

**ICE Spent Funds on
Unused Beds, Missed
COVID-19 Protocols and
Detention Standards while
Housing Migrant Families
in Hotels**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

April 12, 2022

MEMORANDUM FOR: Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *ICE Spent Funds on Unused Beds, Missed COVID 19 Protocols, and Detention Standards While Housing Migrant Families in Hotels*

**JOSEPH V
CUFFARI** Digitally signed by
JOSEPH V CUFFARI
Date: 2022.04.12
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Attached for your action is our final report, *ICE Spent Funds on Unused Beds, Missed COVID 19 Protocols, and Detention Standards While Housing Migrant Families in Hotels*. We incorporated the formal comments provided by your office.

The report contains four recommendations aimed at improving ICE's contracting and oversight of hotel facility management and operations. Your office concurred with one recommendation and did not concur with three recommendations. Based on information provided in your response to the draft report, we consider recommendation 2 resolved and closed and recommendations 1, 3, and 4 administratively closed.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Thomas Kait, Deputy Inspector General for Inspections and Evaluations at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

ICE Spent Funds on Unused Beds, Missed COVID-19 Protocols and Detention Standards while Housing Migrant Families in Hotels

April 12, 2022

Why We Did This Inspection

We evaluated U.S. Immigration and Customs Enforcement's (ICE) plans to house migrant families in hotels and how ICE selected a contractor to implement these plans. From April 2021 to September 2021, we conducted remote inspections of the ICE hotel facilities to assess compliance by the contractor, Endeavors, with ICE detention standards and COVID-19 requirements.

What We Recommend

We made four recommendations to improve ICE's contracting and oversight of hotel facility management and operations.

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

ICE did not adequately justify the need for the sole source contract to house migrant families and spent approximately \$17 million for hotel space and services at six hotels that went largely unused between April and June 2021. ICE's sole source contract with Endeavors resulted in millions of dollars being spent on unused hotel space. In addition, Endeavors did not meet new healthcare protocols or ensure proper COVID-19 testing for families. For example, families were not tested by ICE for COVID-19 prior to being transported to hotels and were not always tested by Endeavors staff upon arrival at or departure from hotels, putting migrant families and the outside population at risk of contracting COVID-19. Further, Endeavors did not follow required ICE standards to ensure the proper care for housing migrant families while such families were residing in its facilities.

ICE Response

ICE concurred with one recommendation and did not concur with three recommendations. One recommendation was resolved and closed, and three recommendations were administratively closed. See Appendix B for ICE's full response.



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Abbreviations

COVID-19	coronavirus disease 2019
FAR	Federal Acquisition Regulation
FRC	Family Residential Center
FRS	<i>Family Residential Standards</i>
ICE	U.S. Immigration and Customs Enforcement
U.S.C.	United States Code



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Introduction

U.S. Immigration and Customs Enforcement (ICE) is responsible for housing migrant families in detention. ICE has historically used Family Residential Centers (FRC)¹ to accommodate family units in ICE custody. However, in early 2021, ICE anticipated increased apprehensions of migrant families along the southern U.S. border and entered into a contract to house migrant families in hotels while ICE completed its intake processing. Our objective was to evaluate ICE's plans to house migrant families in hotels and how ICE selected a contractor to implement these plans.

During the review, we also examined the contractor's compliance with the standards that apply to housing migrant families in hotel facilities. From April 2021 to September 2021, we conducted remote inspections and fieldwork of ICE hotels housing migrant families and identified concerns regarding the contract and detainee care. We referred the actions surrounding the use of a sole source contract to our Office of Investigations.

Background

ICE first began housing detained family units in FRCs in 2001 at Berks Family Residential Center (Berks) in Leesport, Pennsylvania. In 2014, following an increase in the number of families apprehended on the southern U.S. border, ICE opened two additional FRCs — the South Texas Family Residential Center (Dilley) in Dilley, Texas, and the Karnes County Residential Center (Karnes) in Karnes, Texas. The three FRCs have a total capacity of 3,326: 96 at Berks, 2,400 at Dilley, and 830 at Karnes. In 2007, ICE developed *Family Residential Standards* (FRS) to govern all aspects of family detention, including medical care, nutrition, legal access, educational services, and grievances.

