

U.S. Department of Homeland Security  
500 12<sup>th</sup> 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](mailto:Alex.Hartzler@usdoj.gov).

Sincerely,

Marcus K. Francis Sr.  
Supervisory Paralegal Specialist

Enclosure: 199 pages

measurable commitments will be included in the schedule. The Contractor will regularly report status to the COR at periodic meetings and through regular written reports during the transition period. The activities performed during the Transition Term shall begin on the effective date of the Contract.

(c) **Transition Period:** The Contractor will provide a seamless transition from the previous Contractor. New Contractor will have no more than 60 calendar days from contract award date to become fully compliant with all aspects of this contract to include the Statement of Work, Quality Assurance Plan and all deliverables. 100% of the staff listed in **J-1: Site Staffing Matrix**, will complete all prerequisites for employment including fitness determination, credentialing and privileging (as applicable), and be able to invoice the government for professional services for hours worked in the filled positions.

(d) The Transition Plan shall illustrate how the Contractor will provide a seamless transition between the Contractor and the predecessor Contractor to ensure minimal disruption to vital Contractor services and Government activities. The Transition Plan shall address, at a minimum, the following areas:

1. Recruitment, adequate and available staff;
2. Training of new and incumbent employees;
3. Licenses and Permits obtained prior to performance;
4. Insurance obtained prior to performance and in compliance with clause H-5; and
5. Background Investigations; all employees are cleared in accordance with Section C-8.

**C-33. IHSC INVOICING.** Invoicing for hours worked is the last stage of a month long ~~timekeeping process of validating and paying for hours worked by contract staff. The complete process for submitting invoices and providing the corresponding supporting documentation is outlined below. All authorized/security cleared Contractor employees will be included in the month's invoicing.~~ The Contractor will submit 100% accurate invoicing ~~each within 15 calendar days of the end of the preceding month to Consolidation Invoice for processing. Monthly invoices and supporting documentation will be submitted together as one submission separated in three parts.~~ In addition to the requirements noted in **G-4: INVOICING /PAYMENT**, Contractor shall ~~comply with provide the following process requirements information:~~

1. ~~Part I – Invoice Document (PDF). This document will include Full name of awarded Contractor, address, phone number, date of submission, Identify Performance Period, Invoice number, TIN number, DUNS number, Billed to name and address, Contract number, Order number assigned in Consolidation Invoice, Bank Information for payment. This document must also be signed by the authorized contractor representative as accurate.~~ Direct Labor Categories Separated by: Total Direct Labor Hours/Total Dollars, Total Direct Overtime Labor Hours/Total Dollars, Grand Total Labor Hours/Total Dollars. ~~This document must also be signed by the authorized contractor representative as accurate.~~

(b)(5), WIF Draft

report will include the position code, labor category, employee name. The report will break down for each employee the hours worked by each labor category rate. The report will also include any overtime hours incurred with a subcategory for overtime hours billable to the government. The report will also include On-Call hours and phone call hours as applicable. Each page of the "Hours Worked Monthly Summary" will be reviewed, signed/dated by each site's technical monitor (if accurate and no corrections need to be made) and sent back to contractor for submission with the invoice. If corrections need to be made the GTM will work with the Contract Coordinator until the document is accurately reconciled.

Step 1 - Documenting<sup>3</sup> Part III – Time Sheets (PDF) – For any contract staff incurring overtime the Contractor must submit the corresponding time sheets and the email documentation supporting overtime approval. Contractor Hours Worked

1. Each contractor is required to utilize the government independent timekeeping system in place at each site to record hours worked by clocking in at the beginning of shift, clocking out for their break, clocking in at the end of their break and clocking out at their end of shift.
2. For sites where the government independent timekeeping system requires a punch card recording system, each contractor is required to complete an e-Timesheet (attached) and submit to their Government Technical Monitor no later than the first day of the following month. When completing the e-Timesheets contractors **should only** account for the **"Seven Minute Rule"** and Authorized and Verified time.
  - a. Authorized Time – Time staff were scheduled to work or time worked outside of the posted schedule whereby written approval received by the GTM to work.
  - b. Verified Time – Time that is documented by the government timekeeping system or that is documented as authorized by the GTM.

Step 2 – Hours Worked List

1. The vendor will produce an Hours Worked List (in Microsoft Excel) of only the contract staff for which they intend to invoice the government for each month, and send the list to the COR's individual email box.
2. The Hours Worked list (in Microsoft Excel) will consist of six columns and will be formatted to fit the specific criteria outlined below.
  - a. Column A - Site Name – The site names must exactly match as indicated here:
    1. Alexandria
    2. Berks
    3. Buffalo
    4. Dilley
    5. El Paso
    6. Elizabeth
    7. Eloy
    8. Florence
    9. Houston
    10. Jena

11. Krome
12. LA Staging
13. Pearsall
14. Port Isabel
15. San Diego
16. Santa Ana
17. Stewart
18. Tacoma
19. Taylor
20. Varick
21. Washington
22. York

- b. Column B - Position Code – Use established position codes provided by the CORs. Any number in a position code less than 10 must be represented by two digits. For example, 1=01, 2=02, 3=03, etc. Please see the attached document “Hours Worked-Formatting Example” for examples on how to format position codes. Ensure there are no duplicates for position codes with the exception of:
    - i. Two people utilizing the same position code because one was terminated or resigned and another person worked during the same invoice period under the position code.
    - ii. A conversion occurred in the same invoice period.
  - c. Column C - Labor Category – The labor categories must follow the exact format as listed in the attached document “Hours Worked-Formatting Example”.
  - d. Column D - Employee Name – “Last Name, First Name”.
  - e. Column E - Month – Invoice Month – Spell out the full name of the month.
  - f. Column F - Year – Use four digits when representing the year ex. 2018.
3. The Hours Worked List will be provided to the CORs via their individual email boxes on the 5<sup>th</sup> business day of each month for the previous month’s hours worked.

