

# THREE BRANCHES LAW, PLLC

BY E-MAIL: (b)(6),(b)(7)(C)

June 18, 2018

(b)(6),(b)(7)(C)

Associate Legal Advisor  
Government Information Law Division  
Office of Principal Legal Advisor  
U.S. Immigration and Customs Enforcement

(b)(6),(b)(7)(C)

Assistant U.S. Attorney for ICE  
U.S. Department of Justice

RE: *Touhy* Notification for Subpoenas  
*State v. The GEO Group, Inc.*, U.S. District Court, W.D. WA, No. 3:17-  
cv-05806 RJB  
*Ugochukwu Goodluck Nwauzor v. GEO*, U.S. District Court, W.D.  
WA, ECF NO.: 3:17-cv-05769 RJB (formerly styled *Chao Chen v. The  
GEO Group, Inc.*)

Dear (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C)

We write in response to your June 15, 2018 email regarding GEO's *Touhy* letter in connection with the cases listed above. This letter confirms that GEO seeks to depose (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) for both cases, and outlines the categories of records GEO wishes to send to ICE for review.

GEO seeks to depose (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) because they are GEO's points of contact. (b)(6),(b)(7)(C) knows contracting and (b)(6),(b)(7)(C) knows detention standards to include those applicable to the VWP. GEO expects to focus its questions about GEO's contract processes and purposes to (b)(6),(b)(7)(C) and those questions specific to detention and detention standards to (b)(6),(b)(7)(C). GEO scheduled the depositions half day each back to back to eliminate any risk of duplication. GEO will allocate its time between the two witnesses based upon the responses provided, and has no desire to repeat the same examination for each. Nothing in *Touhy* or the rules obligate GEO to itemize each question that GEO will ask each witness. These are discovery depositions and GEO expects to adjust its examination to the answers provided by each witness. Surprisingly, OPLA and DOJ characterize them as "the wrong witnesses" while objecting to the subpoenas on grounds that GEO's itemized topics do not sufficiently describe the information sought. Thus, GEO questions the merits of the stated objections.

GEO takes issue with your recitation of past occurrences, specifically that the subpoenas were insufficient under *Touhy* or 6 C.F.R. §§ 5.41-5.49. Notably, GEO has briefed ICE on ICE's interests in this litigation since filing. ICE understands the issues and has expressed that it is interested in the litigation to DOJ. Thus, the subpoenas may not be fairly scrutinized as if the service date was the first time ICE learned of the dispute or the issues involved. Even congressional members have encouraged ICE to clarify that VWP program participation operates under ICE standards that do not recognize detainees as GEO's employees. See attached correspondence.

With regard to timing, GEO has little flexibility with timing to engage in a protracted *Touhy* debate. GEO must respond to a class certification motion expected June 21 and expert witness disclosures in the State case by July 18, 2018. GEO did not receive any written objection to its subpoenas until your letter e-mailed at 6:52 p.m. on June 12, 2018. By that time, Ms. Johnson was already working with Ms. Mell on perfecting testimony via declaration, causing GEO to stop perfecting a *Touhy* letter, believing ICE preferred to testify via declaration. Absent timely perfection of declarations, GEO had every intention of moving forward with the depositions as scheduled. GEO cannot agree to an indefinite delay. It was not until later in the day on June 14, 2018 that GEO heard that a protective order could not be handled locally. ICE/DOJ/OPLA, asked GEO to consider this complication, which it did promptly. GEO affirmed that ICE/DOJ/OPLA would not force GEO to incur duplicate expenses on service of subpoenas if GEO agreed to allow OPLA additional time to clarify its objections. With this consideration, GEO then agreed to renotice the deposition date as "swiftly" as possible. The next available dates available are July 24 and 25. These dates have been cleared with opposing counsel. All parties now wish to examine these witnesses and anticipate that the full seven hours allowed to depose a witness may be needed. GEO does not oppose scheduling each witness on back-to-back days, but GEO does not expect that full days are needed for its purposes alone. GEO still requests no more than half-day testimony for its examination.

You requested additional information concerning the documents we wish to send to you for ICE review. Plaintiffs in both the *Washington* and the *Nwauzor* cases have requested documents in accordance with Federal Rule of Civil Procedure 34, copies of which are attached to this letter. Generally, these requests pertain to detainee work and compensation at the Northwest Detention Center ("NWDC"), ICE's Contract Detention Facility in Tacoma, Washington. The documents we seek to provide you are responsive to these requests and include modifications of GEO's contract with ICE concerning the NWDC, communications with ICE, records concerning ICE inspections and audits of the NWDC, commissary reports, documents containing information regarding detainee identification and immigration status, and other documents that we believe contain sensitive information protected under the ICE-GEO contract.

The parties in the *Washington* and *Nwauzor* cases are currently negotiating a protective order to protect certain categories of information, including sensitive information covered by the ICE-GEO contract. The Attorney General's office in *Washington* has agreed to protect numerous categories of information including:

1. Personal medical records, including physical and mental health information;
2. Personal financial information, including non-public tax information, contracts, expenditure reports, and internal records of payment or cost summaries;
3. Business financial information, including non-public tax information, contracts, expenditure reports, and internal records of payment or cost summaries that incorporate a) staffing information and compensation, b) security information, or c) proprietary and competitive client and vendor information;
4. Personal immigration information or status, including resident identification numbers, A files, and all immigration administrative records and non-public immigration records;
5. Non-public criminal history and records, such as juvenile and victim records;
6. Personal location and identifying information, including home address, home phone number, cell phone number, email address, passport number, drivers' license number, social security number, and birthdate;
7. GEO safety and security-related policies and procedures and communications, including evacuation, fire safety, security system, staffing, physical plant, and emergency protocol information;
8. Internal GEO communications or reports regarding the administration of the Northwest Detention Center or any other facility or center operated by the GEO Group, including internal audits, and internal GEO communications containing proprietary and competitive staffing information or client and vendor information;
9. Communications with Immigration and Customs Enforcement ("ICE") officials containing sensitive or proprietary information regarding the administration of the Northwest Detention Center or any other facility or center operated by the GEO Group, including staffing information or competitive client and vendor information;
10. Communications with officials at the American Correctional Association ("ACA") and other accreditation bodies containing sensitive or proprietary information regarding the administration of the Northwest Detention Center or any other facility or center operated by the GEO Group, including staffing information or competitive client and vendor information;
11. Employee rosters and staffing plans; and
12. Non-public depictions of GEO facilities, including but not limited to, facility diagrams or layouts, photos, audio, and CCTV video.

We anticipate that counsel in *Nwauzor* will agree to a similar order protecting these identified categories.

The State notified GEO on Friday that it intends to file a motion to compel this Thursday, June 21, 2018. The State intends to argue that GEO must produce responsive documents to the State without waiting for ICE review or redactions. The State intends to argue that nothing in the ICE/GEO contract or applicable laws require GEO to give requested discovery to ICE to review prior to production. The State further expects that a protective order mitigates against any breach of confidentiality as if disclosure to the State, a public agency, subject to public record act disclosures, would not amount to an actual disclosure that violates confidentiality. Presumably, the *Nwauzor* plaintiffs will duplicate the State's motion. While GEO will oppose this motion and may simultaneously seek a protective order, the possibility remains that the court may direct GEO to produce responsive records without ICE review.

Although we are still reviewing, currently we have identified just over five thousand records comprised of fourteen thousand pages for your review responsive to both *Washington's* and *Nwauzor's* requests. These records have already been reviewed for relevance and responsiveness, but we have not applied redactions to these documents as we believe these documents do not require redaction. We anticipate that there will be a significant number of additional records, and based on current estimates as many as 125,000 responsive records. These additional records would include detainee files and other responsive documents containing individualized detainee information. The number of documents for your review will be somewhat lower, however, as we are slipsheeting non-responsive attachments to responsive records.

Discovery deadlines are fast approaching that require speedy review and production of these documents. While there is currently no court order in place designating a deadline for disclosure of the documents we intend to submit for ICE review, disclosure of expert testimony has been set for July 18, 2018; discovery must be completed by September 17, 2018; and trial is to begin on January 17, 2019. In light of upcoming discovery deadlines and pressure from the Attorney General's office, we would like to produce these documents as soon as possible, ideally within the next four weeks. We have been coordinating with (b)(6),(b)(7)(C) for several weeks concerning delivery of these documents and, as a result of these discussions, have prepared a secure platform that will provide you with access to our vendor's Relativity database to easily view these records. As we identify new productions, we will also be able to immediately provide you with access to these additional documents. We are currently waiting on (b)(6),(b)(7)(C) to provide us with the names and email addresses of the ICE personnel who will be reviewing these documents, in which case we can provide them with credentials and access to these records.

Let us know if you have any additional questions, and please do not hesitate to reach out to either of us for further clarification. (b)(6),(b)(7)(C) is taking the lead on written discovery and I am the lead on the depositions.

Very truly yours,  
III Branches Law, PLLC

(b)(6),(b)(7)(C)  


Local Counsel for GEO

(b)(6),(b)(7)(C)  


(b)(6),(b)(7)(C) for GEO

cc: Client

# **Exhibit A**

**State of WA First Interrogatories**



1 **II. COMMUNICATIONS**

2 **2.1** All notices, questions, or communications concerning all discovery requests  
3 including the below Interrogatories should be directed to La Rond Baker, Assistant Attorney  
4 General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 516-2999 or by  
5 email address: LaRondB@atg.wa.gov; and Marsha Chien, Assistant Attorney General, 800 Fifth  
6 Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 389-3886 or by email address:  
7 MarshaC@atg.wa.gov.

8 **III. DEFINITIONS**

9 **3.1** “Any” and “all” shall be construed as “any and all.”

10 **3.2** “And, “or,” and “and/or” shall be interpreted and construed as broadly as  
11 possible to make the discovery request inclusive rather than exclusive, so that information  
12 otherwise within the scope of the discovery request is not excluded.

13 **3.3** “Communication” means any conversations, meetings, correspondence,  
14 conference, and any other means or manner by which information or opinion is or was  
15 communicated to or received from others, whether written, electronic, or oral. The term  
16 includes every disclosure, transfer, exchange, or transmission of information, whether oral,  
17 written, or electronic, and whether face-to-face, by telecommunications, computer, mail,  
18 telecopier, facsimile (fax) machine, or otherwise.

19 **3.4** “Detainee” means any person detained at the Northwest Detention Center.

20 **3.5** “Document” means, without limitation, any “writing,” includes, without  
21 limitation, any book, pamphlet, report, memorandum, note, statement, minute, diary, transcript,  
22 working paper, telegram, letter, paper, chart, drawing, graph, photograph, publication, tape  
23 recording, videotaped or graphic matter, accounting material, records of purchase or sale,  
24 contracts, agreements, invoices, and any other existing source of stored information, whether  
25 written, printed, typed, recorded, stored in a computer, or filmed. The term includes originals  
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1 or duplicates of or copies of the writings, and non-identical copies bearing or having any  
2 attachments, notes or marks which distinguish them from the originals, and any electronic  
3 records, including, without limitation, electronic mail, spreadsheets, word processing files, and  
4 records saved as .pdf or other electronic files. Electronic mail subject to these discovery  
5 requests includes messages and/or attachments now only available on backup or archive tapes  
6 or disks. Also, if a print-out of an electronic record is a non-identical copy of the electronic  
7 version (for example, because the print-out has a signature, handwritten notation, or other mark  
8 or attachment not included in the computer document), both the electronic version in which the  
9 document was created and the original print-out must be produced. It includes “writings” and  
10 “recordings” as defined in ER 1001(a).

11 **3.6** “ICE” means the Immigration and Customs Enforcement agency of the United  
12 States Department of Homeland Security and all of its officers, principals, agents,  
13 representatives, and any parent, affiliate, sister, subsidiary, predecessor, successor or assignee  
14 of it, and its principals, operating divisions, present or former administrators, employees,  
15 servants, officers, directors, agents, representatives, attorneys, and any other persons or entities  
16 acting on behalf of or under the direction, authorization or control of ICE.

17 **3.7** “Identify” when applied to a natural person or entity means (a) to state the  
18 person or entity's full name, residence or business address and telephone number, and job title  
19 or position, and (b) to give the name, address, and telephone number of the person's employer,  
20 if known to you.

21 **3.8** “Identify” when applied to a business entity means to state the structure of the  
22 business (corporation, partnership, sole proprietorship, etc.), a brief description of the business,  
23 the registered agent for the business, the business address, and the business telephone number.

24 **3.9** “Identify” when applied to a document means (a) to state the nature of the  
25 document (e.g., item of correspondence, note, contract, etc.) in detail sufficient to enable the  
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1 document to be produced upon motion or request, (b) to give the specific location of the  
2 document (e.g., building name, street address, and room number), and (c) to give the name and  
3 address of the individual who has physical possession and control of the document.

4 **3.10** “Identify” when applied to a conversation means to separately state as to each  
5 communication: a) the date; b) the place at which it occurred or the medium involved; c) the  
6 persons involved and their last known addresses known to the answering party and their  
7 business affiliations at the time and presently; d) the substance of the communication; and e)  
8 the name and present address of any other person who, though not present or involved, possess  
9 information concerning the existence or nature of said communication.

10 **3.11** “Northwest Detention Center” means the facility located at 1623 J Street,  
11 Tacoma, Washington.

12 **3.12** “Person” means any individual, corporation, partnership, association, joint  
13 venture, commercial entity, limited liability company, governmental entity, municipality, firm,  
14 commission, or agency.

15 **3.13** “Relating”, “Reflect”, “Refer”, or “Pertaining To” as used herein shall mean  
16 any information which is relevant in any way to the subject matter, including without  
17 limitation to the foregoing, all information which contain, record, reflect, summarize, evaluate,  
18 comment upon, transmit or discuss the subject matter of any request, as well as drafts, work  
19 papers or other preparation material, exhibits shown or circulated at any meeting, and the text  
20 or notes of any oral or written presentation or conversation.

21 **3.14** “Relevant time period” means from November 1, 2005, to the present.

22 **3.15** To “state the basis” for an allegation, denial, claim, contention, or assertion  
23 means to: (a) state all facts and circumstances upon which it is based, in whole or in part, or  
24 which relate or pertain to it, including any pertinent statute or regulation and every theory of  
25 law upon which it is based; (b) identify all documents supporting, refuting, describing,  
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1 commenting upon, pertaining to, or otherwise relating to it; (c) identify all persons having  
2 knowledge of it, including the circumstances under which they came to have such knowledge;  
3 and (d) identify all persons who provided the information upon which Your response is based.

4 **3.16** “You” and “Your” and “GEO Group” refers to The GEO Group, Inc. and any  
5 parent, affiliate, sister, subsidiary, predecessor, successor or assignee of it, and its principals,  
6 operating divisions, present or former owners, employees, servants, officers, directors, agents,  
7 representatives, attorneys, accountants, independent contractors, distributors, and any other  
8 persons or entities acting on behalf of or under the direction, authorization or control of The  
9 GEO Group, Inc., including any foreign or overseas affiliates.

#### 10 **IV. INSTRUCTIONS**

11 **4.1** These discovery requests request production of all described documents and  
12 information in Your possession, custody or control without regard to the person or persons by  
13 whom or for whom the documents were prepared (e.g., Your employees, distributors,  
14 representatives, competitors, or others).

15 **4.2** Each discovery request including the below Interrogatories shall be accorded a  
16 separate answer. For the convenience of the parties and the Court, please quote each Request  
17 for Admission, Interrogatory, and Request for Production in full immediately preceding the  
18 answer thereto.

19 **4.3** This request includes documents in possession of Your employees, agents,  
20 representatives, and attorneys, unless privileged. If any document or information is withheld  
21 under claim of privilege, identify the document and state the basis for the privilege, and  
22 provide a detailed privilege log that contains at least the following information for each  
23 document or information that You have withheld:

- 24 a. The name of each author, writer, sender, creator, or initiator of such  
25 document, and each such person’s title and his or her employer or firm;  
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- 1           b.     The name of all recipients, addressees, or parties for whom such  
2           document was intended or to whom the document was sent;  
3           c.     The date of such document, or an estimate thereof if no date appears on  
4           the document;  
5           d.     The Request for Admission, Interrogatory, or Request for Production to  
6           which the allegedly privileged document corresponds.  
7           e.     The general subject matter of the document; and  
8           f.     The claimed grounds for withholding the document, including, but not  
9           limited to, the nature of any claimed privilege and grounds in support  
10          thereof, stated in a manner that does not reveal privileged information  
11          but that provides information sufficiently detailed so as to enable the  
12          State to assess the applicability of the privileged claimed.

13           **4.4**     Pursuant to CR 26(e), these discovery requests including the below  
14     Interrogatories impose a continuing duty to supplement Your responses in the event additional  
15     documents and information comes into Your knowledge, possession, custody or control after  
16     Your initial production of responses to the requests.

17           **4.5**     Your responses to these discovery requests including the below Interrogatories  
18     are to be inclusive rather than exclusive. If the language of any of these discovery requests  
19     including the below Interrogatories is phrased in the singular, the Interrogatory includes the  
20     plural, and if the language of a Interrogatory is phrased in the plural, the Interrogatory includes  
21     the singular.

22           **4.6**     If You cannot answer an Interrogatory completely, You must answer to the  
23     extent possible and identify with specificity the part(s) which You cannot answer completely.

24           **4.7**     If You object to responding to part of a Interrogatory, You are required to  
25     furnish the information that is outside the scope of Your partial objection.  
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1           **4.8**     In each instance in which a document is produced in response to a discovery  
2 request, produce the current edition, along with all earlier editions or predecessor documents  
3 serving the same function, even though the title of earlier documents may differ from current  
4 versions.

5           **4.9**     The following procedures shall apply to the production of documents and  
6 information in response to these discovery requests including the below Interrogatories:

- 7           a.     The recipient of these Interrogatories shall label each responsive  
8 document or answer (i.e., Response to Request No. 1, Response to  
9 Request No. 2, and so forth), group all documents responsive to a  
10 particular request together, and place a label on each group of  
11 documents which identifies the corresponding discovery request;
- 12          b.     All attachments to responsive documents or information shall be  
13 produced with, and attached to, the responsive documents (or digitally in  
14 corresponding order);
- 15          c.     Each responsive document or information shall be produced in its  
16 entirety and no portion of any document or information shall be edited,  
17 cut, masked, redacted or otherwise altered, unless for applicable  
18 privilege which shall be logged according to the procedures set forth  
19 above;
- 20          d.     The recipient of these Interrogatories shall provide a key to all  
21 abbreviations used in the documents or information and shall attach the  
22 key to the corresponding documents or information.

23           **4.10**   Documents or information that may be responsive to more than one (1)  
24 numbered request in these discovery requests need not be submitted more than once. However,  
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1 for each such document or information, the recipient of these, Interrogatories shall identify all  
2 of the numbered requests to which the Document or information is responsive.

3 **4.11** You shall consecutively number each page of all documents or information  
4 produced with Your response and indicate the total number of pages produced with Your  
5 response. This page numbering must be separate from and must not alter any original page  
6 numbering on the responsive documents or information.

7 **4.12** Your responses to these discovery requests should include all relevant  
8 electronically stored information in Your possession, custody, or control. Washington  
9 considers electronically stored information to be an irreplaceable source of evidence in this  
10 matter. Accordingly, the State of Washington insists that you implement appropriate  
11 safeguards against the destruction of evidence until the final resolution of this issue.

12 **4.13** Production of electronically stored information and other documents in  
13 electronic format shall conform to the standards set forth in Exhibit A, which is attached to this  
14 document.

15 **4.14** If You are unable to fully answer any discovery request including any of the  
16 below Interrogatories, supply all of whatever information is actually available. Designate such  
17 incomplete information as incomplete and accompany the information with an explanation that  
18 includes the reasons for the incomplete answer; a description of any and all of Your efforts to  
19 obtain the information; and the source from which the Office of the Attorney General may  
20 obtain information to complete Your response. If books, records, or other sources that provide  
21 accurate answers are not available, provide Your best estimates and describe how You derived  
22 the estimates, including the sources or bases of such estimates. Designate estimated data as  
23 such by marking it with the "est." notation. If there is no reasonable way for you to make an  
24 estimate, provide an explanation.  
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**INTERROGATORY NO. 4:** Please identify the procedure by which GEO can request a modification to the contract that governs GEO’s provision of detention services to Immigration and Customs Enforcement for increased costs, including increases to the rate ICE reimburses GEO for detainee-workers wages.

**RESPONSE:**

**INTERROGATORY NO. 5:** Explain how Your policies and practices governing the Voluntary Work Program are/were developed, implemented, and disseminated, including any training provided regarding the policies and practices.

**RESPONSE:**

**INTERROGATORY NO. 6:** If Your policies and practices with regard to the Voluntary Work Program have changed at any point during the relevant time period, describe each such change with particularity.

**RESPONSE:**



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DATED this 5th day of January, 2018.

ROBERT W. FERGUSON  
Attorney General

/s/ La Rond Baker  
LA ROND BAKER, WSBA #47020  
MARSHA CHIEN, WSBA #47020  
Assistant Attorneys General  
Civil Rights Unit  
Attorney General of Washington  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(206) 516-2999  
[larondb@atg.wa.gov](mailto:larondb@atg.wa.gov)  
[marshac@atg.wa.gov](mailto:marshac@atg.wa.gov)

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**DECLARATION OF SERVICE**

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

Electronic Service (by agreement of counsel) to:

Joan Mell  
III Branches Law PLLC  
1019 Regents Blvd Ste 204  
Fircrest, WA 98466-6037  
Email: joan@3brancheslaw.com  
Phone: (253) 566-2510  
Fax: (281) 664-4643

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 5<sup>th</sup> day of January, 2018, at Seattle, Washington.

/s/ La Rond Baker

# **Exhibit B**

**State of WA First RFP**



1 **II. COMMUNICATIONS**

2 **2.1** All notices, questions, or communications concerning all discovery requests  
3 including the below Requests for Production should be directed to La Rond Baker, Assistant  
4 Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 516-  
5 2999 or by email address: LaRondB@atg.wa.gov; and Marsha Chien, Assistant Attorney General,  
6 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 389-3886 or by email  
7 address: MarshaC@atg.wa.gov.

8 **III. DEFINITIONS**

9 **3.1** “Any” and “all” shall be construed as “any and all.”

10 **3.2** “And, “or,” and “and/or” shall be interpreted and construed as broadly as  
11 possible to make the discovery request inclusive rather than exclusive, so that information  
12 otherwise within the scope of the discovery request is not excluded.

13 **3.3** “Communication” means any conversations, meetings, correspondence,  
14 conference, and any other means or manner by which information or opinion is or was  
15 communicated to or received from others, whether written, electronic, or oral. The term  
16 includes every disclosure, transfer, exchange, or transmission of information, whether oral,  
17 written, or electronic, and whether face-to-face, by telecommunications, computer, mail,  
18 telecopier, facsimile (fax) machine, or otherwise.

19 **3.4** “Detainee” means any person detained at the Northwest Detention Center.

20 **3.5** “Document” means, without limitation, any “writing,” includes, without  
21 limitation, any book, pamphlet, report, memorandum, note, statement, minute, diary, transcript,  
22 working paper, telegram, letter, paper, chart, drawing, graph, photograph, publication, tape  
23 recording, videotaped or graphic matter, accounting material, records of purchase or sale,  
24 contracts, agreements, invoices, and any other existing source of stored information, whether  
25 written, printed, typed, recorded, stored in a computer, or filmed. The term includes originals  
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1 or duplicates of or copies of the writings, and non-identical copies bearing or having any  
2 attachments, notes or marks which distinguish them from the originals, and any electronic  
3 records, including, without limitation, electronic mail, spreadsheets, word processing files, and  
4 records saved as .pdf or other electronic files. Electronic mail subject to these discovery  
5 requests includes messages and/or attachments now only available on backup or archive tapes  
6 or disks. Also, if a print-out of an electronic record is a non-identical copy of the electronic  
7 version (for example, because the print-out has a signature, handwritten notation, or other mark  
8 or attachment not included in the computer document), both the electronic version in which the  
9 document was created and the original print-out must be produced. It includes “writings” and  
10 “recordings” as defined in ER 1001(a).

11 **3.6** “ICE” means the Immigration and Customs Enforcement agency of the United  
12 States Department of Homeland Security and all of its officers, principals, agents,  
13 representatives, and any parent, affiliate, sister, subsidiary, predecessor, successor or assignee  
14 of it, and its principals, operating divisions, present or former administrators, employees,  
15 servants, officers, directors, agents, representatives, attorneys, and any other persons or entities  
16 acting on behalf of or under the direction, authorization or control of ICE.

17 **3.7** “Identify” when applied to a natural person or entity means (a) to state the  
18 person or entity's full name, residence or business address and telephone number, and job title  
19 or position, and (b) to give the name, address, and telephone number of the person's employer,  
20 if known to you.

21 **3.8** “Identify” when applied to a business entity means to state the structure of the  
22 business (corporation, partnership, sole proprietorship, etc.), a brief description of the business,  
23 the registered agent for the business, the business address, and the business telephone number.

24 **3.9** “Identify” when applied to a document means (a) to state the nature of the  
25 document (e.g., item of correspondence, note, contract, etc.) in detail sufficient to enable the  
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1 document to be produced upon motion or request, (b) to give the specific location of the  
2 document (e.g., building name, street address, and room number), and (c) to give the name and  
3 address of the individual who has physical possession and control of the document.

4 **3.10** “Identify” when applied to a conversation means to separately state as to each  
5 communication: a) the date; b) the place at which it occurred or the medium involved; c) the  
6 persons involved and their last known addresses known to the answering party and their  
7 business affiliations at the time and presently; d) the substance of the communication; and e)  
8 the name and present address of any other person who, though not present or involved, possess  
9 information concerning the existence or nature of said communication.

10 **3.11** “Northwest Detention Center” means the facility located at 1623 J Street,  
11 Tacoma, Washington.

12 **3.12** “Person” means any individual, corporation, partnership, association, joint  
13 venture, commercial entity, limited liability company, governmental entity, municipality, firm,  
14 commission, or agency.

15 **3.13** “Relating”, “Reflect”, “Refer”, or “Pertaining To” as used herein shall mean  
16 any information which is relevant in any way to the subject matter, including without  
17 limitation to the foregoing, all information which contain, record, reflect, summarize, evaluate,  
18 comment upon, transmit or discuss the subject matter of any request, as well as drafts, work  
19 papers or other preparation material, exhibits shown or circulated at any meeting, and the text  
20 or notes of any oral or written presentation or conversation.

21 **3.14** “Relevant time period” means from November 1, 2005, to the present.

22 **3.15** To “state the basis” for an allegation, denial, claim, contention, or assertion  
23 means to: (a) state all facts and circumstances upon which it is based, in whole or in part, or  
24 which relate or pertain to it, including any pertinent statute or regulation and every theory of  
25 law upon which it is based; (b) identify all documents supporting, refuting, describing,  
26





1 document was intended or to whom the document was sent;

2 c. The date of such document, or an estimate thereof if no date appears on  
3 the document;

4 d. The Request for Production to which the allegedly privileged document  
5 corresponds.

6 e. The general subject matter of the document; and

7 f. The claimed grounds for withholding the document, including, but not  
8 limited to, the nature of any claimed privilege and grounds in support  
9 thereof, stated in a manner that does not reveal privileged information  
10 but that provides information sufficiently detailed so as to enable the  
11 State to assess the applicability of the privileged claimed.

12 **4.4** Pursuant to CR 26(e), these discovery requests including the below Requests for  
13 Production impose a continuing duty to supplement Your responses in the event additional  
14 documents and information comes into Your knowledge, possession, custody or control after  
15 Your initial production of responses to the requests.

16 **4.5** Your responses to these discovery requests including the below Requests for  
17 Production are to be inclusive rather than exclusive. If the language of any of these discovery  
18 requests including the below Requests for Production is phrased in the singular, the Request  
19 includes the plural, and if the language of a Request is phrased in the plural, the Request  
20 includes the singular.

21 **4.6** If You cannot answer a Request completely, You must answer to the extent  
22 possible and identify with specificity the part(s) which You cannot answer completely.

23 **4.7** If You object to responding to part of a Request, You are required to furnish the  
24 information that is outside the scope of Your partial objection.  
25  
26

1           **4.8**     In each instance in which a document is produced in response to a discovery  
2 request, produce the current edition, along with all earlier editions or predecessor documents  
3 serving the same function, even though the title of earlier documents may differ from current  
4 versions.

5           **4.9**     The following procedures shall apply to the production of documents and  
6 information in response to these discovery requests including the below Requests for  
7 Production:

- 8           a.     The recipient of these Requests shall label each responsive document or  
9 answer (i.e., Response to Request No. 1, Response to Request No. 2, and  
10 so forth), group all documents responsive to a particular request  
11 together, and place a label on each group of documents which identifies  
12 the corresponding discovery request;
- 13           b.     All attachments to responsive documents or information shall be  
14 produced with, and attached to, the responsive documents (or digitally in  
15 corresponding order);
- 16           c.     Each responsive document or information shall be produced in its  
17 entirety and no portion of any document or information shall be edited,  
18 cut, masked, redacted or otherwise altered, unless for applicable  
19 privilege which shall be logged according to the procedures set forth  
20 above;
- 21           d.     The recipient of these Requests for Admission shall provide a key to all  
22 abbreviations used in the documents or information and shall attach the  
23 key to the corresponding documents or information.

24           **4.10**   Documents or information that may be responsive to more than one (1)  
25 numbered request in these discovery requests need not be submitted more than once. However,  
26

1 for each such document or information, the recipient of these Requests for Production shall  
2 identify all of the numbered requests to which the Document or information is responsive.

3 **4.11** You shall consecutively number each page of all documents or information  
4 produced with Your response and indicate the total number of pages produced with Your  
5 response. This page numbering must be separate from and must not alter any original page  
6 numbering on the responsive documents or information.

7 **4.12** Your responses to these discovery requests should include all relevant  
8 electronically stored information in Your possession, custody, or control. Washington  
9 considers electronically stored information to be an irreplaceable source of evidence in this  
10 matter. Accordingly, the State of Washington insists that you implement appropriate  
11 safeguards against the destruction of evidence until the final resolution of this issue.

12 **4.13** Production of electronically stored information and other documents in  
13 electronic format shall conform to the standards set forth in Exhibit A, which is attached to this  
14 document.

15 **4.14** If You are unable to fully answer any discovery request including any of the  
16 below Requests for Production, supply all of whatever information is actually available.  
17 Designate such incomplete information as incomplete and accompany the information with an  
18 explanation that includes the reasons for the incomplete answer; a description of any and all of  
19 Your efforts to obtain the information; and the source from which the Office of the Attorney  
20 General may obtain information to complete Your response. If books, records, or other sources  
21 that provide accurate answers are not available, provide Your best estimates and describe how  
22 You derived the estimates, including the sources or bases of such estimates. Designate  
23 estimated data as such by marking it with the "est." notation. If there is no reasonable way for  
24 you to make an estimate, provide an explanation.  
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1 **REQUEST FOR PRODUCTION NO. 4:** Please produce all documents that are referenced  
2 in, support, or that form the basis of Your response to Interrogatory 4.

3 **RESPONSE:**  
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9 **REQUEST FOR PRODUCTION NO. 5:** Please produce all documents that are referenced  
10 in, support, or that form the basis of Your response to Interrogatory 5.

11 **RESPONSE:**  
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18 **REQUEST FOR PRODUCTION NO. 6:** Please produce all documents that are referenced  
19 in, support, or that form the basis of Your response to Interrogatory 6.

20 **RESPONSE:**  
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2 **REQUEST FOR PRODUCTION NO. 7:** Please produce a corporate organization chart that  
3 includes all of The GEO Group, Inc.’s parent, subsidiary (whether wholly or partially owned),  
4 and affiliated entities.

5 **RESPONSE:**  
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11 **REQUEST FOR PRODUCTION NO. 8:** Please produce, in full, any and all bids and/or  
12 contracts between The GEO Group, Inc. and Immigration and Customs Enforcement (“ICE”)  
13 regarding the Northwest Detention Center.

14 **RESPONSE:**  
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20 **REQUEST FOR PRODUCTION NO. 9:** Please produce all The GEO Group, Inc. policies  
21 regarding the Voluntary Work Program at the Northwest Detention Center.

22 **RESPONSE:**  
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2 **REQUEST FOR PRODUCTION NO. 10:** Please produce all handbooks issued to detainees  
3 regarding the Northwest Detention Center.

4 **RESPONSE:**  
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10 **REQUEST FOR PRODUCTION NO. 11:** Please produce all The GEO Group, Inc.'s  
11 documents related to the Voluntary Work Program and ICE's Performance Based National  
12 Detention Standard 5.8 including policies, memorandum, handbooks, and documents.

13 **RESPONSE:**  
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18 **REQUEST FOR PRODUCTION NO. 12:** Please produce all The GEO Group, Inc.'s  
19 communications related to the Voluntary Work Program and ICE's Performance Based National  
20 Detention Standard 5.8, with and between The GEO Group, Inc., ICE, any governmental entities,  
21 community stakeholders, or anyone else.

22 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 13:** Please produce all documents that would show  
2 how many hours detainee-workers have worked at the Northwest Detention Center since 2005.

3 **RESPONSE:**  
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9 **REQUEST FOR PRODUCTION NO. 14:** Please produce all documents regarding the  
10 process by which detainee workers are paid for participating in the Voluntary Work Program.

11 **RESPONSE:**  
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18 **REQUEST FOR PRODUCTION NO. 15:** Please produce all documents regarding the  
19 process by which detainee workers' are terminated from participating in the Voluntary Work  
20 Program.

21 **RESPONSE:**  
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2 **REQUEST FOR PRODUCTION NO. 16:** Please produce all documents regarding the  
3 process by which detainee workers' efforts are reviewed.

4 **RESPONSE:**  
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8 **REQUEST FOR PRODUCTION NO. 17:** Please produce all documents regarding the  
9 process by which detainee workers are terminated from participating in the Voluntary Work  
10 Program

11 **RESPONSE:**  
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16 DATED this 5th day of January, 2018.

17  
18 ROBERT W. FERGUSON  
19 Attorney General

20 /s/ La Rond Baker  
21 LA ROND BAKER, WSBA #47020  
22 MARSHA CHIEN, WSBA #47020  
23 Assistant Attorneys General  
24 Civil Rights Unit  
25 Attorney General of Washington  
26 800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(206) 516-2999  
[larondb@atg.wa.gov](mailto:larondb@atg.wa.gov)  
[marshaC@atg.wa.gov](mailto:marshaC@atg.wa.gov)

1 **DECLARATION OF SERVICE**

2 I certify that I served a copy of this document on all parties or their counsel of record  
3 on the date below as follows:

4  Electronic Service (by agreement of counsel) to:

5  
6 Joan Mell  
7 III Branches Law PLLC  
8 1019 Regents Blvd Ste 204  
9 Fircrest, WA 98466-6037  
10 Email: joan@3brancheslaw.com  
11 Phone: (253) 566-2510  
12 Fax: (281) 664-4643

13  
14 I certify under penalty of perjury under the laws of the state of Washington that the  
15 foregoing is true and correct.

16  
17 DATED this 5<sup>th</sup> day of January, 2018, at Seattle, Washington.

18 /s/ La Rond Baker

# **Exhibit C**

**State of WA First Interrogatories and RFP**

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHAO CHEN, individually and on behalf of  
all those similarly situated,

Plaintiff,

v.

THE GEO GROUP, INC., a Florida  
corporation,

Defendant.

No. 17-cv-05769-RJB

PLAINTIFF'S FIRST  
INTERROGATORIES AND  
REQUESTS FOR PRODUCTION TO  
DEFENDANT

TO: The GEO Group, Inc., Defendant;

AND TO: Joan K. Mell, Charles A. Deacon, and Mark Emery, its attorneys of record:

Pursuant to Federal Rule of Civil Procedure 26, 33, and 34, Plaintiff Chao Chen hereby requests that you answer the following interrogatories under oath, and produce documents, electronically stored information, and other tangible things to all counsel for plaintiff, including Schroeter Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington, 98104, within thirty (30) days after these discovery requests are served upon you.

**DEFINITIONS & INSTRUCTIONS**

1. The following definitions apply throughout these requests:

a. "Answer" means the Answer filed by you in the above-captioned

1 lawsuit.

2           b.     “Class members” means all current and former civil immigration  
3 detainees who participated in the “Voluntary Work Program” at the Northwest Detention  
4 Center at any time from three years prior to the filing of the Complaint and continuing  
5 thereafter.

6           c.     “Class period” means any time from three years prior to the filing of  
7 the Complaint and continuing thereafter.

8           d.     “Complaint” means the Complaint filed against you in the above-  
9 captioned lawsuit.

10           e.     “Defendant,” “you,” and “your” refer to The GEO Group, Inc., as  
11 well as its attorneys, agents, employees, officers, representatives, adjusters, investigators,  
12 predecessors, successors, and other representatives, and any other person acting on its behalf  
13 or under its control or direction.

14           f.     “Describe in detail” means to set out every aspect of every fact,  
15 circumstance, act, omission, or course of conduct known to you, relating in any way to the  
16 matter inquired about, including, without limitation, the relevant dates, times and places, the  
17 identity of each person present or connected with, or who has knowledge of the matter  
18 inquired about, and if anything was said by any person, the identity of each such person and  
19 each such statement, and the identity of any documents concerning the matter inquired about.

20           g.     “Detainee” means any person detained at the Northwest Detention  
21 Center.

22           h.     “Document” is synonymous in meaning and equal in scope to the  
23 terms “documents” and “electronically stored information” as used in Rule 34(a)(1)(A), and  
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1 includes any written, recorded, or other graphic matter, however produced or reproduced.  
2 This definition includes, for example, papers, writings, emails, text messages, instant  
3 messages, drawings, graphs, charts, calendars, diaries, notes, drafts, photographs, sound  
4 recordings, images, film or video, and other data or data compilations stored in any medium.  
5 The term “document” includes documents you possess or over which you have control, as  
6 well as documents in another’s possession, of which you are aware. If a document has been  
7 prepared in several copies, or if additional copies have been made, and the copies are not  
8 identical or have undergone alteration, then each non-identical copy is a separate  
9 “document.”  
10

11 i. “ICE” means U.S. Immigration and Customs Enforcement and any  
12 person acting on its behalf, including Thomas Homan, Acting Director of ICE, and its  
13 directors, officers, employees, agents, representatives, investigators, consultants, and  
14 attorneys.  
15

16 j. “Identify” when referring to a document means to state: (a) the type of  
17 document, (b) the general subject matter of the document, (c) the date of the document, (d)  
18 the author or authors, according to the document, and (e) the person or persons to whom,  
19 according to the document, the document (or a copy) was to have been sent. Alternatively,  
20 instead of summarizing the document’s contents in this way, you may simply produce a copy  
21 of the subject document. If for some reason it cannot be produced, state its present location  
22 and the name and address of the custodian, and why it cannot be produced.  
23

24 k. “Identify” when referring to a natural person means to state the  
25 person’s (a) full name, (b) present or last know residential address, (c) present or last known  
26 cellular and telephone numbers, (d) present or last known email address(es), and (e) present

1 or last known employer and job title or job description. Once a person has been identified in  
2 accordance with this subparagraph, only the name of that person need be listed in response to  
3 subsequent discovery requesting the identity of that person.

4 l. "Identify" when referring to an entity or organization means to give (a)  
5 the legal name of the entity or organization, (b) any business or assumed name under which it  
6 does, or has done, business, (c) the address(es) of its principal place of business, (d) its main  
7 telephone number, and (e) website(es), if any.

8 m. "NWDC" means the Northwest Detention Center in Tacoma,  
9 Washington.

10 n. "Person" means any natural person, partnership, corporation, firm,  
11 association, or other business or legal entity.

12 o. "Plaintiff" means Plaintiff Chao Chen.

13 p. "Refers to" and "relates to" mean all matters or things that in any way  
14 refer to, relate to, describe, evidence, discuss, pertain to, constitute, bear upon, support,  
15 refute, undercut, or comment in any way upon the matter inquired about.

16 q. "Voluntary Work Program" refers to the program at NWDC involving  
17 labor performed by detainees for monetary compensation.

18 r. Any other words used in these requests will be defined according to  
19 standard American English usage as shown in a dictionary of the English language.

20 s. "And" means "and/or".

21 2. These interrogatories and requests for production seek information and  
22 documents within your possession, custody, or control, including information known to, and  
23 documents within the possession of you and your attorneys, agents, or other representatives.  
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1           3.     If a document responsive to an interrogatory or request for production was  
2 destroyed or disposed of, or is otherwise no longer in your care, custody, or control, state  
3 what disposition was made of the document, the reason for such disposition, the date upon  
4 which it was so disposed and, if applicable, the person who now has possession, custody, or  
5 control of the document.

6           4.     Objections and claims of privilege should not be made in a general, blanket  
7 fashion. Instead, you must indicate which objections or claims of privilege are asserted with  
8 regard to each interrogatory or request for production, and whether you have in fact withheld  
9 any document or information on the basis of your objection.

10           5.     With regard to claims of privilege, you must describe the factual and legal  
11 basis for your privilege claims on a privilege log to include the document type (*e.g.*, email,  
12 etc.) relevant dates, persons involved in the communication, subject matters involved, all  
13 persons present when the communications occurred, all persons who have been told about  
14 any details of the communication, and other information that would permit the Court to  
15 decide the validity of your privilege claims.

16           6.     In responding to each request for production, please identify by number the  
17 request(s) to which the documents are responsive. A document that responds to more than  
18 one request, however, may be produced and referred to in a later response if the relevant  
19 portion is marked or indexed.

20           7.     If any part of a document is responsive to any of the following discovery  
21 requests, the entire document must be produced, along with any attachments, drafts, and  
22 “non-identical” copies. A document is to be considered non-identical if it contains any  
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1 comment, notation, or marking not contained on the produced original; any draft or  
2 preliminary form is also a non-identical document.

3 8. Emails and other electronically store information should be produced with  
4 Optical Character Recognition (“OCR”) searchable text. Acceptable formats include  
5 searchable Portable Document Format (“PDF”) files, multi-page Tagged Image File Format  
6 (“TIFF” or “TIF”) with a companion OCR or extracted text file, and single-page TIFFs with  
7 load files for e-discovery software (*i.e.*, DAT or OPT) that includes metadata fields  
8 identifying natural document breaks and also includes companion OCR and/or extracted text  
9 files.  
10

11 9. The following metadata fields should be produced for emails and other  
12 electronically stored information: document type; custodian and duplicate custodians;  
13 author/from; recipient/to, cc and bcc; title/subject; file name and size; original file path; date  
14 and time created, sent, modified and/or received; and hash value.  
15

16 10. Files such as spreadsheets and drawing files, or other files that are not easily  
17 converted to image format, should be produced in native format.

18 11. These interrogatories and requests for production are a continuing obligation  
19 upon you to provide all information requested below until final disposition of this case.  
20 Corrections and supplemental answers are required under Federal Civil Rule 26.  
21

22 12. Failing to comply with your duty to correct or supplement answers and  
23 responses may subject you to sanctions under Federal Civil Rule 37, including, but not  
24 limited to, the exclusion of evidence favorable to you.  
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26

1 INTERROGATORIES AND REQUESTS FOR PRODUCTION

2 **INTERROGATORY NO. 1:** Please identify each person answering or supplying  
3 information used in answering these discovery requests.

4 **ANSWER:**  
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7 **INTERROGATORY NO. 2:** Please state the number of detainees who participated in the  
8 Voluntary Work Program at NWDC during the class period.

9 **ANSWER:**  
10

11 **INTERROGATORY NO. 3:** Identify all class members as defined above. Your answer  
12 should also include the Alien Registration Number (a/k/a "A-Number") of each class  
13 member.  
14

15 **ANSWER:**  
16

17 **INTERROGATORY NO. 4:** For each class member identified in response to Interrogatory  
18 No. 3, please describe in detail the following:

- 19 a. dates of detention at NWDC (*i.e.*, start and end of detention, if applicable) for  
20 each class member;  
21  
22 b. hours worked as part of the Voluntary Work Program for each week of the class  
23 period;  
24  
25 c. compensation provided in each week during the class period, broken down by  
26 category of compensation.

1 **ANSWER:**

2  
3 **REQUEST FOR PRODUCTION A:** Please produce all documents that relate to your  
4 answer to the preceding Interrogatory.

5 **RESPONSE:**

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8 **INTERROGATORY NO. 5:** Describe in detail your policies, practices, and procedures  
9 referring or relating to the Voluntary Work Program at NWDC. At a minimum, your answer  
10 should describe the following:

- 11 a. detainee eligibility requirement(s);  
12 b. detainee sign up procedure(s);  
13 c. minimum skill or experience requirement(s) for any work assignment, task, or  
14 other duty;  
15 d. your selection process for eligible detainees;  
16 e. how work assignments are made;  
17 f. type(s) of work, tasks, or other duties assigned;  
18 g. detainee compensation;  
19 h. disciplinary process related to poor performance;  
20 i. supervision of detainees.  
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23 **ANSWER:**

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25 **REQUEST FOR PRODUCTION B:** Please produce all documents that relate to your  
26 answer to the preceding Interrogatory.

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**RESPONSE:**

**REQUEST FOR PRODUCTION C:** Please produce all documents that relate or refer to the Voluntary Work Program at NWDC, including, but not limited to, all internal emails, memoranda, or other documents discussing the Voluntary Work Program.

**RESPONSE:**

**INTERROGATORY NO. 6:** Please describe in detail the system or procedure you use(d) for tracking or recording work hours and work assignments performed by detainees participating in the Voluntary Work Program, and identify all documents use(d) for tracking or recording such hours and assignments (*e.g.*, punched timecards, handwritten time sheets, or recording by a computerized time records). For all documents identified, please state the following:

- a. The policies or procedures in effect for preserving the integrity of the documents;
- b. The retention period(s) for such documents;
- c. All persons having custody of such records.

**ANSWER:**

**REQUEST FOR PRODUCTION D:** Please produce all documents that relate to your answer to the preceding Interrogatory.

**RESPONSE:**

1 **INTERROGATORY NO. 7:** Please describe in detail how you determined the offset  
2 amount of \$17.12 per hour described on page three of your Rule 26 Initial Disclosures dated  
3 December 20, 2017.

4 **ANSWER:**

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7 **REQUEST FOR PRODUCTION E:** Please produce all documents that relate to your  
8 answer to the preceding Interrogatory.

9 **RESPONSE:**

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11 **REQUEST FOR PRODUCTION F:** Please produce copies of your financial statements or  
12 other documents reflecting both budgeted and actual expenditures on detainee room,  
13 clothing, food, laundry, utilities, and any other expenses for which you now seek an offset,  
14 from September 26, 2013, to the present.

15  
16 **RESPONSE:**

17  
18 **REQUEST FOR PRODUCTION G:** Please produce copies of your financial statements,  
19 both annually and quarterly, including by not limited to certified financials (*i.e.*, income  
20 statement, cash flow, balance sheet) and disclosures to state and federal taxing authorities,  
21 from September 26, 2013, to present.

22  
23 **RESPONSE:**

1 **INTERROGATORY NO. 8:** Please identify any and all detainees at NWDC from whom  
2 you have sought reimbursement for your costs or expenditures related to their detainment  
3 (*e.g.*, room, clothing, food, laundry, utilities).

4 **ANSWER:**

6  
7 **INTERROGATORY NO. 9:** Please describe in detail any investments in equipment or  
8 materials you received from, or require of, detainees who participate in the Voluntary Work  
9 Program.

10 **ANSWER:**

12 **REQUEST FOR PRODUCTION H:** Please produce all documents that relate to your  
13 answer to the preceding Interrogatory.

15 **RESPONSE:**

17 **INTERROGATORY NO. 10:** Please describe in detail all jobs, tasks, or other duties  
18 performed by detainees participating in the Voluntary Work Program at NWDC that are also  
19 performed by your employees or independent contractors, and identify all employees or  
20 independent contractors performing such jobs, tasks, or other duties.

22 **ANSWER:**

24 **REQUEST FOR PRODUCTION I:** Please produce all documents that relate to your answer  
25 to the preceding Interrogatory.

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**RESPONSE:**

**REQUEST FOR PRODUCTION J:** Please produce a copy of the job descriptions of all employees and independent contractors identified in your response to Interrogatory No. 10.

**RESPONSE:**

**INTERROGATORY NO. 11:** Do you contend that detainees had an opportunity to work for other employers or entities during their detention at NWDC? If so, describe in detail the factual basis for your contention.

**ANSWER:**

**REQUEST FOR PRODUCTION K:** Please produce all documents that relate to your answer to the preceding Interrogatory.

**RESPONSE:**

**INTERROGATORY NO. 12:** Please identify all persons who supervised work performed by detainees participating in the Voluntary Work Program during the class period, including each person's job classification and the length of time in such position.

**ANSWER:**



1 **REQUEST FOR PRODUCTION L:** Please produce all documents describing the work,  
2 tasks, or other duties performed, or to be performed, by detainees participating in the  
3 Voluntary Work Program during the class period.

4 **RESPONSE:**

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7 **REQUEST FOR PRODUCTION M:** Please produce all documents that relate or refer to  
8 your employee or independent contractor staffing plans or work schedules, or both, at NWDC  
9 during the class period. This includes, but is not limited to, documents related to daily, weekly,  
10 or monthly staffing plans or schedules, employee rosters and work assignments, and the units or  
11 areas to which each employee or independent contractor was assigned.

12 **RESPONSE:**

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15 **INTERROGATORY NO. 13:** Do you contend that Plaintiff's claims stated within the  
16 complaint are not "typical," as that term is used in Fed. R. Civ. P. 23(a)(3), of the putative  
17 class? If so, describe in detail the factual basis for your contention.

18 **ANSWER:**

19  
20 **REQUEST FOR PRODUCTION N:** Please produce all documents that relate to your answer  
21 to the preceding Interrogatory.  
22

23 **RESPONSE:**

1 **INTERROGATORY NO. 14:** Do you contend that Plaintiff is not an “adequate”  
2 representative, as that term is used in Fed. R. Civ. P. 23(a)(4), of the proposed class? If so,  
3 describe in detail the factual basis for your contention.

4 **ANSWER:**

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6  
7 **REQUEST FOR PRODUCTION O:** Please produce all documents that relate to your answer  
8 to the preceding Interrogatory.

9 **RESPONSE:**

10  
11 **INTERROGATORY NO. 15:** Do you contend that a conflict exists between Plaintiff and  
12 the class members with respect to recovery of additional compensation for detainees who  
13 participated in the Voluntary Work Program? If so, describe in detail the factual basis for your  
14 contention.  
15

16 **ANSWER:**

17  
18 **REQUEST FOR PRODUCTION P:** Please produce all documents that relate to your answer  
19 to the preceding Interrogatory.

20 **RESPONSE:**

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23 **REQUEST FOR PRODUCTION Q:** Please produce all documents that relate or refer to  
24 comments or complaints by any detainee about the Voluntary Work Program, and any  
25 responses thereto.  
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**RESPONSE:**

**REQUEST FOR PRODUCTION R:** Please produce any documents on which Plaintiff is named, including his complete personnel file, if any.

**RESPONSE:**

**REQUEST FOR PRODUCTION S:** Please produce all write-ups or disciplinary records for any detainee stemming from participation in the Voluntary Work Program.

**RESPONSE:**

**REQUEST FOR PRODUCTION T:** Please produce all documents containing or reflecting communications between you and ICE referring or relating to this lawsuit.

**RESPONSE:**

**REQUEST FOR PRODUCTION U:** Please produce all documents containing or reflecting communications between you and ICE regarding the Voluntary Work Program at NWDC.

**RESPONSE:**

**REQUEST FOR PRODUCTION V:** Please produce all contracts and agreements, and any addenda thereto, between you and ICE related to NWDC.

**RESPONSE:**

1 **REQUEST FOR PRODUCTION W:** Please produce all proposals made by you to ICE,  
2 including any cover letters, submittal sheets, appendices, supplements, amendments, or  
3 addenda thereto, referring or relating to the contracts or agreements produced in response to  
4 the preceding Request for Production.

5 **RESPONSE:**  
6  
7

8 **REQUEST FOR PRODUCTION X:** Please provide all documents referring to requests for  
9 reimbursement you submitted to ICE, and any responses thereto, for operating the Volunteer  
10 Work Program at NWDC.

11 **RESPONSE:**  
12  
13

14 **REQUEST FOR PRODUCTION Y:** Please produce all versions of the NWDC Handbook  
15 from September 26, 2013, to present.

16 **RESPONSE:**  
17  
18

19 **REQUEST FOR PRODUCTION Z:** Please produce all documents reflecting any and all  
20 payments made by you to detainees as part of the Voluntary Work Program during the class  
21 period.

22 **RESPONSE**  
23  
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25 **REQUEST FOR PRODUCTION AA:** Please produce all training and orientation  
26 documents used to train detainees participating in the Voluntary Work Program.

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**RESPONSE:**

**REQUEST FOR PRODUCTION AB:** Please produce an organizational chart sufficient to show your entire organization at NWDC during the class period.

**RESPONSE:**

**REQUEST FOR PRODUCTION AC:** Please produce all documents identified in your Rule 26 Initial Disclosures.

**RESPONSE:**

**INTERROGATORY NO. 16:** Please describe in detail what steps you have taken to preserve all relevant, or potentially relevant, electronically stored information, including but not limited to documents on any and all computer hard drives, servers, cloud based storage platform, and mobile devices concerning the claims alleged in the complaint.

**ANSWER:**

**INTERROGATORY NO. 17:** With respect to each affirmative defense you asserted in your Answer:

- a. Describe in detail all facts upon which you base the affirmative defense,
- b. Identify all persons who have knowledge of those facts,
- c. Identify all documents that support your affirmative defense.

**ANSWER:**

1 **REQUEST FOR PRODUCTION AD:** Please produce a copy of all documents that relate to  
2 your answer to the preceding Interrogatory.

3 **RESPONSE:**  
4

5 **REQUEST FOR PRODUCTION AE:** Please produce all documents containing, reflecting,  
6 or summarizing any statements taken by anyone acting directly or indirectly on your behalf  
7 from any person concerning the allegations in the complaint.  
8

9 **RESPONSE:**  
10

11  
12 **NOTE:** Please be sure to sign the attached verification page and return it along with  
13 your answers and responses.

14 DATED this 31st day of January, 2018.

15 **SCHROETER GOLDMARK & BENDER**

16   
17 Adam J. Berger, WSBA #20714  
18 Lindsay L. Halm, WSBA #37141  
19 Jamal N. Whitehead, WSBA #39818  
20 810 Third Avenue, Suite 500  
21 Seattle, WA 98104  
22 Tel: (206) 622-8000  
23 Fax: (206) 682-2305  
24 berger@sgb-law.com  
25 halm@sgb-law.com  
26 whitehead@sgb-law.com

THE LAW OFFICE OF R. ANDREW FREE  
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SUNBIRD LAW, PLLC  
Devin T. Theriot-Orr, WSBA # 33995  
1001 Fourth Avenue, Suite 3200  
Seattle, WA 98154-1003  
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*Attorneys for Plaintiff*

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**VERIFICATION**

I declare under penalty of perjury under the laws of the State of Washington that I am the \_\_\_\_\_ of Defendant The GEO Group, Inc., have read the foregoing responses, know the contents thereof, and believe them to be true and correct.

DATED at \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Name and Title

**ATTORNEY'S Fed. R. Civ. P. 26 CERTIFICATION**

The undersigned attorney certifies pursuant to Fed. R. Civ. P. 26(g) that he or she has read each response and objection to these discovery requests, and that to the best of his or her knowledge, information, and belief formed after a reasonable inquiry, each is (1) consistent with the Federal Rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the costs of litigation; and (3) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

DATED at \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Joan K. Mell, WSBA #21319



1 DECLARATION OF SERVICE

2 I, Sheila Cronan, a resident of the County of Kitsap, declare under penalty of perjury  
3 under the laws of the state of Washington that on January 31, 2018, I caused to be emailed  
4 and on February 1, 2018, caused to be delivered via legal messenger the original of this  
5 document addressed to counsel for defendant, Joan K. Mell; and a copy to be emailed to all  
6 other counsel of record on January 31, 2018, as follows:  
7

8 Devin T. Theriot-Orr, WSBA # 33995  
9 Sunbird Law, PLLC  
10 1001 Fourth Avenue, Suite 3200  
11 Seattle, WA 98154-1003  
12 devin@sunbird.law

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11 Co-counsel for Plaintiff

Co-counsel for Plaintiff

12  
13 Joan K. Mell  
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16 Attorneys for Defendant

Attorneys for Defendant

17  
18 Charles A. Deacon  
19 Norton Rose Fulbright US LLP  
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21 San Antonio, TX 78205  
Charles.deacon@nortonrosefulbright.com

Attorneys for Defendant

22 DATED at Seattle, Washington this 31<sup>st</sup> day of January, 2018.

23   
24 SHEILA CRONAN  
25 Paralegal  
26

# **Exhibit D**

**State of WA Second Interrogatories**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,

NO. 3:17-cv-05806-RJB

Plaintiff,

v.

STATE OF  
WASHINGTON'S SECOND  
INTERROGATORIES TO THE  
GEO GROUP, INC.

THE GEO GROUP, INC.,

Defendant.

TO: DEFENDANT THE GEO GROUP, INC.

In accordance with Federal Rule 33 you are hereby required to answer, in writing, the following discovery requests including the below Interrogatories separately and fully under oath, within thirty (30) days of their service upon you.

**I. TIME AND PLACE OF PRODUCTION**

**1.1** The requested written answers to all discovery requests including the below, Interrogatories are to be produced to La Rond Baker, Marsha Chien, and Andrea Brenneke, Assistant Attorneys General, at the Washington State Attorney General's office at 800 Fifth Avenue, Suite 2000, Seattle, WA 98104, within thirty (30) days of being served with these Interrogatories or at such other time and place as is agreed to by the parties.

1 **II. COMMUNICATIONS**

2 **2.1** All notices, questions, or communications concerning all discovery requests  
3 including the below Interrogatories should be directed to La Rond Baker, Assistant Attorney  
4 General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 516-2999 or by  
5 email address: LaRondB@atg.wa.gov; Marsha Chien, Assistant Attorney General, 800 Fifth  
6 Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 389-3886 or by email address:  
7 MarshaC@atg.wa.gov; and Andrea Brenneke, Assistant Attorney General, 800 Fifth Avenue,  
8 Suite 2000, Seattle, Washington 98104-1012, (206) 233-3384 or by email address:  
9 AndreaB3@atg.wa.gov.

10 **III. DEFINITIONS**

11 **3.1** “Any” and “all” shall be construed as “any and all.”

12 **3.2** “And, “or,” and “and/or” shall be interpreted and construed as broadly as possible  
13 to make the discovery request inclusive rather than exclusive, so that information otherwise  
14 within the scope of the discovery request is not excluded.

15 **3.3** “Communication” means any conversations, meetings, correspondence,  
16 conference, and any other means or manner by which information or opinion is or was  
17 communicated to or received from others, whether written, electronic, or oral. The term includes  
18 every disclosure, transfer, exchange, or transmission of information, whether oral, written, or  
19 electronic, and whether face-to-face, by telecommunications, computer, mail, telecopier,  
20 facsimile (fax) machine, or otherwise.

21 **3.4** “Detainee” means any person detained at the Northwest Detention Center.

22 **3.5** “Document” means, without limitation, any “writing,” includes, without  
23 limitation, any book, pamphlet, report, memorandum, note, statement, minute, diary, transcript,  
24 working paper, telegram, letter, paper, chart, drawing, graph, photograph, publication, tape  
25 recording, videotaped or graphic matter, accounting material, records of purchase or sale,  
26

1 contracts, agreements, invoices, and any other existing source of stored information, whether  
2 written, printed, typed, recorded, stored in a computer, or filmed. The term includes originals or  
3 duplicates of or copies of the writings, and non-identical copies bearing or having any  
4 attachments, notes or marks which distinguish them from the originals, and any electronic  
5 records, including, without limitation, electronic mail, spreadsheets, word processing files, and  
6 records saved as .pdf or other electronic files. Electronic mail subject to these discovery requests  
7 includes messages and/or attachments now only available on backup or archive tapes or disks.  
8 Also, if a print-out of an electronic record is a non-identical copy of the electronic version (for  
9 example, because the print-out has a signature, handwritten notation, or other mark or attachment  
10 not included in the computer document), both the electronic version in which the document was  
11 created and the original print-out must be produced. It includes “writings” and “recordings” as  
12 defined in ER 1001(a).

13 **3.6** “ICE” means the Immigration and Customs Enforcement agency of the United  
14 States Department of Homeland Security and all of its officers, principals, agents,  
15 representatives, and any parent, affiliate, sister, subsidiary, predecessor, successor or assignee of  
16 it, and its principals, operating divisions, present or former administrators, employees, servants,  
17 officers, directors, agents, representatives, attorneys, and any other persons or entities acting on  
18 behalf of or under the direction, authorization or control of ICE.

19 **3.7** “Identify” when applied to a natural person or entity means (a) to state the person  
20 or entity’s full name, residence or business address and telephone number, and job title or  
21 position, and (b) to give the name, address, and telephone number of the person’s employer, if  
22 known to you.

23 **3.8** “Identify” when applied to a business entity means to state the structure of the  
24 business (corporation, partnership, sole proprietorship, etc.), a brief description of the business,  
25 the registered agent for the business, the business address, and the business telephone number.  
26

1           **3.9**    “Identify” when applied to a document means (a) to state the nature of the  
2 document (e.g., item of correspondence, note, contract, etc.) in detail sufficient to enable the  
3 document to be produced upon motion or request, (b) to give the specific location of the  
4 document (e.g., building name, street address, and room number), and (c) to give the name and  
5 address of the individual who has physical possession and control of the document.

6           **3.10** “Identify” when applied to a conversation means to separately state as to each  
7 communication: a) the date; b) the place at which it occurred or the medium involved; c) the  
8 persons involved and their last known addresses known to the answering party and their business  
9 affiliations at the time and presently; d) the substance of the communication; and e) the name  
10 and present address of any other person who, though not present or involved, possess information  
11 concerning the existence or nature of said communication.

12           **3.11** “Northwest Detention Center” means the facility located at 1623 J Street,  
13 Tacoma, Washington.

14           **3.12** “Person” means any individual, corporation, partnership, association, joint  
15 venture, commercial entity, limited liability company, governmental entity, municipality, firm,  
16 commission, or agency.

17           **3.13** “Relating”, “Reflect”, “Refer”, or “Pertaining To” as used herein shall mean any  
18 information which is relevant in any way to the subject matter, including without limitation to  
19 the foregoing, all information which contain, record, reflect, summarize, evaluate, comment  
20 upon, transmit or discuss the subject matter of any request, as well as drafts, work papers or other  
21 preparation material, exhibits shown or circulated at any meeting, and the text or notes of any  
22 oral or written presentation or conversation.

23           **3.14** “Relevant time period” means from November 1, 2005, to the present.

24           **3.15** To “state the basis” for an allegation, denial, claim, contention, or assertion means  
25 to: (a) state all facts and circumstances upon which it is based, in whole or in part, or which relate  
26

1 or pertain to it, including any pertinent statute or regulation and every theory of law upon which  
2 it is based; (b) identify all documents supporting, refuting, describing, commenting upon,  
3 pertaining to, or otherwise relating to it; (c) identify all persons having knowledge of it, including  
4 the circumstances under which they came to have such knowledge; and (d) identify all persons  
5 who provided the information upon which Your response is based.

6 **3.16** “You” and “Your” and “GEO” refers to The GEO Group, Inc. and any parent,  
7 affiliate, sister, subsidiary, predecessor, successor or assignee of it, and its principals, operating  
8 divisions, present or former owners, employees, servants, officers, directors, agents,  
9 representatives, attorneys, accountants, independent contractors, distributors, and any other  
10 persons or entities acting on behalf of or under the direction, authorization or control of The  
11 GEO Group, Inc., including any foreign or overseas affiliates.

#### 12 **IV. INSTRUCTIONS**

13 **4.1** These discovery requests request production of all described documents and  
14 information in Your possession, custody or control without regard to the person or persons by  
15 whom or for whom the documents were prepared (e.g., Your employees, distributors,  
16 representatives, competitors, or others).

17 **4.2** Each discovery request including the below Interrogatories shall be accorded a  
18 separate answer. For the convenience of the parties and the Court, please quote each Request for  
19 Admission, Interrogatory, and Request for Production in full immediately preceding the answer  
20 thereto.

21 **4.3** This request includes documents in possession of Your employees, agents,  
22 representatives, and attorneys, unless privileged. If any document or information is withheld  
23 under claim of privilege, identify the document and state the basis for the privilege, and provide  
24 a detailed privilege log that contains at least the following information for each document or  
25 information that You have withheld:  
26

- 1 a. The name of each author, writer, sender, creator, or initiator of such  
2 document, and each such person's title and his or her employer or firm;  
3 b. The name of all recipients, addressees, or parties for whom such document  
4 was intended or to whom the document was sent;  
5 c. The date of such document, or an estimate thereof if no date appears on  
6 the document;  
7 d. The Request for Admission, Interrogatory, or Request for Production to  
8 which the allegedly privileged document corresponds.  
9 e. The general subject matter of the document; and  
10 f. The claimed grounds for withholding the document, including, but not  
11 limited to, the nature of any claimed privilege and grounds in support  
12 thereof, stated in a manner that does not reveal privileged information but  
13 that provides information sufficiently detailed so as to enable the State to  
14 assess the applicability of the privileged claimed.

15 **4.4** Pursuant to Federal Rule 26(e), these discovery requests including the below  
16 Interrogatories impose a continuing duty to supplement Your responses in the event additional  
17 documents and information comes into Your knowledge, possession, custody or control after  
18 Your initial production of responses to the requests.

19 **4.5** Your responses to these discovery requests including the below Interrogatories  
20 are to be inclusive rather than exclusive. If the language of any of these discovery requests  
21 including the below Interrogatories is phrased in the singular, the Interrogatory includes the  
22 plural, and if the language of a Interrogatory is phrased in the plural, the Interrogatory includes  
23 the singular.

24 **4.6** If You cannot answer an Interrogatory completely, You must answer to the extent  
25 possible and identify with specificity the part(s) which You cannot answer completely.  
26



1           **4.7**     If You object to responding to part of a Interrogatory, You are required to furnish  
2 the information that is outside the scope of Your partial objection.

3           **4.8**     In each instance in which a document is produced in response to a discovery  
4 request, produce the current edition, along with all earlier editions or predecessor documents  
5 serving the same function, even though the title of earlier documents may differ from current  
6 versions.

7           **4.9**     The following procedures shall apply to the production of documents and  
8 information in response to these discovery requests including the below Interrogatories:

- 9           a.     The recipient of these Interrogatories shall label each responsive  
10 document or answer (i.e., Response to Request No. 1, Response to  
11 Request No. 2, and so forth), group all documents responsive to a  
12 particular request together, and place a label on each group of documents  
13 which identifies the corresponding discovery request;
- 14           b.     All attachments to responsive documents or information shall be  
15 produced with, and attached to, the responsive documents (or digitally in  
16 corresponding order);
- 17           c.     Each responsive document or information shall be produced in its entirety  
18 and no portion of any document or information shall be edited, cut,  
19 masked, redacted or otherwise altered, unless for applicable privilege  
20 which shall be logged according to the procedures set forth above;
- 21           d.     The recipient of these Interrogatories shall provide a key to all  
22 abbreviations used in the documents or information and shall attach the  
23 key to the corresponding documents or information.

24           **4.10**   Documents or information that may be responsive to more than one (1) numbered  
25 request in these discovery requests need not be submitted more than once. However, for each  
26

1 such document or information, the recipient of these, Interrogatories shall identify all of the  
2 numbered requests to which the Document or information is responsive.

3 **4.11** You shall consecutively number each page of all documents or information  
4 produced with Your response and indicate the total number of pages produced with Your  
5 response. This page numbering must be separate from and must not alter any original page  
6 numbering on the responsive documents or information.

7 **4.12** Your responses to these discovery requests should include all relevant  
8 electronically stored information in Your possession, custody, or control. Washington considers  
9 electronically stored information to be an irreplaceable source of evidence in this matter.  
10 Accordingly, the State of Washington insists that you implement appropriate safeguards against  
11 the destruction of evidence until the final resolution of this issue.

12 **4.13** Production of electronically stored information and other documents in electronic  
13 format shall conform to the standards set forth in Exhibit A, which is attached to this document.

14 **4.14** If You are unable to fully answer any discovery request including any of the  
15 below Interrogatories, supply all of whatever information is actually available. Designate such  
16 incomplete information as incomplete and accompany the information with an explanation that  
17 includes the reasons for the incomplete answer; a description of any and all of Your efforts to  
18 obtain the information; and the source from which the Office of the Attorney General may obtain  
19 information to complete Your response. If books, records, or other sources that provide accurate  
20 answers are not available, provide Your best estimates and describe how You derived the  
21 estimates, including the sources or bases of such estimates. Designate estimated data as such by  
22 marking it with the “est.” notation. If there is no reasonable way for you to make an estimate,  
23 provide an explanation.

24 **4.15** If particular documents responsive to these Interrogatories no longer exist for  
25 reasons other than the ordinary course of business but you have reason to believe they have been  
26

1 in existence, describe the documents; state the circumstances under which such documents were  
2 lost or destroyed, and identify persons having knowledge of the content of the documents.

3 **V. INTERROGATORIES**

4 **INTERROGATORY NO. 7:** For each year from 2005 to the present, please identify GEO's  
5 profits or losses for NWDC and the basis for your answer.

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7 **RESPONSE:**  
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11 **INTERROGATORY NO. 8:** For each year from 2005 to the present, please state the amount  
12 and basis for the amount of GEO's claimed offset, including GEO's calculation in its Initial  
13 Disclosures: "Offset: \$17.12 per hour of participation in the Voluntary Work Program."  
14

15 **RESPONSE:**  
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19 **INTERROGATORY NO. 9:** For each year from 2005 to the present, please provide the total  
20 amount ICE reimbursed GEO for work performed by detainee workers in NWDC's VWP.  
21

22 **RESPONSE:**  
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1 **INTERROGATORY NO. 10:** For each year from 2005 to the present, please identify the  
2 number of detainee workers who have participated in the VWP at NWDC.

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4 **RESPONSE:**  
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9 **INTERROGATORY NO. 11:** For each year from 2005 to the present, please identify the total  
10 number of hours detainee workers worked in NWDC's VWP and the number of hours of that  
11 work by task/assignment/location.

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13 **RESPONSE:**  
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18 **INTERROGATORY NO. 12:** For each year from 2005 to the present, please identify each and  
19 every task/assignment that detainee workers performed work for GEO at NWDC – i.e. buffing  
20 the floors or painting the walls – for which they were paid in food including snacks, chicken,  
21 and pop.

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23 **RESPONSE:**  
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2 **INTERROGATORY NO. 13:** For each year from 2005 to the present, please identify how  
3 many detainee workers performed work for GEO at NWDC for which they were paid in food  
4 including snacks, chicken, and pop, how many hours they worked, and their task/assignment (i.e.  
5 buffing the floors or painting the walls).

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7 **RESPONSE:**  
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11 **INTERROGATORY NO. 14:** For each and every GEO facility in the United States, please  
12 identify each and every VWP position where immigrant detainee workers earn more than a \$1  
13 per day.  
14

15 **RESPONSE:**  
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19 **INTERROGATORY NO. 15:** For each year from 2005 to present, please identify each and  
20 every non-detainee GEO employee that supervised detainee workers in NWDC's kitchen  
21 including name, job title, duties, work assignment, and dates the non-detainee GEO employee  
22 held the supervisory position.  
23

24 **RESPONSE:**  
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1 **INTERROGATORY NO. 16:** For each year from 2005 to the present, please identify each  
2 and every non-detainee GEO employee that supervised detainee workers in NWDC's laundry  
3 including name, job title, duties, work assignment, and dates the non-detainee GEO employee  
4 held the supervisory position.

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6 **RESPONSE:**  
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10 **INTERROGATORY NO. 17:** For each year 2005 to the present, please identify each and  
11 every non-detainee GEO employee whose main job duty was to perform janitorial tasks at  
12 NWDC, including name, job title, duties, work assignment, and dates the non-detainee GEO  
13 employee held this position.

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15 **RESPONSE:**  
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19 **INTERROGATORY NO. 18:** For each year 2005 to the present, please identify and any all  
20 job assignments/tasks and the daily VWP shifts for each (i.e. breakfast, lunch or dinner kitchen  
21 shifts, yard clean up duty, morning and evening bathroom cleaning shifts, commissary  
22 disbursement, food distribution) including their start and end times and the number of detainee  
23 workers per shift.

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25 **RESPONSE:**  
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DATED this 12th day of June, 2018.

ROBERT W. FERGUSON  
Attorney General

*s/ La Rond Baker*

---

LA ROND BAKER, WSBA No. 43610  
MARSHA CHIEN, WSBA No. 47020  
ANDREA BRENNEKE, WSBA No. 22027  
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(206) 516-2999  
larondb@atg.wa.gov  
marshac@atg.wa.gov  
andreab3@atg.wa.gov

1 **DECLARATION OF SERVICE**

2 I certify that I served a copy of this document on all parties or their counsel of record on  
3 the date below as follows:

4  Electronic Service (by agreement of counsel) to:

5 Joan Mell  
6 III Branches Law, PLLC  
7 1019 Regents Blvd., Ste. 204  
8 Fircrest, WA 98466  
9 joan@3brancheslaw.com

Andrea L. D'Ambra  
Norton Rose Fulbright  
1301 Avenue of the Americas  
New York, New York 10019-6022  
andrea.dambra@nortonrosefulbright.com

8 Charles Deacon  
9 Norton Rose Fulbright  
10 300 Convent Street  
11 San Antonio, TX 78205  
12 charlie.deacon@nortonrosefulbright.com

Mark Emery  
Norton Rose Fulbright  
799 9<sup>th</sup> Street NW, Suite 1000  
Washington, DC 20001-4501  
mark.emery@nortonrosefulbright.com

11 I certify under penalty of perjury under the laws of the state of Washington that the  
12 foregoing is true and correct.

13  
14 DATED this 12th day of June, 2018, at Seattle, Washington.

15  
16 */s La Rond Baker*  
17 LA ROND BAKER



# **Exhibit E**

**State of WA Second RFP**



1 **II. COMMUNICATIONS**

2 **2.1** All notices, questions, or communications concerning all discovery requests  
3 including the below Requets for Production should be directed to La Rond Baker, Assistant  
4 Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 516-  
5 2999 or by email address: LaRondB@atg.wa.gov; Marsha Chien, Assistant Attorney General,  
6 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 389-3886 or by email  
7 address: MarshaC@atg.wa.gov; and Andrea Brenneke, Assistant Attorney General, 800 Fifth  
8 Avenue, Suite 2000, Seattle, Washington 98104-1012, (206) 389-3886 or by email address:  
9 AndreaB3@atg.wa.gov.

10 **III. DEFINITIONS**

11 **3.1** “Any” and “all” shall be construed as “any and all.”

12 **3.2** “And, “or,” and “and/or” shall be interpreted and construed as broadly as possible  
13 to make the discovery request inclusive rather than exclusive, so that information otherwise  
14 within the scope of the discovery request is not excluded.

15 **3.3** “Communication” means any conversations, meetings, correspondence,  
16 conference, and any other means or manner by which information or opinion is or was  
17 communicated to or received from others, whether written, electronic, or oral. The term includes  
18 every disclosure, transfer, exchange, or transmission of information, whether oral, written, or  
19 electronic, and whether face-to-face, by telecommunications, computer, mail, telecopier,  
20 facsimile (fax) machine, or otherwise.

21 **3.4** “Detainee” means any person detained at the Northwest Detention Center.

22 **3.5** “Document” means, without limitation, any “writing,” includes, without  
23 limitation, any book, pamphlet, report, memorandum, note, statement, minute, diary, transcript,  
24 working paper, telegram, letter, paper, chart, drawing, graph, photograph, publication, tape  
25 recording, videotaped or graphic matter, accounting material, records of purchase or sale,  
26

1 contracts, agreements, invoices, and any other existing source of stored information, whether  
2 written, printed, typed, recorded, stored in a computer, or filmed. The term includes originals or  
3 duplicates of or copies of the writings, and non-identical copies bearing or having any  
4 attachments, notes or marks which distinguish them from the originals, and any electronic  
5 records, including, without limitation, electronic mail, spreadsheets, word processing files, and  
6 records saved as .pdf or other electronic files. Electronic mail subject to these discovery requests  
7 includes messages and/or attachments now only available on backup or archive tapes or disks.  
8 Also, if a print-out of an electronic record is a non-identical copy of the electronic version (for  
9 example, because the print-out has a signature, handwritten notation, or other mark or attachment  
10 not included in the computer document), both the electronic version in which the document was  
11 created and the original print-out must be produced. It includes “writings” and “recordings” as  
12 defined in ER 1001(a).

13 **3.6** “ICE” means the Immigration and Customs Enforcement agency of the United  
14 States Department of Homeland Security and all of its officers, principals, agents,  
15 representatives, and any parent, affiliate, sister, subsidiary, predecessor, successor or assignee of  
16 it, and its principals, operating divisions, present or former administrators, employees, servants,  
17 officers, directors, agents, representatives, attorneys, and any other persons or entities acting on  
18 behalf of or under the direction, authorization or control of ICE.

19 **3.7** “Identify” when applied to a natural person or entity means (a) to state the person  
20 or entity's full name, residence or business address and telephone number, and job title or  
21 position, and (b) to give the name, address, and telephone number of the person's employer, if  
22 known to you.

23 **3.8** “Identify” when applied to a business entity means to state the structure of the  
24 business (corporation, partnership, sole proprietorship, etc.), a brief description of the business,  
25 the registered agent for the business, the business address, and the business telephone number.  
26

1           **3.9**    “Identify” when applied to a document means (a) to state the nature of the  
2 document (e.g., item of correspondence, note, contract, etc.) in detail sufficient to enable the  
3 document to be produced upon motion or request, (b) to give the specific location of the  
4 document (e.g., building name, street address, and room number), and (c) to give the name and  
5 address of the individual who has physical possession and control of the document.

6           **3.10** “Identify” when applied to a conversation means to separately state as to each  
7 communication: a) the date; b) the place at which it occurred or the medium involved; c) the  
8 persons involved and their last known addresses known to the answering party and their business  
9 affiliations at the time and presently; d) the substance of the communication; and e) the name  
10 and present address of any other person who, though not present or involved, possess information  
11 concerning the existence or nature of said communication.

12           **3.11** “Northwest Detention Center” (“NWDC”) means the facility located at 1623 J  
13 Street, Tacoma, Washington.

14           **3.12** “Person” means any individual, corporation, partnership, association, joint  
15 venture, commercial entity, limited liability company, governmental entity, municipality, firm,  
16 commission, or agency.

17           **3.13** “Relating”, “Reflect”, “Refer”, or “Pertaining To” as used herein shall mean any  
18 information which is relevant in any way to the subject matter, including without limitation to  
19 the foregoing, all information which contain, record, reflect, summarize, evaluate, comment  
20 upon, transmit or discuss the subject matter of any request, as well as drafts, work papers or other  
21 preparation material, exhibits shown or circulated at any meeting, and the text or notes of any  
22 oral or written presentation or conversation.

23           **3.14** “Relevant time period” means from November 1, 2005, to the present.

24           **3.15** To “state the basis” for an allegation, denial, claim, contention, or assertion means  
25 to: (a) state all facts and circumstances upon which it is based, in whole or in part, or which relate  
26

1 or pertain to it, including any pertinent statute or regulation and every theory of law upon which  
2 it is based; (b) identify all documents supporting, refuting, describing, commenting upon,  
3 pertaining to, or otherwise relating to it; (c) identify all persons having knowledge of it, including  
4 the circumstances under which they came to have such knowledge; and (d) identify all persons  
5 who provided the information upon which Your response is based.

6 **3.16** “You” and “Your” and “GEO” refers to The GEO Group, Inc. and any parent,  
7 affiliate, sister, subsidiary, predecessor, successor or assignee of it, and its principals, operating  
8 divisions, present or former owners, employees, servants, officers, directors, agents,  
9 representatives, attorneys, accountants, independent contractors, distributors, and any other  
10 persons or entities acting on behalf of or under the direction, authorization or control of The  
11 GEO Group, Inc., including any foreign or overseas affiliates.

#### 12 **IV. INSTRUCTIONS**

13 **4.1** These discovery requests request production of all described documents and  
14 information in Your possession, custody or control without regard to the person or persons by  
15 whom or for whom the documents were prepared (e.g., Your employees, distributors,  
16 representatives, competitors, or others).

17 **4.2** Each discovery request including the below Requests for Production shall be  
18 accorded a separate answer. For the convenience of the parties and the Court, please quote each  
19 Request for Production in full immediately preceding the answer thereto.

20 **4.3** This request includes documents in possession of Your employees, agents,  
21 representatives, and attorneys, unless privileged. If any document or information is withheld  
22 under claim of privilege, identify the document and state the basis for the privilege, and provide  
23 a detailed privilege log that contains at least the following information for each document or  
24 information that You have withheld:

25 a. The name of each author, writer, sender, creator, or initiator of such  
26

1 document, and each such person's title and his or her employer or firm;

2 b. The name of all recipients, addressees, or parties for whom such document  
3 was intended or to whom the document was sent;

4 c. The date of such document, or an estimate thereof if no date appears on  
5 the document;

6 d. The Request for Production to which the allegedly privileged document  
7 corresponds.

8 e. The general subject matter of the document; and

9 f. The claimed grounds for withholding the document, including, but not  
10 limited to, the nature of any claimed privilege and grounds in support  
11 thereof, stated in a manner that does not reveal privileged information but  
12 that provides information sufficiently detailed so as to enable the State to  
13 assess the applicability of the privileged claimed.

14 **4.4** Pursuant to Federal Rule 26(e), these discovery requests including the below  
15 Requests for Production impose a continuing duty to supplement Your responses in the event  
16 additional documents and information comes into Your knowledge, possession, custody or  
17 control after Your initial production of responses to the requests.

18 **4.5** Your responses to these discovery requests including the below Requests for  
19 Production are to be inclusive rather than exclusive. If the language of any of these discovery  
20 requests including the below Requests for Production is phrased in the singular, the Request  
21 includes the plural, and if the language of a Request is phrased in the plural, the Request includes  
22 the singular.

23 **4.6** If You cannot answer a Request completely, You must answer to the extent  
24 possible and identify with specificity the part(s) which You cannot answer completely.

25 **4.7** If You object to responding to part of a Request, You are required to furnish the  
26

1 information that is outside the scope of Your partial objection.

2       **4.8** In each instance in which a document is produced in response to a discovery  
3 request, produce the current edition, along with all earlier editions or predecessor documents  
4 serving the same function, even though the title of earlier documents may differ from current  
5 versions.

6       **4.9** The following procedures shall apply to the production of documents and  
7 information in response to these discovery requests including the below Requests for Production:

- 8           a. The recipient of these Requests shall label each responsive document or  
9 answer (i.e., Response to Request No. 1, Response to Request No. 2, and  
10 so forth), group all documents responsive to a particular request together,  
11 and place a label on each group of documents which identifies the  
12 corresponding discovery request;
- 13           b. All attachments to responsive documents or information shall be  
14 produced with, and attached to, the responsive documents (or digitally in  
15 corresponding order);
- 16           c. Each responsive document or information shall be produced in its entirety  
17 and no portion of any document or information shall be edited, cut,  
18 masked, redacted or otherwise altered, unless for applicable privilege  
19 which shall be logged according to the procedures set forth above;
- 20           d. The recipient of these Requests for Admission shall provide a key to all  
21 abbreviations used in the documents or information and shall attach the  
22 key to the corresponding documents or information.

23       **4.10** Documents or information that may be responsive to more than one (1) numbered  
24 request in these discovery requests need not be submitted more than once. However, for each  
25  
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1 such document or information, the recipient of these Requests for Production shall identify all  
2 of the numbered requests to which the Document or information is responsive.

3 **4.11** You shall consecutively number each page of all documents or information  
4 produced with Your response and indicate the total number of pages produced with Your  
5 response. This page numbering must be separate from and must not alter any original page  
6 numbering on the responsive documents or information.

7 **4.12** Your responses to these discovery requests should include all relevant  
8 electronically stored information in Your possession, custody, or control. Washington considers  
9 electronically stored information to be an irreplaceable source of evidence in this matter.  
10 Accordingly, the State of Washington insists that you implement appropriate safeguards against  
11 the destruction of evidence until the final resolution of this issue.

12 **4.13** Production of electronically stored information and other documents in electronic  
13 format shall conform to the standards set forth in Exhibit A, which is attached to this document.

14 **4.14** If You are unable to fully answer any discovery request including any of the  
15 below Requests for Production, supply all of whatever information is actually available.  
16 Designate such incomplete information as incomplete and accompany the information with an  
17 explanation that includes the reasons for the incomplete answer; a description of any and all of  
18 Your efforts to obtain the information; and the source from which the Office of the Attorney  
19 General may obtain information to complete Your response. If books, records, or other sources  
20 that provide accurate answers are not available, provide Your best estimates and describe how  
21 You derived the estimates, including the sources or bases of such estimates. Designate estimated  
22 data as such by marking it with the “est.” notation. If there is no reasonable way for you to make  
23 an estimate, provide an explanation.

24 **4.15** If particular documents responsive to these Requests for Production no longer  
25 exist for reasons other than the ordinary course of business but you have reason to believe they  
26

1 have been in existence, describe the documents; state the circumstances under which such  
2 documents were lost or destroyed, and identify persons having knowledge of the content of the  
3 documents.

4 **V. REQUESTS FOR PRODUCTION**

5  
6 **REQUEST FOR PRODUCTION NO. 18:** Please produce all documents that are referenced  
7 in, support, or that form the basis of Your response to Interrogatory No. 7.

8 **RESPONSE:**  
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11 **REQUEST FOR PRODUCTION NO. 19:** Please produce all documents that are referenced  
12 in, support, or that form the basis of Your response to Interrogatory No. 8.

13 **RESPONSE:**  
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16 **REQUEST FOR PRODUCTION NO. 20:** Please produce all documents that are referenced  
17 in, support, or that form the basis of Your response to Interrogatory No. 9.

18 **RESPONSE:**  
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21 **REQUEST FOR PRODUCTION NO. 21:** Please produce all documents that are referenced  
22 in, support, or that form the basis of Your response to Interrogatory No. 10.

23 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 22:** Please produce all documents that are referenced  
2 in, support, or that form the basis of Your response to Interrogatory No. 11.

3 **RESPONSE:**  
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6 **REQUEST FOR PRODUCTION NO. 23:** Please produce all documents that are referenced  
7 in, support, or that form the basis of Your response to Interrogatory No. 12.

8 **RESPONSE:**  
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11 **REQUEST FOR PRODUCTION NO. 24:** Please produce all documents that are referenced  
12 in, support, or that form the basis of Your response to Interrogatory No. 13.

13 **RESPONSE:**  
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16 **REQUEST FOR PRODUCTION NO. 25:** Please produce all documents that are referenced  
17 in, support, or that form the basis of Your response to Interrogatory No. 14.

18 **RESPONSE:**  
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21 **REQUEST FOR PRODUCTION NO. 26:** Please produce all documents that are referenced  
22 in, support, or that form the basis of Your response to Interrogatory No. 15.

23 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 27:** Please produce all documents that are referenced  
2 in, support, or that form the basis of Your response to Interrogatory No. 16.

3 **RESPONSE:**  
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6 **REQUEST FOR PRODUCTION NO. 28:** Please produce all documents that are referenced  
7 in, support, or that form the basis of Your response to Interrogatory No. 17.

8 **RESPONSE:**  
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11 **REQUEST FOR PRODUCTION NO. 29:** Please produce all documents that are referenced  
12 in, support, or that form the basis of Your response to Interrogatory No. 18.

13 **RESPONSE:**  
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16 **REQUEST FOR PRODUCTION NO. 30:** For each of the years 2005 to the present, please  
17 produce all documents, reports, and databases that contain aggregated data or information about  
18 the number of hours worked by detainee workers in NWDC's VWP.

19 **RESPONSE:**  
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21

22 **REQUEST FOR PRODUCTION NO. 31:** Please produce all schedules or other documents  
23 that set forth the number of hours detainee workers work to complete each task/assignment/  
24 position in the VWP.

25 **RESPONSE:**  
26

1 **REQUEST FOR PRODUCTION NO. 32:** For each of the years 2005 to the present, please  
2 produce all documents, reports, and databases that contain aggregated data or information about  
3 the hours of detainee work broken down by location of work/tasks/assignments/positions  
4 performed by detainee workers in NWDC's VWP.

5 **RESPONSE:**  
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9 **REQUEST FOR PRODUCTION NO. 33:** Please produce all training materials and  
10 documents for training provided to detainee workers for each and every VWP  
11 task/assignment/position.

12 **RESPONSE:**  
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16 **REQUEST FOR PRODUCTION NO. 34:** Please produce all training materials for GEO  
17 employees regarding the VWP program.

18 **RESPONSE:**  
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22 **REQUEST FOR PRODUCTION NO. 35:** For the relevant years, please produce all NWDC  
23 Housekeeping Plans.

24 **RESPONSE:**  
25  
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1 **REQUEST FOR PRODUCTION NO. 36:** For each of the years 2005 to the present, please  
2 produce all documents, reports, and databases that contain aggregated data or information about  
3 detainee worker compensation for participation in NWDC's VWP.

4 **RESPONSE:**  
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7 **REQUEST FOR PRODUCTION NO. 37:** For the relevant time period, please produce all  
8 invoices and supporting documents submitted to ICE for payments related to the VWP.

9 **RESPONSE:**  
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12 **REQUEST FOR PRODUCTION NO. 38:** For each of the years 2005 to the present, please  
13 produce all GEO's financial statements, Profit and Loss statements, budget, and budget to actual  
14 analysis on a quarterly or annual basis for each of the years during the relevant time period.

15 **RESPONSE:**  
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18 **REQUEST FOR PRODUCTION NO. 39:** To the extent not previously produced, please  
19 produce GEO's U.S. Corrections & Detention Division financial statements, Profit and Loss  
20 statements, budget, and budget to actual analysis on a quarterly or annual basis for each of the  
21 years during the relevant time period.

22 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 40:** To the extent not previously produced, please  
2 produce the NWDC's financial statements, Profit and Loss statements, budget, and budget to  
3 actual analysis on a quarterly or annual basis from 2005 to present, including all documents that  
4 set forth the detailed operating costs of the facility, Voluntary Work Program costs, labor costs,  
5 and payroll expenses as well as all details of revenue, contract payments and reimbursements.

6 **RESPONSE:**  
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9 **REQUEST FOR PRODUCTION NO. 41:** To the extent not previously produced, please  
10 produce all documents that contain financial performance analysis, financial models, financial  
11 evaluations, analysis of profits earned, or other assessments of the performance of the NWDC  
12 contract(s) with ICE.

13 **RESPONSE:**  
14  
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16 **REQUEST FOR PRODUCTION NO. 42:** To the extent not previously produced, please  
17 produce all documents related to the profit or loss of the NWDC's Voluntary Work Program,  
18 including budget, and budget to actual analysis on a quarterly or annual basis from 2005 to the  
19 present, and all documents that set forth the detailed operating costs of the Voluntary Work  
20 Program, as well as revenues, payments and reimbursements received.

21 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 43:** To the extent not previously produced, please  
2 produce all documents that contain financial analysis, financial models, analysis of profits  
3 earned, valuation of the work performed, or other assessments of the Voluntary Work Program  
4 at the NWDC from 2004 to present.

5 **RESPONSE:**  
6  
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8 **REQUEST FOR PRODUCTION NO. 44:** To the extent not previously produced, please  
9 produce all documents that contain financial analysis, financial models, analysis of profits  
10 earned, valuation of the work performed, or other assessments of the Voluntary Work Program  
11 within the GEO Group from 2005 to the present.

12 **RESPONSE:**  
13  
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15 **REQUEST FOR PRODUCTION NO. 45:** For each of the year from 2005 to the present,  
16 please produce a representative commissary price list used by detainees during that year to order  
17 items from the commissary.

18 **RESPONSE:**  
19  
20

21 **REQUEST FOR PRODUCTION NO. 46:** Please produce all documents that set forth the  
22 terms and conditions of the NWDC detainee telephone/communications system, including,  
23 without limitation, the contract(s) with vendors.

24 **RESPONSE:**  
25  
26



1 **REQUEST FOR PRODUCTION NO. 47:** For each of the year from 2005 to the present,  
2 please produce a representative telephone/communications price list or other documents that set  
3 forth the cost of telephone calls and video calls made by detainees.

4 **RESPONSE:**  
5  
6

7 **REQUEST FOR PRODUCTION NO. 48:** To the extent not previously produced, please  
8 produce the contract(s) originally entered into by the GEO Group's predecessor Correctional  
9 Services Corporation.

10 **RESPONSE:**  
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13 **REQUEST FOR PRODUCTION NO. 49:** Please produce the ICE solicitation(s) for all  
14 ICE/GEO Group Contracts related to the NWDC from 2005 to present.

15 **RESPONSE:**  
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19 **REQUEST FOR PRODUCTION NO. 50:** To the extent not previously produced, please  
20 produce the GEO Group's offer(s) and bid(s), and all supporting documents and submissions in  
21 support of those offer(s) and bid(s), submitted in response to ICE solicitation(s), or in  
22 negotiations related to amendment(s) and renewal(s), of contracts related to the NWDC at any  
23 time from 2005 to the present.

24 **RESPONSE:**  
25  
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1 **REQUEST FOR PRODUCTION NO. 51:** Please produce all documents containing financial  
2 performance analyses, financial models, or other financial evaluations prepared in connection  
3 with or for the purpose of GEO Group’s offer(s) and bid(s), and negotiations related to  
4 amendment(s) and renewal(s), of contracts related to the NWDC from 2005 - present.

5 **RESPONSE:**  
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9 **REQUEST FOR PRODUCTION NO. 52:** To the extent not previously produced, please  
10 produce any per diem rate calculations and models related to GEO Group’s NWDC Contract(s)  
11 from 2005 to present, including, but not limited to, the following factors: “Voluntary Work  
12 Program” costs and expenses; labor costs and payroll expenses (excluding Voluntary Work  
13 Program); expected and guaranteed occupancy; all other costs of providing services (including  
14 food, medical, building operations, etc.); desired margins.

15 **RESPONSE:**  
16  
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19 **REQUEST FOR PRODUCTION NO. 53:** To the extent not previously produced, please  
20 produce any calculations concerning overhead and other costs allocated to the NWDC Contracts  
21 in evaluating profitability and the per diem rates as well as the methodology used to allocate  
22 such costs, including any changes in methodology.

23 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 54:** To the extent not previously produced, please  
2 produce all documents that contain any analyses of the NWDC Contract costs, and categorization  
3 of those costs as variable or fixed, during the relevant period and any changes to allocation of  
4 costs inbetween categories.

5 **RESPONSE:**  
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8 **REQUEST FOR PRODUCTION NO. 55:** To the extent not previously produced, please  
9 produce any documents or information related to assumptions made in determining the  
10 contractually negotiated per diem rate(s) and calculations for the NWDC Contracts.

11 **RESPONSE:**  
12  
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14 **REQUEST FOR PRODUCTION NO. 56:** Please produce all audit reports and findings in  
15 connection with all internal audits of the NWDC's VWP during the relevant period.

16 **RESPONSE:**  
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19 **REQUEST FOR PRODUCTION NO. 57:** Please produce all audit reports and findings in  
20 connection with all governmental agency audits of the NWDC's VWP during the relevant  
21 period.

22 **RESPONSE:**  
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1 **REQUEST FOR PRODUCTION NO. 58:** Please produce all detainee worker kites or  
2 complaints and all documents, responses, and resolutions to those kites or complaints that relate,  
3 in any way, to compensation or failure to pay compensation for work done in the VWP;

4 **RESPONSE:**  
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7 **REQUEST FOR PRODUCTION NO. 59:** Please produce all detainee worker kites or  
8 complaints regarding the VWP and all documents, responses, and resolutions to those kites or  
9 complaints that relate, in any way, to working hours, working conditions, treatment by guards at  
10 work, hiring, job assignments, supervision, or termination.

11 **RESPONSE:**  
12  
13

14 **REQUEST FOR PRODUCTION NO. 60:** Please produce documents that relate, in any way,  
15 to staff recruitment from the local community and the NWDC contribution to the local economy  
16 through salaries and purchase of goods and services.

17 **RESPONSE:**  
18  
19  
20

21 DATED this 12th day of June, 2018.

22 ROBERT W. FERGUSON  
23 Attorney General

24 */s/ La Rond Baker*  
25 LA ROND BAKER, WSBA No. 43610  
26 MARSHA CHIEN, WSBA No. 47020  
ANDREA BRENNEKE, WSBA No. 22027

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Assistant Attorneys General  
Civil Rights Unit  
Attorney General of Washington  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(206) 516-2999  
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marshac@atg.wa.gov  
andreab3@atg.wa.gov



# **Exhibit F**

**ICE Minimum Wage Litigation Letter**

**Congress of the United States**  
House of Representatives  
Washington, DC 20515-1504

COMMITTEES:

AGRICULTURE

JUDICIARY

SMALL BUSINESS

March 7, 2018

The Honorable Jefferson B. Sessions  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

The Honorable Alexander Acosta  
Secretary  
U.S. Department of Labor  
S-2521  
200 Constitution Ave., N.W.  
Washington, D.C. 20210

Thomas D. Homan  
Acting Director  
U.S. Immigration and  
Customs Enforcement  
500 12<sup>th</sup> Street, SW  
Washington, DC 20536

**Re: Recent Lawsuits Seeking Substantial Payments to Alien Detainees for Voluntary Institutional Work Performed while in Immigration Detention at Contract Detention Facilities**

Dear Attorney General Sessions, Secretary Acosta, and Acting Director Homan:

We write to inquire as to whether your agencies are taking any actions or adopting any legal positions to address recent lawsuits filed by pro-immigration interest groups and activist state government officials seeking substantial payments from government contractors for work done by alien detainees for institutional maintenance purposes pursuant to what is known as the Voluntary Work Program (VWP). We are currently aware of the existence of at least five such nuisance lawsuits filed against Contract Detention Facilities (CDFs). The core allegations of each of these lawsuits is that the CDFs' payments of \$1 per day to detainees who work in the VWP violates state minimum wage laws, the Trafficking Victims Protection Act (TVPA), unjust enrichment, and other labor law statutes and doctrines.

A few facts are important to note at the outset. First, any alien detained at a CDF is being detained at a facility that is contractually required to meet federal standards as established by Immigration and Customs Enforcement's (ICE) 2011 Performance-Based National Detention Standards (PBNDS). The PBNDS are considered to be among the leading standards in the country for ensuring safe and humane detention conditions. Second, contractors are required by both the PBNDS, and by their contracts with ICE, to provide detainees with opportunities for voluntary work assignments at all CDFs. Third, contractors are paying detainees \$1 per day for work under the VWP because that is the statutory reimbursement rate expressly set by Congress for paying aliens for voluntary work in this specific instance. In other words, if an alien is detained at a facility operated solely by ICE, they are paid \$1 per day for voluntary work. The inexplicable premise of these lawsuits is that aliens should be paid 800% to 1500% more for work at CDFs than at ICE-operated facilities, even though these facilities serve the exact same purpose, engage in the exact same mission (i.e. detention and removal), and even though an alien's placement at any particular detention facility has nothing to do with the Voluntary Work Program.



To be clear, alien detainees performing institutional work at CDFs are not employees of the facilities detaining them, and should not be able to file lawsuits seeking remuneration as if they were employees of these facilities. It is our expectation that you will soon get involved in this litigation and take the position that these lawsuits lack legal merit and should be dismissed.

It is important to emphasize that the VWP is not a new program. It was initially authorized in 1950, and was codified that year in Title 8, Section 1555, which states that “Appropriations now or hereafter provided for the Immigration and Naturalization Service shall be available for. . . (d) payment of allowances (at such rate as may be specified from time to time in the appropriation Act involved) to aliens, while held in custody under the immigration laws, for work performed.” Pursuant to the Department of Justice Appropriation Act of 1978, Congress has explicitly stated that “payment of allowances (at a rate not in excess of \$1 per day) to aliens, while held in custody under the immigration laws, for work performed,” is the rate that is to be paid to aliens in immigration detention. Pub. L. No. 95-86, 91 Stat. 419, 426 (1978). This is the statutory reimbursement rate that continues to govern work performed pursuant to the VWP.

For decades, including during the Obama Administration, pursuant to these established guidelines, facilities have been paying alien detainees \$1 per day for VWP work without any legal controversy. ICE-operated facilities pay aliens \$1 per day and are not being sued, and ICE’s contracts with CDFs only provide reimbursement for work at the same rate of \$1 per day pursuant to the 1978 statute. The reason there has been no past issue with this program has been because the purpose of the program, as articulated even by the Obama Administration, is to: (1) enhance detention operations and services through detainee productivity; and to (2) reduce the negative impact of confinement through decreased idleness, improved morale, and fewer disciplinary incidents.<sup>1</sup>

Simply put, work under the VWP does not violate the TVPA, the FLSA, state minimum-wage laws, or any other laws. Alien detainees who perform work under the VWP while in contractor custody are not “employees” of these facilities, as they are unauthorized to work by the Secretary of Homeland Security pursuant to 8 U.S.C. § 1324a and are performing work for institutional maintenance, not compensation. *See* Genco Op. No. 92-8 (INS), 1992 WL 1369347. Moreover, the state law minimum wage and unjust enrichment claims in these cases are preempted by federal law, as detainees are being paid for work within a field of immigration enforcement exclusively controlled by federal law. This is because ICE is barred by Congress from reimbursing work at a rate of higher than \$1 per day. It would provide an unnecessary windfall to the detainees, and drain the federal government of limited taxpayer resources, to require contractors to pay these detainees anywhere between 800%-1500% above what is currently required by law. These costs will simply be passed on to the taxpayers either through a required higher rate of contractual reimbursement or through increased detention costs generally.

The very goal of the advocates who file these lawsuits is to raise the overall costs of immigration detention, in order to discourage its use and diminish the overall level of immigration enforcement in the United States. If these lawsuits succeed, in the absence of immigration detention, the rate of alien “no-shows” to immigration court and the rate of recidivist arrests will undoubtedly increase. These lawsuits are being filed by the same organizations and jurisdictions that are

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<sup>1</sup> U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards 2011, *available at* <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf> (Page 405)

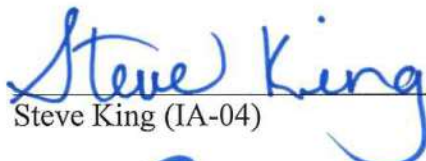
advancing sanctuary city and sanctuary state legislation and who join states and localities to file lawsuits against the Trump Administration's efforts to prioritize the removal of criminal aliens.


There are three critical steps that your agencies can take in very short order that can assist the Courts in clarifying the legal obligations under the VWP.

- First, ICE can issue guidance that updates legacy-INS guidance from February 26, 1992, and makes it clear that alien detainees who perform work at CDFs under the VWP while in contractor custody are not considered "employees" of the facilities.
- Second, DOJ and ICE can participate in the pending litigation either as a party, an interested entity under 28 U.S.C. § 517, or as an *amicus curiae*.
- Third, the Department of Labor can issue clarifying guidance that neither the FLSA nor the federal minimum wage laws apply to alien detainees who perform work at CDFs under the VWP.

Alien detainees should not be able to use immigration detention as a means of obtaining stable employment that will encourage them to pursue frivolous claims to remain in the country and in detention for as long as possible. Unless your agencies act to intervene in these lawsuits, immigration enforcement efforts will be thwarted and the end result will be millions of dollars of unnecessary loss to the federal government in terms of additional expenses for immigration detention.

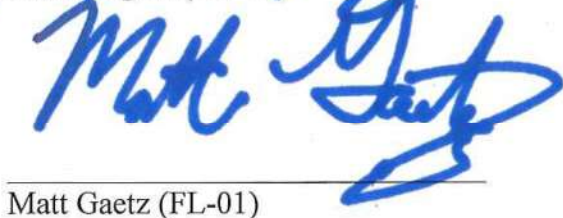
Please let us know if you have any questions.

  
Steve King (IA-04)

  
Lamar Smith (TX-21)

  
Mike Rogers (AL-03)

  
Paul A. Gosar D.D.S. (AZ-04)

  
Matt Gaetz (FL-01)

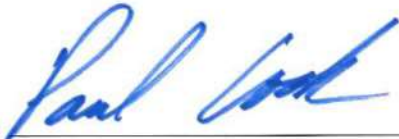
  
Andy Biggs (AZ-05)



Louie Gohmert (TX-01)



Dana Rohrabacher (CA-48)



Paul Cook (CA-08)



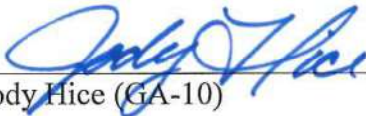
Scott Taylor (VA-02)



Earl L. "Buddy" Carter (GA-01)



John Ratcliffe (TX-04)



Jody Hice (GA-10)



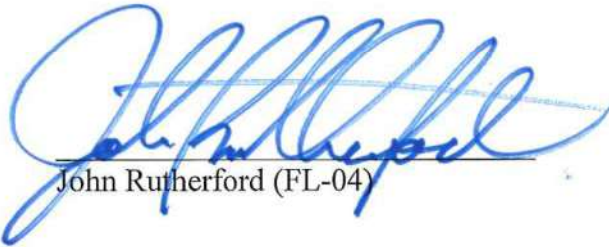
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