In early 2021, ICE anticipated another surge in migrant families crossing the southern border into the United States and believed the existing housing infrastructure of the FRCs would be insufficient to handle the anticipated influx. To increase its housing capacity for detained families, ICE entered into an \$86.9 million sole source contract with Endeavors² for approximately 6 months (March to September 2021) to provide 1,239 beds and other

¹FRCs maintain family unity as families go through immigration proceedings or await return to their home countries. To be eligible to stay at an FRC, the family members cannot have a criminal history and must include a non-U.S. citizen child or children under the age of 18 accompanied by their non-U.S. citizen parent(s) or legal guardian(s). ICE also refers to FRCs as Family Staging Centers.

² Endeavors is a non-profit faith-based organization founded in 1969 to provide social welfare services to the community.



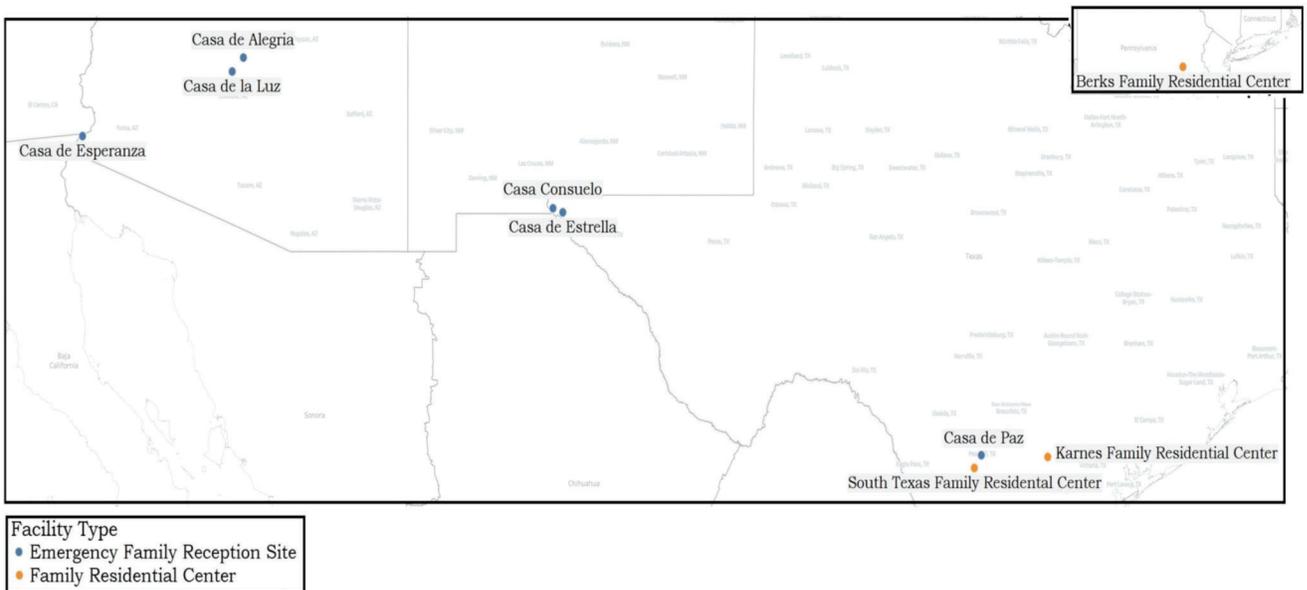
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necessary services in hotels. Sole source contracts are used when an agency can demonstrate that the contract meets specific and justified criteria, such as:

the executive agency’s need for the property or services is of such an unusual and compelling urgency that the Federal Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals.³

If contracts do not meet one of the criteria, they must be awarded through an open competitive process. The contract with Endeavors included the use of six hotels,⁴ which were repurposed as Emergency Family Reception Sites (see Figure 1),⁵ set up to accommodate migrants for stays typically lasting less than 3 days⁶ while ICE considered conditions of release based on specific circumstances, including alternatives to detention.⁷

Figure 1. Hotels Endeavors opened as part of its contract with ICE to house migrant families.