### Step 3 – Hours Worked Verification Report

1. The GTMs will verify hours worked submitted via the e-Timesheet based on the time clock punch cards or its equivalent for all contract staff listed in the Hours Worked list.
2. By the 13<sup>th</sup> business day of the month following the invoiced period of performance, the COR(s) will submit to the vendor (in excel and PDF format), an Hours Worked Verification Report which contains the hours worked that the government can verify and support for invoice payment based on the independent government timekeeping system. The Hours Worked Verification Report will provide the additional information:
  - a. Regular Hours
  - b. Overtime Hours
  - c. OT Billable to the Gov.
  - d. On-Call Hours
  - e. Phone Call Hours
  - f. Verified By (the name listed here is the GTM that verified the hours worked).

g. Comments

3. The vendor will review and reconcile the PDF and promptly notify the CORs of any errors or discrepancies. The vendor and the CORs shall reconcile the Hours Worked Verification Report prior to submission of an invoice.

Step 4 – Invoice Submission

The monthly invoice will include the invoice and corresponding supporting documentation. The invoice has two parts, an invoice cover page and the hours worked.

1. Invoice Cover Page. (PDF). This cover page document will include full name of awarded Contractor, address, phone number, date of submission, identify performance period, invoice number, TIN number, DUNS number, billed to name and address, contract number, order number assigned in Consolidation Invoice and bank information for payment. This document must also be signed by the authorized contractor representative as 100% true and accurate.
2. Hours Worked. The hours worked section of the monthly invoice will be structured accordingly: hours worked will be reported by IHSC site with each site containing the following subcategories: Regular Hours, Overtime Hours and On-Call/Phone Call Hours.

The Regular Hours section is further divided by Direct Labor and Current Period. The Direct Labor section includes subcategories: Labor Category and Employee Name (Last, First). The Current Period section includes subcategories: Labor Hours, Bill Rate and Total Charges. The list of staff for each section will be grouped according to labor category

The Overtime Hours section is further divided by Direct Labor and Current Period. The Direct Labor section includes subcategories: Labor Category and Employee Name (Last, First). The Current Period section includes subcategories: Labor Hours, Bill Rate and Total Charges.

The On-Call/Phone Call Hours section is further divided by Direct Labor and Current Period. The Direct Labor section includes subcategories: Labor Category and Employee Name (Last, First). The Current Period section includes subcategories: Labor Hours, Bill Rate and Total Charges.

Regular Hours, Overtime Hours and On-Call/Phone-Call Hours will have subtotals for each and a grand total will be provided for each individual site.

3. Supporting Documentation - Hours Worked Verification Report (PDF) - Contractor will provide, along with the invoice, the Hours Worked Verification Report. This document will be provided to the contractor by the CORs monthly by the 13<sup>th</sup> business day of each month.

4. The vendor's submission of the invoice with the supporting documentation (Hours Worked Verification Report) constitutes as acceptance of the document by the vendor as true and accurate, except to any discrepancies or errors which the vendor raises within 30 days. In this regard, the vendor will have 30 days from the date of the official notification that the Government submitted the invoice for payment to identify and notify the CORs of any ambiguities/discrepancies that the vendor determines to be in the Hours Worked Verification Report. Any ambiguities/discrepancies received within the 30 days will be handled on a case-by-case basis and will be corrected on the next available invoice submitted. The Contractor releases the Government of any liability for ambiguities/discrepancies raised after 30 days from the date the Government processes the invoice for payment.

#### Invoice Rejection

When an invoice is rejected by the program office the vendor will resubmit to Invoice Consolidation the corrected invoice and corresponding supporting documentation with a new and unique invoice number after having corrected any issues identified by the program office.

### **C-34. GLOSSARY.**

#### **FOR ICE Health Service Corps (IHSC) DIRECTIVES AND GUIDES**

**Acute** – Acute refers to a health effect, usually of rapid onset, brief, not prolonged. (IHSC Operational Definition)

**Acute Care** – Acute care generally is provided for a short duration to treat a serious injury or episode of illness or following surgery. The care may be provided in an inpatient setting such as a hospital or on an outpatient basis such as in an urgent care center. (American Health Lawyers Association)

**Administrative Health Authority** – The administrative health authority is responsible for all access to care, personnel, equipment and fiscal resources to support the delivery of health care services.

**Administrative Support Staff** – For IHSC purposes, this includes Medical Record Technicians (MRTs), Administrative Assistants, Special Assistants and Executive Assistants in IHSC-staffed clinics or at HQ. (IHSC Operational Definition)

**Admission/Admissions Process** – Admissions is the in-processing of newly arrived residents, which includes an orientation to the policies, programs, rules and procedures of the facility. Assignment of living quarters, various inspections, medical intake screening (includes dental and behavioral health) and safeguarding of funds, valuables and other personal property is completed during this process. (PBNDS 2011 Glossary)