



September 25, 2013

U.S. Immigration and Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Office
500 12 Street, S.W.
Stop 5009
Washington, D.C. 20536

RE: 2013FOIA0784

To Whom It May Concern,

On December 17, 2012 I submitted a request under the Freedom of Information Act (FOIA) for "ICE private contracts and Intergovernmental Service Agreements for San Bernadino County, California, including but not limited to the contracts for work performed in and with the city of Adelanto, which is in San Bernadino County, California." I requested this for work performed since January 1, 2008.

On September 12, 2013, I received a reply with some but not all responsive documents.

I write under the Freedom of Information Act (FOIA) to challenge the following redactions and omissions of the Intergovernmental Service Agreement for the confinement of ICE detainees by the City of Adelanto.

I. Please remove all redactions asserting (b)4 . The FOIA statute and its implementation pursuant to the March, 2009 Memorandum by Attorney General Eric Holder, Jr. instructs agencies to release as much information as possible: "an agency should not withhold information simply because it may do so legally. I strongly encourage agencies to make discretionary disclosures of information. An agency should not withhold records merely because it can demonstrate, as a technical matter, that the records fall within the scope of a FOIA exemption."

Reasons for challenge:

A) It is a mockery of the FOIA for the federal government to claim taxpayers may not obtain information on how much the government is spending on costs for specific contracts. This information is absolutely vital to a well-informed citizenry: 1. being able to evaluate the disbursement of their tax dollars; 2. exercising oversight on disparities among contracts that might indicate corruption, favoritism, or incompetence; 3. being able to assess whether a particular disbursement is in line with

the official claims about bed space costs asserted by ICE.

B) The procurement process as well as FOIA require transparency of pricing and costs for informed bidding by contractors. Estimates and statements of costs conveyed by the federal government to the City of Adelanto are created by and for the American people, and cannot conceivably be concealed on behalf of an assertion of the "submitter's proprietary interests." By participating in a federal contract of this nature, the private vender consents to follow numerous laws, including the FOIA. This includes even those corporations such as GEO that take extraordinary measures to lobby ICE and Congress on behalf of increasing the number of immigration jails; the FOIA was passed precisely to hold accountable ICE by requiring it to release this information within 30 days of its request.

C) In light of A and B, the exact information unlawfully redacted in this FOIA release is *available in other ICE detention facility requests for procurement and contracts released by the federal government, including since at least 1997 the IGSA's for Los Angeles County*, the agency with which ICE had previously contracted for custody of detainees in this region (attached, and see also the El Centro SPC 2009 Request for Procurement, also attached). The ICE population now being held in Adelanto had been held previously in a facility with which ICE had contracted that was in Mira Loma and owned by the County of Los Angeles.

Moreover, the released portion of the contract itself states: "ICE understands that this IGSA will become a public document when presented to the Service Provider's public body for approval" (2013FOIA0784, p. 9). The facility contract was put into effect at some point in 2011. *In other words, the information in this IGSA already has been released to the City of Adelanto and is therefore by the terms of the IGSA itself already a public document!*

In light of public policy rationales and previous release of this information in numerous other contracts and RFPs, the obvious overwhelming benefit to the public outweighing nonexistent proprietary information rights, the demonstrable acute public interest in the government expenditures on immigration detention,¹ the numerous precedents of ICE and the predecessor Immigration and Naturalization Service releasing this information, and the IGSA's own statement that this has already "become a public document," I believe these redactions not only are in error, but are offensive to the objectives of this office and democracy. I am therefore requesting that your office remand and instruct the release of this information as soon as possible.

All of the redactions based on b4 are unlawful and should be removed and the costs, fees, and other contractual information released in accordance with the FOIA law pursuant to its implementation as directed by Attorney General Holder and as it has been released already to the public body in the City of Adelanto.

¹ See e.g., Patrick O'Connor, "Immigration Revamp to Aid Private Prisons," *Wall Street Journal*, (July 6, 2013), A5; Stephen Dinan, "Schumer's prison lobby ties alarm immigrant advocates, Senator aided by those who profit," *Washington Times*, April 3, 2013, A1; Jeff Ostrowski, "Slammed, but still prospering: Prison operator GEO Group continues to grow despite years of criticism from inmates, feds, about sloppy, gruesome practices" [Article critical of GEO immigration detention facility, subcontractor for Adelanto IGSA], *Palm Beach Post*, August 26, 2012, Florida Business Section, 1F.

II. ICE unlawfully has withheld substantial portions of the requested contract.

A) Missing initial signed contract by Adelanto City.

ICE has included signed modifications to the contract but has unlawfully withheld the originally signed contract of 03/31/2011 to which this refers. (See 2013FOIA0784, p. 59 and p. 113)

B) Missing all contract attachments and additional required documentation.