Source: DHS OIG analysis of ICE data

³ 41 United States Code (U.S.C.) § 3304(a)(2).

⁴ After our fieldwork was completed, two additional hotels were opened for a total of eight.

⁵ The contract defined these sites as “Temporary residential shelter care and other related services to families in its [ICE’s] custody.”

⁶ Families with members testing positive for coronavirus disease 2019 (COVID-19) may stay at hotels up to 10 days.

⁷ ICE’s Alternatives to Detention program uses technology and other tools to manage undocumented individuals’ compliance with release conditions while they are on the non-detained docket. It is not a substitute for detention but allows ICE to exercise increased supervision over a portion of those who are not detained.



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In March 2021, ICE modified its FRS⁸ to establish guidelines for housing and caring for migrant families held in ICE custody at hotel locations operated by Endeavors, as pictured in Figure 2. The standards were customized for hotel locations to reflect that hotels are not intended to provide long-term residential care. The modified FRS kept some of the required standards intact but modified or removed several key standards that were not useful or appropriate for short-term stays.⁹



Figure 2. Migrants waiting to be processed at an ICE hotel in Phoenix, Arizona, in May 2021.

Source: Video surveillance footage provided by Endeavors hotel staff

The Office of Inspector General initiated this inspection to evaluate ICE’s plans to house migrant families in hotels and how ICE selected a contractor to implement these plans. We also examined Endeavors’ compliance with ICE detention standards and coronavirus disease 2019 (COVID-19) requirements. We conducted remote inspections of four of the six ICE hotels operated by Endeavors: Casa de Estrella and Casa Consuelo in El Paso, Texas; Casa de Paz in Pearsall, Texas; and Casa de la Luz in Phoenix, Arizona.

⁸ ICE modified the FRS in March 2021 except for the behavior standard, which provided Endeavors’ approach to emergency crisis situations and resident searches at the hotels and was not modified until July 2021.

⁹ The modified FRS removed the visitation, educational policy, marriage requests, voluntary work program, resident transfers, and media tours standards. Further, ICE customized standards for admissions and release, staff-resident communication, recreation, and the resident handbook. ICE also replaced the standard for healthcare of migrant families with a new standard outlining how basic healthcare would be provided in a hotel setting.



Results of Inspection

ICE did not adequately justify the need for the sole source contract to house migrant families and spent approximately \$17 million for hotel space and services at six hotels that went largely unused between April and June 2021. ICE's sole source contract with Endeavors resulted in millions of dollars spent on unused hotel space. In addition, Endeavors did not meet new healthcare protocols or ensure proper COVID-19 testing for families. For example, families were not tested by ICE for COVID-19 prior to being transported to hotels and were not always tested by Endeavors staff upon arrival at or departure from hotels, putting migrant families and the outside population at risk of contracting COVID-19. Further, Endeavors did not follow required ICE standards to ensure the proper care for housing migrant families while in its facilities.

ICE Did Not Adequately Justify Its Use of Sole Source Contracting in Selecting Endeavors

Government contracts must be awarded through an open competitive process, as outlined in the Federal Acquisition Regulation (FAR). The FAR establishes limited situations in which contracting officers may award contracts on a sole source basis. The agency must provide a justification¹⁰ for a sole source award that cites the rationale for selecting a contractor without allowing other contractors to submit proposals. According to the FAR,¹¹ ICE is responsible for "providing and certifying as accurate and complete necessary data to support [its] recommendation for other than full and open competition."

