

United States Senate

WASHINGTON, DC 20510

May 4, 2022

The Honorable Alejandro Mayorkas
Secretary
United States Department of Homeland Security
Washington, D.C. 20016

Dear Secretary Mayorkas,

We write today to express our concerns with the recent Department of Homeland Security (DHS) Office of Inspector General (OIG) report that outlines the improper use of a sole source contract for the housing of migrant families and the wasteful spending of millions of dollars for unused bed space. These revelations raise concerns regarding the waste of taxpayer funds, as well as the department's plan to respond to yet another record-breaking year of illegal migration across our southern border.

Last year, America experienced the highest level of illegal and irregular migration ever recorded, with U.S. Customs and Border Protection (CBP) recording over 1.7 million encounters with individuals attempting to cross the border illegally. The crisis continues to accelerate as our country is on pace to surpass last year's record-breaking numbers. In March, CBP recorded 221,303 encounters, breaking the single-month record and marking the 13th month in a row that encounters have exceeded 150,000. In the past six months alone, CBP has surpassed 1 million encounters.¹ On top of the historic level of illegal crossings and encounters, it is reported that there are approximately 25,000 individuals already waiting in Mexico for Title 42 to be lifted, and U.S. intelligence estimates an initial influx of more than 170,000 total.²

Included in the more than 1.7 million encounters during FY2021 were nearly 480,000 Individuals in a Family Unit (FMUA).³ As you know, U.S. Immigration and Customs Enforcement (ICE) is tasked with housing FMUAs while they work through the immigration system and in the past has relied on Family Residential Centers (FRC) to fulfill this mission. In anticipation of the forthcoming surge in illegal crossings and encounters with FMUAs, ICE determined it did not have the capacity to handle the projected number of FMUAs and the assistance of an outside organization was needed.

The manner in which DHS executed the contract to house migrant families raises serious questions about the department's initial response to the crisis and its ability to respond to the continuous and increasing illegal migration.

According to the OIG report, ICE did not proactively request proposals to assist in fulfilling its mission to house migrant families. It was only after being provided an unsolicited proposal from the San Antonio based non-profit Endeavors that ICE entered into the sole source contract to house FMUAs in hotels. The report notes that ICE justified the contract on the basis that

¹ U.S. CUSTOMS & BORDER PROT., Southwest Land Border Encounters (April 18, 2022), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² Jonathan Swan & Stef W. Kight, Scoop: Biden officials fear "mass migration event" if COVID polices end, AXIOS (Mar. 17, 2022), <https://www.axios.com/biden-border-mexico-migrants-title-42-a91b6441-2197-463f-ab1f-2435824a9566.html>.

³ U.S. CUSTOMS & BORDER PROT., Southwest Land Border Encounters (April 18, 2022), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

“Endeavors was the only known source capable of meeting the requirements.” Yet, the OIG’s review revealed that not only did the group have “no experience providing the services covered by the sole source contract” but that “ICE used a different contractor in 2021” to provide similar services, “but neither that contractor nor any other contractor was given the opportunity to submit a proposal.”⁴

The report goes on to reveal that, in addition to not taking the appropriate measures to find a contractor for these services at the most cost-effective price, “ICE did not accurately determine the number of beds necessary to address the anticipated surge or determine whether the surge would require additional capacity beyond the existing FRCs”. The OIG also found that “none of the facilities used more than half of the number of beds ICE paid for” and the existing FRCs were “underutilized both prior to and during” the contract with Endeavors, one of which was completely empty after February 2021. Unsurprisingly, this led to the wasteful spending for unused bed space at a cost of \$16.98 million.⁵

It’s clear that the humanitarian and national security crisis at our southern border will only continue to grow and, in all likelihood, bring increased numbers of FMUAs. We understand DHS and ICE are actively preparing to respond to the increased illegal and irregular migration, but to what extent these preparations included a plan to respond to increased apprehensions of FMUAs remains unclear. We ask that you answer the following questions by May 18, 2022.

1. How many daily and total encounters with FMUAs does DHS estimate can be expected for the remainder of FY2022?
2. What is ICE’s current capacity for housing FMUAs?
3. Does ICE anticipate this capacity will be reached? If so, how quickly?
4. To what extent does any ICE contingency plan to respond to a drastic increase of encounters with FMUAs include contracting for additional bed space and services?
5. To what extent does any ICE contingency plan rely on Notices to Appear and Alternatives to Detention?
6. To what extent does any ICE contingency plan rely on the use of Notices to Report or Parole with Alternatives to Detention?

Further, in light of these troubling facts, we are requesting additional information about how you allowed an agency under your leadership to waste taxpayer dollars on empty hotel rooms for illegal immigrants.

We expect you to conduct a full investigation as to why this was allowed to happen, and put in place appropriate measures to protect American’s taxpayer dollars. We also ask that you answer the following questions no later than May 18, 2022

1. Have DHS or ICE conducted a separate investigation into the failure that allowed for \$17 million of taxpayer dollars to be wasted on empty hotel rooms for illegal immigrants? If so, what was the result of your investigation?
2. When did you become aware that ICE spent, or planned to spend, almost \$17 million on empty hotel rooms for illegal immigrants? When did ICE leadership become aware of this waste and what actions were taken to stop this waste? What actions are being taken

⁴ OFFICE OF THE INSPECTOR GENERAL, US DEPARTMENT OF HOMELAND SECURITY, ICE Spent Funds on Unused Beds, Missed COVID-19 Protocols and Detention Standards while Housing Migrant Families in Hotels (April 12, 2022), <https://www.oig.dhs.gov/sites/default/files/assets/2022-04/OIG-22-37-Apr22.pdf>.

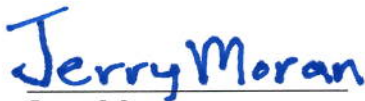
⁵ Ibid

to hold accountable those responsible for allowing this waste of American taxpayer dollars?

3. What actions have you taken, or do you intend to take, to get restitution for the nearly \$17 million in American taxpayer dollars which were wasted on empty hotel rooms for illegal immigrants?
4. What actions have DHS or ICE taken to put in place measures to prevent this kind of waste in the future? Please provide specific steps which will be required in the future to stop this kind of waste.
5. Why did ICE decide to enter an \$86.9 million, sole source contract with Endeavors, despite their lack of any experience providing the services covered by the contract?
6. Have DHS or ICE conducted a review of this contract to determine whether any other taxpayer dollars have been wasted? If so, what was the result of this review?
7. Why were three FRCs going underutilized – one of which was left empty – at the same time that ICE was spending nearly \$17 million for empty hotel rooms for illegal immigrants?

Ensuring adequate housing for families as they work their way through the immigration system is a vital part of the mission of ICE. However, wasteful spending as outlined by the recent OIG report works to the disadvantage of all involved. All contracts entered into by a federal agency, including DHS, should be done in an appropriate manner that provides the most efficient and cost-effective outcome. Thank you for your attention to this request, and we look forward to your reply.

Sincerely,



Jerry Moran
United States Senator



Thom Tillis
United States Senator



Roger F. Wicker
United States Senator



Rick Scott
United States Senator



John Boozman
United States Senator



Joni Ernst
United States Senator

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Ted Cruz
United States Senator