Note that p. 6 states that Appendices A-F "constitute the complete agreement." And yet none of these were included in my response. I am therefore requesting all of these, with the exception of Appendix B, *provided that it is identical with the ICE Design Standards in the 433 page pdf published by ICE in 2007, in which case the first page indicating the contract number will be sufficient.*

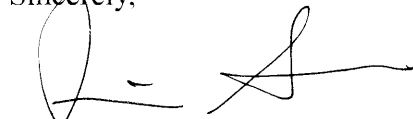
III. Missing "task order" specifying revision in funding referenced in PRO-13-L086.

Please see 2013FOIA0784, p. 144.

Please see above. This is a contractual modification of payments by ICE to the City of Adelanto and therefore subject to the scope of my request for contracts between ICE and the City of Adelanto since January 1, 2008.

Many thanks for your time and attention to these requests. If you have any questions please feel free to contact me at jacqueline-stevens@northwestern.edu or by phone at (847)467-2093.

Sincerely,



Jacqueline Stevens
Professor

Director
Deportation Research Clinic
Buffett Center on International and Comparative Studies

BOARD OF SUPERVISORS' COPY

United States Department of Justice
Immigration & Naturalization Service

Intergovernmental Service Agreement
Housing Detainees

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1. Agreement Number ACL-7-IGSA-0012	2. Effective Date DATE OF AWARD	3. Requisition Number
4. Issuing Office: Immigration and Naturalization Service Administrative Center, ACLADD P.O. Box 30080 Laguna Niguel, CA 92607-0080 Contact Person: Mary J. Johann, Contract Specialist Phone: (714) [REDACTED]		5. Facility Name and Address: Los Angeles County Sheriff's Department Mira Loma Facility 45100 North 60th Street West Lancaster, CA 93536 Contact Person: Sharon Burn, Sheriff's Services Coordinator Phone: (213) [REDACTED]
6. Accounting & Appropriation Data:		
7. Description of Agreement: The housing, safekeeping and substance of persons detained by the U.S. Immigration & Naturalization Service, as described in Block 9, and in accordance with the terms and conditions set forth herein.	8. Estimated Annual Usage: Estimated Detainee Days Annually: <u>500 per day</u> Fixed Rate Per Detainee Day: \$ <u>52.69</u> Estimate Annual Total: \$ <u>6,375,490.00</u>	
9. Type of Detainee: <input checked="" type="checkbox"/> Adult Male <input type="checkbox"/> Adult Female <input type="checkbox"/> Juvenile Male <input type="checkbox"/> Juvenile Female		
10. Government Entry Certification: <p style="text-align: center;"><i>To the best of my (our) knowledge and belief, data submitted in support of this Agreement is true and correct; this Agreement has been duly authorized by the governing body of the facility identified in Block 5; and the facility will comply with all PROVISIONS SET FORTH HEREIN.</i></p>		
SHERMAN BLOCK, SHERIFF <small>Name & Title (Type or Print)</small>	Signature	 Date: 1/29/97
Signature	Date	Name & Title (Type or Print)
11. This Agreement is hereby approved and accepted for THE UNITED STATES OF AMERICA, by direction of THE COMMISSIONER OF THE IMMIGRATION & NATURALIZATION SERVICE.		
 Contracting Officer Signature	Date: 1/29/97	LYNN P. KENTFIELD Name (Type or Print)

70531

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED
 DROIGSA070020/HSC5OP07FIG00035/P00025

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 2 3

NAME OF OFFEROR OR CONTRACTOR
 LOS ANGELES COUNTY SHERIFFS DEPARTMENT

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
0002	<p>IGSA INITIALLY NUMBERED/ISSUED AS ACL7IGSA0012</p> <p>The modification is issued to incorporate the following:</p> <p>a) Increase bed space capacity at Mira Loma Detention Facility from 1000 to 1400.</p> <p>b) Remove the tiered rates and replace them with a fixed price bed space rate of \$100.09 per detainee bed effective November 1, 2007.</p> <p>All other terms and conditions of the IGSA remain the same.</p> <p>LIST OF CHANGES: Total Amount for this Modification: \$51,145,990.00 New Total Amount for this Award: \$51,145,990.00 FOB: Destination</p> <p>Detention Services</p> <p>Accounting Info: \$51,145,990.00 (Subject to Availability of Funds)</p> <p>Funds are not presently available to fully fund this agreement.* The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.</p> <p>*Funding for the period of November 1, 2007 through November 16, 2007 will be provided in accordance with the 2008 Continuing Resolution.</p> <p>Contractor's Statement of Release In consideration of the modification agreed to herein as complete equitable adjustments for the Contractor's increase bed space capacity at Mira Loma Detention Facility from 1000 to 1400 and replace the tiered rate with a fixed price rate of \$100.09 "proposal for adjustment," the Contractor hereby releases the Government from Continued ...</p>	\$11000	DA	100.09	0.00