CPARS.</p>

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<p>e-QIP Submission</p>	<p>Vendor shall ensure candidate submits a complete (no missing standard documentation) e-QIP security packet (electronic and hard copy) to the IHSC CORPSU and <u>fingerp</u>rint cards to the CORs within ten (10) calendar days after receiving notice of e-QIP initiation.</p> <p>Hard copy e-QIP packets will be mailed to the IHSC COR utilizing a mail tracking method through the U.S.P.S, FedEx, UPS or other service provider of equal scope and ability. Exceptions may be granted on a case by case basis, only if approved in writing by COR.</p>	<p>Number of complete (no missing standard documentation) e-QIP packets received by the IHSC COR PSU and <u>fingerp</u>rint cards to the CORs within ten (10) calendar days of notification of e-QIP initiation.</p>	<p>J-11-Site Status Report. Vendor shall provide the competed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100% of candidates submit complete electronic and hard copy e-QIP (security) packets to the IHSC COR-s <u>PSU</u> and <u>fingerp</u>rint cards to the CORs within ten (10) calendar days after receiving notice of e-QIP initiation.</p>	<p>Metrics will be reported in CPARS.</p>
<p>Start Dates</p>	<p>Contractor shall ensure staff are on-site and working (start date) within thirty (30) calendar days of notification of initial favorable fitness determination.</p> <p>Exceptions may be granted on a case by case basis, only if approved in writing by COR.</p>	<p>Number of calendar days between notification of initial favorable fitness determination and when that employee is on-site and working.</p>	<p>J-11-Site Status Report. Vendor shall provide the competed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100% of start dates (on-site and working) shall occur within thirty (30) calendar days of notification of initial favorable fitness determination.</p>	<p>Metrics will be reported in CPARS.</p>
<p>Credentialing *</p>	<p>The Vendor shall submit, to on-site Key Personnel, and for the Government Technical Monitors</p>	<p>The number of complete and incomplete credentialing packets received,</p>	<p>Government Technical Monitor will review credentialing packet documentation</p>	<p>100% of credentialing packets are complete when reviewed by the</p>	<p>Metrics will be reported in CPARS.</p>

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	<p>review, a complete credentialing packet for each employee hired, no less than three-five (53) <u>calendar-business</u> days before the employee is on-site and working.</p> <p><u>Exceptions may be granted on a case by case basis, only if approved in writing by COR.</u></p>	<p>no less than three <u>five calendar business</u> days before the employee is on-site and working.</p>	<p>received from the vendor through on-site Key Personnel each month. -Government Technical Monitor will document and report their findings to the COR's via email.</p> <p>Other methods of surveillance may be used.</p>	<p>Government Technical Monitor pPrior to the start of contract staff.</p>	
<p>Privileging* for Licensed Independent Providers (LIP's)</p>	<p>Contractor shall present the government with a complete privileging packet, as per J-6-Credentialing and Privileging, no less than ten (10) Business days before start date.</p> <p><u>Exceptions may be granted on a case by case basis, only if approved in writing by COR.</u></p>	<p>Number of complete and incomplete privilege application packets received ten (10) Business days before start date of candidate.</p>	<p>J-11-Site Status Report. Contractor shall provide this competed report to the government weekly.</p> <p>Other methods of surveillance may be used.</p>	<p>100%. The government will be provided a complete and accurate privileging application ten (10) Business days prior to candidate's start date.</p>	<p>Metrics will be reported in CPARS.</p>
<p>Competency Assessment (CA)</p>	<p>Vendor staff shall complete the Competency Assessment with no discrepancies between the PD performance requirements and actual demonstrated performance during the CA period within ten (10) working days.</p> <p><i>Staff not successfully completing the CA will be not be</i></p>	<p>Number of successful/ unsuccessful, discipline specific, competency assessments completed.</p>	<p>The Vendor shall report to the government on a weekly basis the status of their staff currently in the competency assessment period by name and position code. To include start date and scheduled end date of the assessment period. Staff not completing the orientation and competency</p>	<p>100% of staff completing the competency assessment demonstrates no discrepancies between the PD performance requirements and actual demonstrated performance.</p>	<p>Metrics will be reported in CPARS.</p>

Functional Area	Performance Requirements	Performance Measure	Method of Surveillance	Acceptable Quality Level	Deduction or Withholding Criteria
	<i>considered as qualified.</i> <i>Position codes assigned to staff unsuccessfully completing their CA will be considered as having been vacant as of the prior effective date of resignation or termination assigned to that position code.</i>		assessment will be clearly identified in J-11-Site Status Report. Other methods of surveillance may be used.		
Deliverables	100% of deliverables in F-4 – Deliverables Table will be completed by due date.	Date of receipt of deliverables and their corresponding due date.	E-mail receipt to <u>all COR's email boxes</u> IHSCCOR mailbox or other method as required	100 % receipt of completed deliverables	< 100% compliance will result in 0.25% withholding of the entire monthly invoice.

1. The Contractor is responsible for performance of ALL terms and conditions of the contract. The performance measures outlined in this QASP will be used to determine Contractor performance in each Functional Area.

2. The Government performs surveillance to determine Contractor performance and guide the Contracting Officer as to withholding or deduction, if any. Withholdings or Deductions, when applied, will be a sum of applicable withholdings or deductions for each functional area.

3. Where an asterisk is present next to a word in the QASP there is a corresponding definition in Contract Section C-34 – Glossary, specific to the implementation of the QASP.

4. Within 48 hours of the occurrence of Critical-level deficient performance, the Contractor must provide a corrective action plan to the COR and Contracting Officer. During a period of Critical-level deficient performance, the Contractor will provide the COR and Contracting Officer daily updates describing all actions taken to address and correct the deficient performance, and the results of those actions. Upon providing notice to the Contractor, the Government may utilize all resources available, including other contractors, in order to fill critical-level staffing shortages until the government is satisfied that the Contractor is able to resume acceptable performance.

5. Funds may be deducted from a monthly invoice as per the QASP. The Contractor will be notified immediately if such a situation arises. The Contracting Officer in consultation with the ICE Program Office will determine the amount of any deduction. The assessment of deductions does not preclude the Contracting Officer from initiating other applicable contract actions and remedies.

6. For facilities experiencing Critical staffing shortages, the Government may incur additional costs to transfer or re-locate, in-process, and house detainees in alternate facilities. For facilities with guaranteed minimum bed-space, in addition to the costs noted above, the Government will also incur costs for unused bed-space.

The following locations include guaranteed minimum bed-spaces: