

**ICE Should Improve
Controls Over Its
Transportation Services
Contracts**





DHS OIG HIGHLIGHTS

ICE Should Improve Controls Over Its Transportation Services Contracts

September 25, 2023

Why We Did This Audit

ICE enforces the Nation's immigration laws and manages the safe and secure transportation of apprehended noncitizens for removal. From October 2019 through April 2022, ICE obligated \$799 million across 13 contracts for transportation of noncitizens. We conducted this audit to determine to what extent ICE complied with Federal, departmental, and component procurement guidance for monitoring and overseeing transportation contracts.

What We Recommend

We made seven recommendations to improve ICE's oversight of its transportation services contracts.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

U.S. Immigration and Customs Enforcement (ICE) did not fully comply with Federal and departmental guidance for monitoring and overseeing transportation contracts. Specifically, ICE did not always appoint contracting officer's representatives (COR) according to policy. Also, ICE did not consistently use quality assurance surveillance plans to monitor contractor performance. Lastly, ICE did not adequately review invoices to ensure expenses were correct, supported, and reasonable, resulting in \$408,875 in erroneous or unsupported payments and \$900,144 that could have been put to better use.

This occurred because ICE contracting staff do not have a consistent understanding of COR appointment requirements, nor does ICE have guidance on how to implement existing Federal and Department policies on COR appointments and methods of quality assurance. Also, CORs have multiple competing responsibilities that could have impacted their ability to conduct quality assurance and accurately review invoices. Without improvements, ICE cannot be assured that it is receiving services that conform to contract requirements.

ICE Response

ICE concurred with our recommendations. We consider all seven recommendations resolved and open.



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Background

U.S. Immigration and Customs Enforcement’s (ICE) Enforcement and Removal Operations manages the immigration enforcement process by identifying, arresting, and removing noncitizens who are in the United States unlawfully. This entails transporting noncitizens,¹ including single adults, unaccompanied children, and family units, who were apprehended by U.S. Customs and Border Protection and other agencies. ICE transports these noncitizens to locations such as ICE detention centers, Family Residential Centers, U.S. Department of Health and Human Services Office of Refugee Resettlement facilities, or the noncitizen’s home country, depending on the circumstances surrounding the apprehension. This transportation occurs via ground or air transit.

To assist with ICE’s mission of transporting apprehended noncitizens, the Office of Acquisition Management within ICE’s Management and Administration Directorate contracts with vendors to provide transportation services. From October 2019 through April 2022, ICE reported that it obligated \$799 million and expended about \$746 million for 13 transportation services contracts. ICE awarded the contracts for transportation to be available when needed but did not track² the number of noncitizens transported per contract. See Table 1 for a summary.

Table 1. ICE’s Transportation Contracts from October 2019 through April 2022 (in millions)

| Contractor | Method of Transportation | Contract Type³ | Obligated Amount | Expended Amount |
|-------------------|---------------------------------|----------------------------------|-------------------------|------------------------|
| Contractor 1 | Air | Hybrid | \$20.51 | \$16.40 |
| Contractor 2 | Air | Hybrid | \$300.00 | \$290.75 |
| Contractor 3 | Air | Firm-fixed price | \$4.77 | \$4.77 |
| Contractor 4 | Air/Ground | Hybrid | \$285.60 | \$255.15 |
| Contractor 5 | Ground | Firm-fixed price | \$23.71 | \$22.96 |
| Contractor 6 | Ground | Firm-fixed price | \$13.94 | \$13.78 |
| Contractor 7 | Ground | Firm-fixed price | \$27.16 | \$25.33 |
| Contractor 8 | Ground | Hybrid | \$23.13 | \$19.41 |

¹ Transportation services also include providing incidentals such as meals and water, clothing, travel kits, medical care, and lodging during transportation trips when applicable.

² We requested that ICE provide the number of noncitizens transported per contract, but ICE was unable to provide the data.

³ A hybrid contract contains firm-fixed price and time-and-materials, fixed unit and labor hour, or firm-fixed price and labor hour elements.



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| Contractor | Method of Transportation | Contract Type³ | Obligated Amount | Expended Amount |
|-------------------|---------------------------------|----------------------------------|-------------------------|------------------------|
| Contractor 9 | Ground | Firm-fixed price | \$6.87 | \$6.85 |
| Contractor 10 | Ground | Hybrid | \$14.44 | \$14.36 |
| Contractor 11 | Ground | Hybrid | \$15.25 | \$14.84 |
| Contractor 12 | Ground | Hybrid | \$37.02 | \$34.54 |
| Contractor 13 | Ground | Firm-fixed price | \$26.57 | \$26.57 |
| Total | N/A | N/A | \$798.97 | \$745.71 |

Source: Department of Homeland Security Office of Inspector General analysis of contract data provided by ICE from the Federal Financial Management System (FFMS)

The ICE Office of Acquisition Management follows the requirements within the Federal Acquisition Regulation (FAR)⁴ and departmental policies for contract administration and oversight. ICE’s monitoring activities include site visits and quality assurance surveillance. In addition, ICE issues contract discrepancy reports and assesses liquidated damages when contractors do not perform. We conducted this audit to determine to what extent ICE complied with Federal, departmental, and component procurement guidance for monitoring and overseeing transportation contracts.

Results of Audit

ICE Did Not Comply with All Federal and Departmental Guidance for Monitoring and Overseeing Transportation Contracts

The FAR identifies roles and responsibilities for monitoring and oversight of Federal contracts. Contracting Officers (CO) are responsible for managing contractor performance and ensuring compliance with the terms of the contract. The FAR allows COs to appoint a contracting officer’s representative (COR) to assist with administering the contract to ensure that the Government and contractor fulfill agreed upon terms. The COR’s administrative duties consist of conducting surveillance to verify contractor performance, reporting deficiencies in performance, and reviewing invoices.⁵ The specific nature and extent of the duties vary from contract to contract; the level of involvement can

⁴ FAR 46.401(a). “Government contract quality assurance shall be performed at such times (including any stage of manufacture or performance of services) and places (including subcontractors’ plants) as may be necessary to determine that the supplies or services conform to contract requirements.”

⁵ Homeland Security Acquisition Manual Appendix W, *Contracting Officer’s Representative (COR) Nomination and Appointment Correspondence*.



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range from minimal to extensive depending on the contract’s complexity and type.

ICE Contracting Officers Did Not Always Appoint CORs in Accordance with DHS Acquisition Policy

According to DHS Acquisition Workforce Policy Number 064-04-003,⁶ CORs may be certified at Level II or Level III depending on the COR’s training and experience and are appointed based on the type and complexity of the contract. A Level II COR is appointed to contracts that do not involve high risk or major investments, whereas a Level III COR is appointed to high-risk or major investment contracts. See Table 2 for DHS’ COR certification level requirements.

Table 2. DHS COR Level Certification Requirements

| COR Level | Contract Type | Initial Training Requirements | Minimum COR Experience |
|------------------|--|--------------------------------------|-------------------------------|
| COR Level I | DHS does not certify Level I CORs | N/A | N/A |
| COR Level II | Other than high-risk or major investment contracts (such as firm-fixed price contracts) | 40 hours | 1 year |
| COR Level III | High-risk contracts or major investment contracts (such as hybrid contracts or time-and-materials contracts) | 60 hours | 2 years |

Source: DHS OIG analysis of DHS Acquisition Workforce Policy Number 064-04-003

We reviewed 13 transportation services contracts and determined ICE did not always appoint CORs with the proper training and experience. Specifically, we found that ICE CORs for five high-risk contracts, with total reported expenditures of \$596.5 million, did not have the required Level III COR certification. For the remaining 8 contracts, ICE appointed an appropriately certified COR.

Additionally, we found COs did not always delegate duties to CORs using an appointment letter,⁷ as required by DHS acquisition policy. If a CO decides to appoint a COR, the CO must issue a letter to the COR outlining COR roles and

⁶ DHS Acquisition Workforce Policy Number 064-04-003, *The Federal Acquisition Certification for Contracting Officer’s Representatives and Appointment and Revocation (Revision 2) Issued August 8, 2012.*

⁷ Homeland Security Acquisition Manual section 3042.270-3.



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responsibilities, and a copy of the COR appointment letter must be maintained in the contract file.⁸ DHS acquisition policy requires a separate COR appointment letter for each contract to which a COR is appointed. Also, according to senior ICE contracting staff, if an individual changes their role on a contract, such as when a primary COR is reappointed as an alternate COR (ACOR), an updated appointment letter should be issued.

COs made 42 COR and ACOR appointments for the 13 ICE transportation services contracts we reviewed. However, we found that 6 of 42 (14 percent) COR appointment letters were not in the contract files and could not be furnished upon request. Of the 36 COR appointment letters we received, 10 were not specific to the contract to which the COR was assigned. We also found that in six instances, ICE did not issue new appointment letters to reflect the COR's or ACOR's new role on the contract, as required. For example, ICE did not issue updated COR or ACOR letters when two ACORs became primary CORs and when four CORs became ACORs.

These issues occurred because ICE contracting staff did not have a consistent understanding of policies. For example, one ICE staff member said that "other than high risk"⁹ and "major investment" contracts did not have precise definitions, while another staff member said that COR levels are based on the dollar amount of the contract. We also attribute these issues to ICE acquisition policy not including procedures to implement Federal and departmental requirements for COR appointment letters. ICE's acquisition manual¹⁰ does not include specific guidance on how CORs should be appointed or how COR appointment letters should be retained in the contract files.

Without a clear understanding of the COR appointment policies, ICE may continue to appoint CORs who lack the training and experience necessary to accurately assess the contractor's performance. Further, until ICE's policies are revised to include procedures to implement the requirements for COR appointment letters, these letters may continue to be missing, outdated, or not specific to the contract. Additionally, if COR appointment letters do not clearly describe a COR's roles and responsibilities, ICE risks not receiving the level of services agreed to in the contract.

⁸ Homeland Security Acquisition Manual section 3004.803-70(c)(3).

⁹ In a 2011 memorandum on COR certification, the Office of Management and Budget considers contracts that are not firm fixed price, such as hybrid contracts, to be of high risk. See [Revisions to the Federal Acquisition Certification for Contracting Officer's Representatives \(FAC-COR\)](#), September 6, 2011.

¹⁰ The *ICE Acquisition Manual* issued June 2020 and revised in January 2022.



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ICE CORs Did Not Always Adequately Monitor Contractor Performance

The FAR requires agencies to perform quality assurance to ensure the services received conform to contract requirements.¹¹ One tool that agencies use to monitor contracts is the quality assurance surveillance plan (QASP), which provides instructions to evaluate whether the contractor is meeting the performance standards identified in the contract's performance work statement. A QASP defines acceptable quality levels, describes methods to monitor contractor performance, and identifies the resources and documentation needed to assess performance.

ICE did not always prepare a QASP for CORs overseeing transportation services contracts. Specifically, ICE did not complete a QASP for 3 of 12¹² (25 percent) transportation services contracts we reviewed. Additionally, of the nine QASPs ICE prepared, one did not describe a surveillance method for the COR to verify contract performance.

CORs also did not always perform the monitoring activities outlined in the QASP. For example, one QASP required ICE to monitor the contractor's performance by interviewing contractor staff, noncitizens, and other government personnel, and by reviewing documentation in the performance standards such as training plans and certificates. However, the COR for the associated contract did not consistently conduct interviews or regularly obtain and review documentation. Instead of proactively conducting interviews, the COR often relied on ICE officers, the contractor, and noncitizens to come forward when they experienced issues.

According to the CO, three contracts did not have QASPs because it was not a contract requirement. In addition, CORs have multiple competing responsibilities, such as being appointed the COR or ACOR on multiple contracts, that could have impacted their ability to conduct quality assurance.

ICE's transportation services contracts have extensive performance work statements with numerous requirements. QASPs highlight specific requirements for contractor performance, allowing the COR to monitor the contract in a systematic manner. If ICE does not develop quality assurance tools such as a QASP, and CORs do not use them, then ICE may not be assured that the contractor is performing in accordance with contract requirements.

¹¹ FAR section 46.401(a).

¹² One contract did not have a QASP because it was a short-term contract.



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ICE CORs Did Not Adequately Review Invoices

According to the Homeland Security Acquisition Manual, if delegated the responsibility to review invoices by the CO, the COR must ensure that the contractor completes and submits invoices in accordance with the contract.¹³ When a COR reviews and approves an invoice, the COR is certifying that the information is accurate and complete and that costs are allowable and reasonable. Costs are allowable if they comply with the terms of the contract — for example, billed rates on an invoice should match the rate specified in the contract — and are supported by adequate documentation to show that the costs claimed are allocable to the contract. A cost is reasonable if, in nature and amount, it does not exceed what would be incurred by a prudent person in the conduct of competitive business.

We reviewed approved invoices that four ICE transportation services contractors¹⁴ submitted in April 2022. When comparing the invoices to the contracts and supporting documentation, we found ICE paid \$408,875 in erroneous or unsupported charges. We identified the following issues:

- Contractor 5 charged an incorrect contract labor rate for transportation services, which resulted in an overcharge of \$8,549.
- Contractor 2 charged a higher flight hour rate before the rate's effective date, resulting in an overcharge of \$272,005.
- ICE could not provide supporting documentation for \$128,321 of Contractor 4's invoiced transportation expenses.

ICE also paid for costs that may not have been reasonable. For example, Contractor 4 provides charter bus services for transporting noncitizens. According to the COR, U.S. Border Patrol requested that buses be present each day at two Border Patrol stations due to a significant number of noncitizen encounters and the stations reaching maximum capacity. Contractor 4 secured the requested number of buses and submitted documentation supporting the cost as part of its invoices to ICE.

We reviewed Contractor 4's invoices from February 2022 through April 2022 and found that, although Border Patrol requested an average of eight buses each day, ICE regularly used only two or three of these buses each day to transport noncitizens from the two Border Patrol stations. The other requested

¹³ Although Homeland Security Acquisition Manual section 3032.7002 places ultimate responsibility for invoice review on COs, section 3001.602-2 allows COs to delegate some of their responsibilities to CORs.

¹⁴ See Table 1.



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buses remained in a “standby” status. Contractor 4’s invoices reflected that ICE paid more than twice as much for buses on standby than for buses that actually transported noncitizens. Specifically, charges for the standby buses represented 69 percent of the total charges Contractor 4 invoiced during this period. See Table 3 for a summary of the supporting documentation for Contractor 4’s bus services.

Table 3. Contractor 4 Bus Services from February through April 2022

| Month | Trips Taken | | Standby Charges | | Totals | |
|-----------|-------------|-----------|-----------------|-----------|--------|-------------|
| | Buses | Amount | Buses | Amount | Buses | Amount |
| Feb. 2022 | 82 | \$178,351 | 164 | \$293,772 | 246 | \$472,123 |
| Mar. 2022 | 63 | \$103,284 | 182 | \$326,508 | 245 | \$429,792 |
| Apr. 2022 | 63 | \$124,568 | 156 | \$279,864 | 219 | \$404,432 |
| Total | 208 | \$406,203 | 502 | \$900,144 | 710 | \$1,306,347 |

Source: DHS OIG analysis of contract invoices

According to the COR appointment letter, the COR must review invoices for reasonableness. Although it is reasonable to have buses on standby to be ready for sudden surges of migrants, it may be unreasonable to pay for as many as nine buses almost daily, month after month, when ICE only uses two or three buses a day to transport noncitizens from the two Border Patrol stations. If ICE had balanced the number of buses it chartered with demand at those two Border Patrol stations, the funds used to pay the standby charges of \$900,144 could have been put to better use.

We attribute this lack of oversight to CORs having multiple competing responsibilities. One COR reported that their role as a COR is a secondary assignment to their primary work role and often, they do not have the time to review invoices in depth. Another COR serves either as the COR or an ACOR on 3 of the 13 contracts we reviewed. The invoices for these contracts are often substantial and contain charges associated with many detailed contract requirements. Without adequate staffing to review and approve invoices, ICE is prone to approving inaccurate and incomplete invoices, which can lead to unallowable costs.

Recommendations

Recommendation 1: We recommend the Executive Associate Director for Management and Administration ensure ICE appoints appropriately certified CORs to oversee high-risk transportation services contracts.



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Recommendation 2: We recommend the Executive Associate Director for Management and Administration ensure COs issue COR appointment letters to CORs who do not have them and reissue outdated COR appointment letters.

Recommendation 3: We recommend the Executive Associate Director for Management and Administration develop and implement procedures to ensure contracting staff issue COR appointment letters and maintain them in contract files.

Recommendation 4: We recommend the Executive Associate Director for Enforcement and Removal Operations develop and implement guidance to ensure that Enforcement and Removal Operations develops QASPs for contracts that include specific methods for monitoring contractor compliance with contract terms and develop procedures to ensure CORs use the QASPs as part of their oversight activities.

Recommendation 5: We recommend the Executive Associate Director for Enforcement and Removal Operations evaluate the workload for CORs and determine if sufficient resources are allocated to adequately oversee contracts and, based on the evaluation, develop, and implement a plan to more effectively manage or obtain additional personnel resources.

Recommendation 6: We recommend the Executive Associate Director for Management and Administration recover any monies, including the \$408,875 identified in this report, determined to have been paid toward inaccurate charges or costs not supported by documentation.

Recommendation 7: We recommend the Executive Associate Directors for Enforcement and Removal Operations and Management and Administration determine the reasonableness of the amount and frequency of standby bus charges.

Management Comments and OIG Analysis

ICE concurred with all seven recommendations. In its management response, ICE detailed efforts it has made to improve contract management. ICE provided technical comments to our draft report. We incorporated these comments into the report, as appropriate. A summary of ICE's responses and our analysis follows. We included ICE's management response in its entirety in Appendix A.

ICE Response to Recommendation 1: Concur. ICE's Office of Acquisition Management (OAQ) will review transportation services contracts to ensure



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CORs are appropriately appointed in line with what has been determined to be high-risk, as defined by Attachment 3 of the Office of Management and Budget Memorandum, *Revisions to the Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR)*, dated September 6, 2011. Specifically, OAQ will confirm that each COR for transportation services contracts has a current certification level appropriate for the contract and tasks to be performed. OAQ will also assist programs under ICE Enforcement of Removal Operations (ERO) with nominating and maintaining COR support for applicable contracts. Estimated Completion Date (ECD): March 29, 2024.

OIG Analysis: We consider these actions responsive to the recommendation, which will remain open and resolved until ICE provides documentation that each COR for transportation services contracts has a certification level appropriate for the contract.

ICE Response to Recommendation 2: Concur. OAQ will ensure COs issue COR appointment letters to CORs who do not have them and reissue outdated COR appointment letters. Specifically, the OAQ Audit Liaison will work with each of the four OAQ operational division Section and Unit Chiefs to review their current contracts to ensure they have appointed CORs, in accordance with policy. ECD: March 29, 2024.

OIG Analysis: We consider these actions responsive to the recommendation, which will remain open and resolved until ICE provides documentation that each COR for transportation services contracts has an up-to-date COR appointment letter.

ICE Response to Recommendation 3: Concur. OAQ will send out written reminders that COs are to ensure they issue COR appointment letters and maintain these letters in contract files, as required by the DHS *Homeland Security Acquisition Manual (HSAM)*, dated October 2009, rev. July 31, 2023. As part of each contract award review, required by HSAM 3004.70, OAQ will ensure that COR appointment letters are issued. Additionally, OAQ will add this check for COR documentation to part of the *Quality Assurance Division Document Review Standards*, dated June 2023. ECD: March 29, 2024.

OIG Analysis: We consider these actions responsive to the recommendation, which will remain open and resolved until ICE provides a copy of its updated *Quality Assurance Division Document Review Standards* reflecting the proposed change.

ICE Response to Recommendation 4: Concur. OAQ will identify issues and/or concerns with draft QASPs as required for individual requirements and work with ERO to finalize draft QASPs. ECD: June 28, 2024.



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OIG Analysis: We consider these actions responsive to the recommendation, which will remain open and resolved until ICE provides the guidance on QASP development and procedures to ensure CORs use them.

ICE Response to Recommendation 5: Concur. ICE ERO will conduct an evaluation of COR workload to determine if sufficient resources are allocated to adequately oversee contracts. If the evaluation determines there is an unequal distribution of work or insufficient resources, ICE ERO will create a plan to request additional resources, as appropriate. ECD: June 28, 2024.

OIG Analysis: We consider this action responsive to the recommendation, which will remain open and resolved until ICE provides documentation of its evaluation of COR workload.

ICE Response to Recommendation 6: Concur. On August 3, 2023, Contractor 2 made \$272,005 in invoice deductions to recover the government overpayment on this contract. ICE ERO will work with the COs to recover the remaining \$136,870 on Contracts 4 and 5 identified in our draft report. ECD: March 29, 2024.

OIG Analysis: We consider this action responsive to the recommendation, which will remain open and resolved until ICE provides documentation that accounts for the erroneous and unsupported charges.

ICE Response to Recommendation 7: Concur. ICE ERO will work with COs to conduct a review of standby bus charges, taking into account that the requirement for amount and frequency of standby bus charges relates to ICE ERO mission needs and is based on several unpredictable factors, including changing needs, timeline to acquire the necessary resources, and staffing resources. The COs will ensure a copy of ICE ERO's determination of reasonableness is included in the file as it relates to standby bus charges. ECD: March 29, 2024.

OIG Analysis: We consider this action responsive to the recommendation, which will remain open and resolved until ICE provides documentation of its review of standby bus charges.

Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.



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Our audit objective was to determine to what extent ICE implemented controls to ensure its transportation services contractors adhere to the terms of their contracts, and whether ICE complied with Federal, departmental, and component procurement guidance and policy requirements for monitoring and overseeing the contracts.

To answer our audit objective, we researched and evaluated relevant criteria, guidance, processes, procedures, and controls related to how ICE manages and oversees its transportation contracts. We reviewed the following documents:

- FAR
- HSAM
- DHS Acquisition Workforce Policy 064-04-003
- DHS COR Guidebook

We conducted interviews in person and via video conferences with ICE personnel responsible for contract oversight and management. We conducted site visits to the ICE Field Office in San Antonio, Texas; ICE's Juvenile and Family Management Transportation and Compliance Unit in McAllen, Texas; and ICE Air Operations at Mesa, Arizona, to observe contract operations and to speak with CORs and ACORs. We also conducted a virtual site visit to the ICE Field Office in Los Angeles, California.

ICE provided a list of 11 transportation contracts that were active during our scope period of October 2019 through April 2022. We compared this list to active transportation contracts in the Federal Procurement Data System and found two additional contracts that were active during the scope period. Although active during the scope period, these two contracts were closed before our audit began. After reviewing the additional contract information, we determined that the 13 contracts represented the complete universe of ICE's active transportation services contracts within our scope. We also reviewed various attributes of these contracts, such as whether ICE appointed a COR at an appropriate level, whether ICE appointed the COR in writing via a COR appointment letter, and whether ICE developed a QASP to monitor the contract.

We judgmentally selected four transportation service contracts based on the type of services provided (i.e., ground, air, or combination of both) and obligated amounts for a more extensive review. We selected two ground contracts, one air contract, and one contract that provides both air and ground transportation. We reviewed supporting documentation for invoices submitted in April 2022 for the selected contracts. We expanded the invoice review on one contract to a portion of the February 2022 and March 2022 invoices to further analyze "standby" bus charges.



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We relied on ICE's FFMS, the component's system of record, for obligations and expenditure data. We used total obligation and expenditures from ICE's FFMS for background purposes. We did not test the reliability of the total obligations and expenditures because the audit team relied on actual reviews of supporting documentation for reported invoices.

We assessed ICE's internal controls and compliance with laws and regulations applicable to its oversight of transportation services contracts. Our review was limited to addressing our audit objective and may not disclose all internal control deficiencies that may have existed at the time of this audit. However, our assessment disclosed deficiencies in ICE's design and implementation of controls to comply with Federal and departmental policies on COR appointment, contract monitoring, and invoice review.

We conducted this performance audit between April 2022 and June 2023 pursuant to the *Inspector General Act of 1978*, 5 U.S.C. §§ 401-424, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

DHS OIG's Access to DHS Information

During this audit, DHS provided timely responses to DHS OIG's requests for information and did not delay or deny access to information we requested.



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Appendix A
ICE Comments to the Draft Report

U.S. Department of Homeland Security
500 12th Street, S.W
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

September 14, 2023

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Max Aguilar FOR **STEPHEN A LAURANCE III**
Chief Financial Officer (Acting) and Deputy Executive
Associate Director for Management and Administration
U.S. Immigration and Customs Enforcement

SUBJECT: Management Response to Draft Report: "ICE Should
Improve Controls Over Its Transportation Services Contracts"
(Project No. 22-037-AUD-ICE)

Digitally signed by
STEPHEN A. LAURANCE III
Date: 2023.09.14 16:02:12
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Thank you for the opportunity to comment on this draft report. The U.S. Immigration and Customs Enforcement (ICE) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

ICE leadership is pleased to note OIG’s recognition that ICE enforces the nation’s immigration laws and manages the safe and secure transportation of apprehended noncitizens for removal, and that from October 2019 through April 2022, ICE obligated \$799 million across 13 contracts for transportation of noncitizens. However, it is also important to note that—since fiscal year (FY) 2021—ICE Management and Administration’s Office of Acquisition Management (OAQ) also increased its training and support of Contracting Officer Representatives (CORs). Examples include:

- 1) Beginning in FY 2023, OAQ led an ongoing effort to complete an overhaul and consolidation of COR community resources on ICE’s internal SharePoint page (inSight) to provide all ICE employees access to policy, trainings, templates, samples, etc.;
- 2) OAQ, in conjunction with ICE Enforcement and Removal Operations (ERO), led multiple COR-specific trainings from March 2023 to April 2023 on topics such as market research, COR financial matters, COR basics training, COR planning trainings, and an open forum for CORs with Contracting Officers (COs) and Contract Specialists;



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- 3) In March and June 2021, OAQ co-hosted COR-specific training on how to properly maintain files and support all contracts;
- 4) OAQ's Acquisition Innovation Advocate and policy team led several trainings from April 2021 (Procurement Innovation at the Office of the Chief Information Officer) to June 2023 (Market Research) for program personnel in support of ICE contracts on how to better support all contracts; and
- 5) In April 2023, OAQ created an internal SharePoint site, at the request of CORs, titled "ICE Acquisition Community Forum," to provide a place for CORs to ask any acquisition questions they have and to seek additional support.

In accordance with the Department of Homeland Security (DHS) mission and core values, ICE remains committed to improving overall business performance including providing a strategic approach to procurement that complies with federal and departmental standards and requirements for contracts. ICE maintains the highest ethical and professional standards and will continue to improve the quality of our work in service of the DHS mission.

The draft report contained seven recommendations with which ICE concurs. Enclosed find our detailed response to each recommendation. ICE previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Enclosure



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Enclosure: Management Response to Recommendations Contained in OIG (22-037-AUD-ICE)

OIG recommended that the ICE Executive Associate Director for Management and Administration:

Recommendation 1: Ensure COs appoint appropriately certified CORs to oversee high-risk transportation services contracts.

Response: Concur. ICE OAQ will review transportation services contracts to ensure CORs are appropriately appointed in line with what has been determined to be high-risk, as defined by Attachment 3 of the Office of Management and Budget Memorandum, “Revisions to the Federal Acquisition Certification for Contracting Officer’s Representatives (FAC-COR),” dated September 6, 2011.¹ Specifically, OAQ will confirm that each COR for transportation services contracts has a current certification level appropriate for the contract and tasks to be performed. OAQ will also assist programs under ICE ERO with nominating and maintaining COR support for applicable contracts. Estimated Completion Date (ECD): March 29, 2024.

Recommendation 2: Ensure COs issue COR appointment letters to CORs who do not have them and reissue outdated COR appointment letters.

Response: Concur. OAQ will ensure COs issue COR appointment letters to CORs who do not have them and reissue outdated COR appointment letters. Specifically, the OAQ Audit Liaison will work with each of the four OAQ operational division Section and Unit Chiefs to review their current contracts to ensure they have appointed CORs, in accordance with policy. ECD: March 29, 2024.

Recommendation 3: Develop and implement procedures to ensure contracting staff issue COR appointment letters and maintain them in contract files.

Response: Concur. ICE OAQ will send out written reminders that COs are to ensure they issue COR appointment letters and maintain these letters in contract files, as required by the DHS “Homeland Security Acquisition Manual” (HSAM), dated October 2009, rev. July 31, 2023.² As part of each contract award review, required by HSAM 3004.70, OAQ will ensure that COR appointment letters are issued. Additionally, OAQ will add this check for COR documentation to part of the “Quality Assurance Division Document Review Standards,” dated June 2023. ECD: March 29, 2024.

¹ https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/procurement/revisions-to-the-federal-acquisition-certification-for-contracting-officers-representatives.pdf

² https://www.dhs.gov/sites/default/files/2023-08/homeland-security-acquisition-manual-full-0727_0.pdf



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OIG recommended that the Executive Associate Director for ERO:

Recommendation 4: Develop and implement guidance to ensure that ERO develops QASPs [Quality Assurance Surveillance Plans] for contracts that include specific methods for monitoring contractor compliance with contract terms/conditions and develop procedures to ensure CORs use the QASPs as part of their oversight activities.

Response: Concur. In consultation with OAQ, ERO will submit draft QASPs for review and approval as part of a complete requirements package. OAQ will identify any issues or concerns with draft QASPs as required for individual requirements and work with ERO to finalize draft QASPs. ECD: June 28, 2024.

OIG recommended that the ICE Executive Associate Directors for ERO and Management and Administration:

Recommendation 5: Evaluate the workload for CORs and determine if sufficient resources are allocated to adequately oversee contracts and, based on the evaluation, develop, and implement a plan to more effectively manage or obtain additional personnel resources.

Response: Concur. ICE ERO will conduct an evaluation of COR workload to determine if sufficient resources are allocated to adequately oversee contracts. If the evaluation determines there is an unequal distribution of work or insufficient resources, ERO will create a plan to request additional resources, as appropriate. ECD: June 28, 2024.

OIG recommended that the Executive Associate Director for Management and Administration:

Recommendation 6: Recover any monies, including the \$408,875 identified in this report, determined to have been paid toward inaccurate charges or costs not supported by documentation.

Response: Concur. On August 3, 2023, Contractor 2 made \$272,005 in invoice deductions to recover the government overpayment on this contract. ICE ERO will work with the COs to recover the remaining \$136,870 on Contracts 4 and 5 identified in the OIG's draft report. ECD: March 29, 2024.

OIG recommended that the Executive Associate Directors for ERO and Management and Administration:

Recommendation 7: Determine the reasonableness of the amount and frequency of standby bus charges.



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Response: Concur. ICE ERO will work with COs to conduct a review of standby bus charges, taking into account that the requirement for amount and frequency of standby bus charges relates to ERO mission needs and is based on several unpredictable factors, including changing needs, timeline to acquire the necessary resources, and staffing resources. The COs will ensure a copy of ERO's determination of reasonableness is included in the file as it relates to standby bus charges. ECD: March 29, 2024.



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Appendix B
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