Rather than using the competitive procurement process, ICE awarded a sole source contract to Endeavors, which had provided an unsolicited proposal¹² for housing migrant families in hotels. A Government agency typically receives proposals from contractors after it has put out a request for proposal. However, Endeavors provided a proposal without such a request from ICE. In this instance, ICE cited "unusual and compelling urgency" as the basis for an exception to the competitive contracting process. ICE's justification noted that Endeavors was the only known source capable of meeting the requirements to provide 1,239 hotel beds and all-inclusive emergency family residential services to support the surge of asylum seekers.

¹⁰ 41 U.S.C. § 3304.

¹¹ FAR 6.303-1(c), *Requirements*.

¹² Endeavors sent ICE a proposal for housing migrant families without ICE requesting such a proposal.



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Based on our analysis of ICE's justification for sole sourcing the contract to Endeavors, we determined ICE did not have supporting documentation to establish that Endeavors was the only contractor that could provide the services needed. ICE records showed that Endeavors had no experience providing the services covered by the sole source contract, including hotel beds or all-inclusive emergency family residential services. Rather, the contractor only had experience providing staffing for other migrant services. Further, there was no documentation to show that Endeavors had the capability to provide such services, other than the statements made in its proposal.

ICE documentation we reviewed showed that ICE used a different contractor in 2021 to provide hotel services to house individuals as they awaited transfer to FRCs, but neither that contractor nor any other contractor was given the opportunity to submit a proposal. Without documentation to support the justification used for sole sourcing this contract, ICE could not provide evidence it procured a qualified contractor at the most cost-effective price.

ICE Did Not Determine Space Necessary to House a Migrant Family Surge, Leaving Contracted Space Underutilized

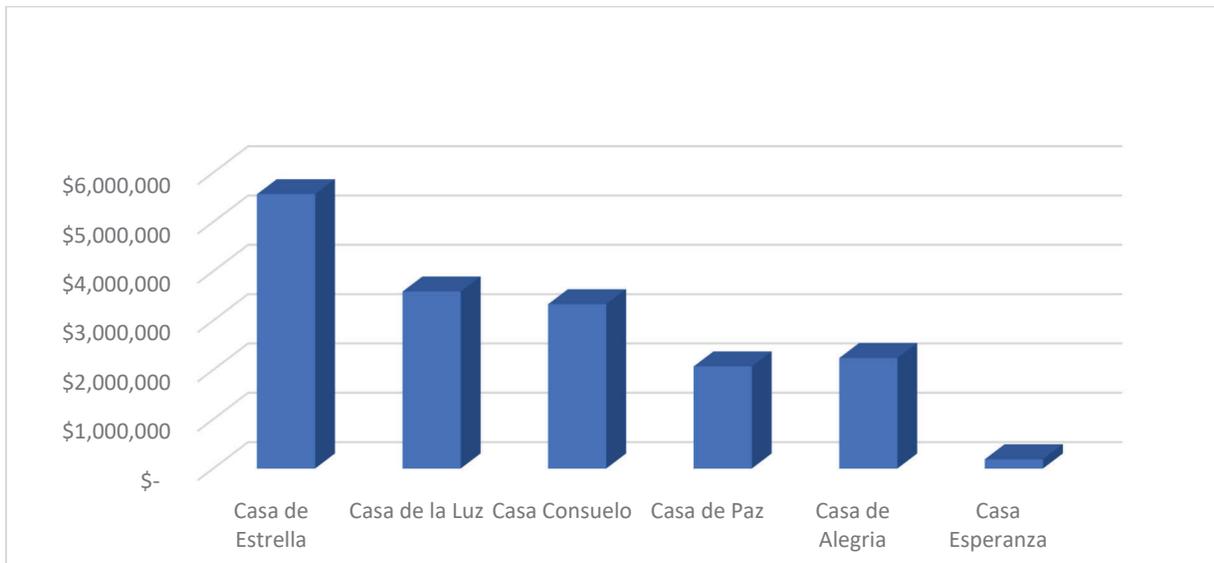
Prior to its contract award to Endeavors, ICE did not accurately determine the number of beds necessary to address the anticipated surge or determine whether the surge would require additional capacity beyond the existing FRCs that house migrant families. ICE's contract with Endeavors ultimately required that ICE pay for up to 1,239 beds regardless of how many beds were used. We reviewed costs and usage rates at hotels operated by Endeavors to house migrant families between the dates the hotels opened and June 2021 and found none of the facilities used more than half of the number of beds ICE paid for under its contract. For example, usage ranged from an average of 21 percent at one hotel in El Paso to an average of 45 percent at one hotel in Phoenix. As a result, ICE spent \$16.98 million¹³ for unused beds at the hotels between April and June 2021 (see Figure 3).

¹³ Occupancy rates were calculated based on ICE's reported usage at each hotel compared to the contracted capacity at each hotel from when each hotel opened to June 30, 2021. The number of unoccupied beds was multiplied by the contracted daily rate to determine the overall cost for unused beds.



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Figure 3. Funds ICE spent for beds that were not used at each hotel operated by Endeavors from the date each hotel opened to June 30, 2021.



Source: DHS OIG analysis of ICE data

In addition, we also found that the three FRCs that house migrant families were underutilized both prior to and during the hotels contract¹⁴ with Endeavors. From January 1 to June 30, 2021, Karnes used an average of 18 percent of its contractual capacity,¹⁵ and Dilley used an average of 23 percent of its contractual capacity.¹⁶ Berks was only occupied in January and February 2021 and used an average of 6 percent of its contractual capacity.¹⁷ ICE reported that after February 2021, it left Berks empty until its contract ended in June 2021. ICE reported that some of the reduced capacity was in response to COVID-19. In March 2020, ICE issued guidance stipulating that facilities holding detainees should reduce usage to 75 percent of capacity limits to allow for increased social distancing.

Endeavors Did Not Comply with New Healthcare Protocols, Including Protocols for COVID-19

In March 2021, ICE issued new healthcare protocols and modified its FRS to accommodate housing migrant families at its new Emergency Family Reception Sites. The modifications included protocols for basic healthcare and for COVID-19.

¹⁴ Contract period was between March and September of 2021.

¹⁵ Karnes held an average of 150 family members and had a capacity of holding 830.

¹⁶ Dilley held an average of 540 family members and had a capacity of holding 2,400.

¹⁷ Berks held an average of 6 family members and had a capacity of holding 96.



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The new COVID-19 protocols required Endeavors to:

- screen incoming migrant families for COVID-19 upon arrival at each hotel, as pictured in Figure 4;
- develop policies and procedures to quarantine migrants who test positive for the virus;
- follow Centers for Disease Control and Prevention guidelines on COVID-19;
- test staff members who are not vaccinated; and
- test migrant families again at departure if they are showing signs and symptoms of the illness.



Figure 4. Migrants arriving at an ICE hotel in El Paso, Texas, in May 2021.

Source: Video surveillance footage provided by ICE hotels staff

We determined that Endeavors took some steps to mitigate the spread of COVID-19 according to the new healthcare protocols, but several testing practices were deficient. According to ICE, there were 1,713 cases of COVID-19 in the six Emergency Family Reception Sites operated by Endeavors between April 9, 2021, and November 18, 2021.

We found Endeavors properly tested staff members and generally cared for quarantined migrant families. Endeavors conducted weekly testing of staff members who were not yet vaccinated. All facilities we reviewed were also properly quarantining migrant families who tested positive for COVID-19, and staff at three out of the four hotels checked on the quarantined families at least three times per day.

Nonetheless, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the



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virus on their passage into the United States. First, we found ICE did not ensure migrant families, even those with symptoms, were tested prior to being transported to hotels. For example, ICE did not have a process for rapid onsite¹⁸ testing for COVID-19, which would allow ICE to identify and separate families that are COVID-19 positive from those that are negative. Without rapid testing, migrant families that tested positive once they reached the hotel had already spent up to 4 hours on a bus, exposing others to the virus. Second, two of the four hotels did not consistently perform or document COVID-19 tests of migrant families at intake, and none of the facilities consistently documented or completed testing for migrant families exhibiting COVID-19 symptoms upon release. Without properly performing and documenting COVID-19 tests of migrant families at various stages of custody and release, ICE cannot effectively limit the spread of COVID-19 in the detained and general civilian populations.

In addition to the COVID-19 protocols, ICE's new healthcare protocols also required Endeavors to provide basic healthcare to migrants at the facilities, including treatment of basic medical conditions, referrals for offsite treatment, medical staffing, and requirements for medical records.

We determined the facilities did not follow the new healthcare protocols and modified FRS in several areas. In particular, the Endeavors medical staff did not properly document healthcare encounters as required by the medical protocols, including inconsistently documenting sick call encounters and insufficiently documenting release assessments. In two of the four facilities we reviewed, medical staff did not collect informed consent forms from patients. Informed consent forms explain medical treatments before patients agree to them. In addition, two of the four facilities did not have sufficient medical staffing according to the standards¹⁹ and did not ensure medical staff were aware of their respective facility's required medical quality management programs.

Overall, the lapse in compliance with the new healthcare protocols demonstrates that migrant families at Endeavors' facilities may not have received timely COVID-19 testing to prevent the spread of COVID-19, and medical staff may not have provided the level of medical care intended by the protocols.

¹⁸ Specifically, testing at the location where families are picked up from U.S. Customs and Border Protection custody to be transported to hotels.

¹⁹ The contract defined modifications to the Family Residential Standards in Attachment 2B – *Health Care – Emergency Family Reception Sites*, which required two 12-hour shifts, with 4 medical professionals per shift. Two of the facilities were unable to cover the night shift for a couple nights a week.



Endeavors Did Not Comply with Several Modified Family Residential Standards

The modified FRS kept some of the required standards intact but modified or removed several key standards. Specifically, the modified FRS required the amendment of the FRS Behavior Management standard, which describes Endeavors' approach to emergency crisis situations and resident searches at the hotels,²⁰ but ICE did not finalize this modified standard until July 2021, effectively leaving no approved behavior standard in place at the hotels for up to 3 months of their operations.

In addition, the four facilities we reviewed did not adhere to several standards that remained unchanged from the 2020 revised FRS. Specifically:

- ICE did not modify the funds and personal property standard.²¹ However, facility staff did not provide a secure locker or separate property storage areas as required, leaving the safeguarding of property up to migrant families.
- ICE did not change the portion of the admission and release standard²² that requires facility staff to maintain control over important documents such as passports. However, facilities allowed migrant families to keep important documents such as passports and birth certificates in their hotel rooms instead of staff safeguarding these items as required.
- ICE did not alter the food service standard,²³ which requires snacks to be available via self-service to migrant families. However, we found that facilities required migrant families to request snacks from Endeavors staff and wait for items to be brought to their rooms.
- ICE did not alter the use of physical control measures²⁴ and emergency plans standards,²⁵ which require video recording capabilities in facilities. We found that none of the facilities had required handheld video cameras to record use-of-force incidents (cases where facility staff must physically

²⁰ *Family Residential Standards*, Section 3.1, *Behavior Management* (Revised 2020).

²¹ *Family Residential Standards*, Section 2.3, *Funds and Personal Property* (Revised 2020). ICE reported that it modified this standard in September of 2021.

²² *Family Residential Standards*, Section 2.1, *Admission and Release* (Revised 2020). ICE reported that it modified this standard in September of 2021.

²³ *Family Residential Standards*, Section 4.1, *Food Service* (Revised 2020).

²⁴ *Family Residential Standards*, Section 2.10, *Use of Physical Control Measures and Restraints* (Revised 2020).

²⁵ *Family Residential Standards*, Section 1.1, *Emergency Plans* (Revised 2020).



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gain compliance of migrant family members) inside the hotel rooms if they occurred. Additionally, facilities were not properly ensuring video recordings of facility interiors, including one facility which had not connected half of its cameras to its recording system and three of the four facilities which had blind spots in their camera coverage.

- ICE did not alter the grievance system standard,²⁶ which requires facilities to have a handbook outlining the grievance process, including how to obtain grievance forms, submit grievances, and appeal grievance decisions. We reviewed Endeavors' resident handbook and found that it did not include information on how to submit medical grievances, emergency grievances, and grievance appeals, nor did it contain information on the policy prohibiting staff from harassing residents for filing grievances.

Overall, these broad lapses in compliance with the modified FRS demonstrate that migrant families at Endeavors' facilities may not have received the level of care intended by the standards.

Recommendations

We recommend the Executive Associate Director of Enforcement and Removal Operations direct the Director of ICE Enforcement and Removal to:

Recommendation 1: ICE should ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and modified FRS at facilities covered by those standards.

²⁶ *Family Residential Standards*, Section 6.2, *Grievance System* (Revised 2020).



Management Comments and OIG Analysis

ICE concurred with one recommendation and did not concur with three recommendations. Appendix B contains ICE management comments in their entirety. We also received technical comments on the draft report and made revisions as appropriate. One recommendation was resolved and closed, and three recommendations were administratively closed. However, we reserve the option to reopen the administratively closed recommendations should ICE reinstate a contract to house detainee families in hotels.

A summary of ICE's responses to our recommendations and our analysis follows.

Recommendation 1: ICE should ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

ICE Response to Recommendation 1: Non-concur. The ICE Office of Acquisition Management (OAQ) used a valid exception to competition given the urgency of the migrant crisis on the Southwest border. Based on market research, ICE determined that using FAR exception 6.302-2 was appropriate to meet the agency's urgent housing needs on the Southwest border for the migrant crisis in early 2021. The DHS Office of Chief Procurement Officer concurred with ICE's strategy in February 2021 and reviewed and approved the justification and approval (J&A) on March 29, 2021. ICE OAQ proceeded with issuing the J&A for a sole source award and posted the J&A after award as permitted by FAR 6.305(b), "Availability of the justification."

ICE OAQ subsequently awarded a contract to Endeavors, as the only known qualified source that was able to meet the immediate needs of the Southwest border crisis regarding bedding and other required ancillary support for the migrant population. Further, the total period of performance did not exceed 1 year and met the requirements of FAR 6.302-2. It is also important to note that ICE ERO and OAQ continued to monitor the marketplace for any potential follow-on support for hoteling spaces based on the Southwest border migrant crisis and later issued a request for quotation against all DHS strategic sourcing vehicle contract vendors. However, ICE decided against awarding a task order for the additional hotel beds based on its current Southwest border requirements.

With these actions, ICE demonstratively shows it followed appropriate contract processes and policies and obtained approval from all required levels of leadership regarding the Endeavors contract. ICE is committed to continuing



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to follow all Federal, departmental and agency statutes, regulations, and policies for contract competition and awards.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: Although ICE states that it used a valid exception to competition given the urgency of the migrant crisis, we determined ICE did not have supporting documentation to establish that Endeavors was the only contractor that could provide the services needed. ICE records showed that Endeavors had no experience providing the services covered by the sole source contract, including hotel beds or all-inclusive emergency family residential services. Rather, the contractor only had experience providing staffing for other migrant services. Further, there was no documentation to show that Endeavors had the capability to provide such services, other than the statements made in its proposal. ICE documentation we reviewed showed that ICE used a different contractor in 2021 to provide hotel services to house individuals awaiting transfer to FRCs, but neither that contractor nor any other contractor was given the opportunity to submit a proposal for the contract awarded to Endeavors. Without documentation to support the justification used for sole sourcing this contract, ICE could not provide evidence it procured a qualified contractor at the most cost-effective price.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

ICE Response to Recommendation 2: Concur. When OIG conducted its inspection, ICE was overseeing three FRCs: (1) Berks in Leesport, Pennsylvania; (2) Karnes County in San Antonio, Texas; and (3) South Texas Family Residential Center (STFRC) in Dilley, Texas. Due to mission requirements, ICE stopped housing families at the Berks FRC on February 26, 2021, and the Karnes County FRC on November 5, 2021. ICE stopped housing families at STFRC on December 10, 2021.



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The contract with Endeavors was specifically for the provision of emergency temporary shelter at eight hotels, and for processing families placed in ICE custody. Pursuant to the terms of the contract, six of the eight hotels were demobilized and are no longer in use as of December 2021. The remaining two hotels will continue to remain open until the end of March 2022. At this time, ICE officials do not plan to execute a contract extension, because ICE has begun to transition all forms of family staging to alternatives to detention programs.

Should ICE's requirement for housing migrant families change in the future, then ICE will conduct an assessment to appropriately determine the housing needs of families before entering into a similar or new contract.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: We consider these actions responsive to the recommendation, which is resolved and closed. ICE's management response documented that it closed six of eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

ICE Response to Recommendation 3: Non-concur. ICE believes that the current testing protocols for COVID-19, which are documented in ICE's Pandemic Response Requirements (PRR) (version 7.0, dated October 19, 2021), are sufficient. The PRR sets forth requirements and expectations so that detention facility operators can sustain detention operations while mitigating potential risk to the safety and wellbeing of detainees, staff, contractors, visitors, and stakeholders. These testing protocols are in alignment with the Centers for Disease Control and Prevention's (CDC) *Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities* (available at <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>) and are mandatory requirements to be adopted and implemented by all detention facilities.

Accordingly, ICE ERO procedures already require that all migrants are tested upon intake to an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements. Further, ICE will continue to follow the CDC's guidance, and will adapt testing protocols, as appropriate.



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ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: In its response, ICE officials state that testing protocols were sufficient and in line with CDC and ICE guidance. Officials indicate that ICE will follow CDC guidance and adapt COVID-19 testing protocols as appropriate. However, during our fieldwork, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the virus on their passage into the United States. First, we found ICE did not ensure migrant families, even those with symptoms, were tested prior to being transported to hotels. For example, ICE did not have a process for rapid onsite testing for COVID-19, which would allow ICE to identify and separate families that are COVID-19 positive from those that are negative. Without rapid testing, migrant families that tested positive once they reached the hotel had already spent up to 4 hours on a bus, exposing others to the virus. Second, two of the four hotels did not consistently perform or document COVID-19 tests of migrant families at intake, and none of the facilities consistently documented or completed testing for migrant families exhibiting COVID-19 symptoms upon release. Without properly performing and documenting COVID-19 tests of migrant families at various stages of custody and release, ICE cannot effectively limit the spread of COVID-19 in the detained and general civilian populations.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and modified FRS at facilities covered by those standards.

ICE Response to Recommendation 4: Non-concur. The ICE Health Service Corps Field Medical Coordinators (FMC), from the Medical Case Management Unit (MCMU), conducted a number of site visits to facilities in Texas from May 2021 to February 2022 to ensure compliance and adherence to healthcare protocols and standards. Additionally, FMCs are in daily contact with the sites to ensure strict adherence to current healthcare protocols and any new protocols as they arise. For example, FMCs provide guidance and oversight on the screening and testing of incoming migrant families for COVID-19 upon arrival, to include informed consent and informed consent documentation, as



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well as ensuring that migrant individuals who test positive remain isolated and exposed families are quarantined, in accordance with CDC guidance.

Further, FMCs provide oversight to ensure that all migrant families receive timely access to care, including daily sick calls, which are documented appropriately. Families are screened and tested for COVID-19 upon arrival and departure, which is included in medical discharge and discharge documentation. Since the date of opening, onsite testing has been performed using the Abbott ID NOW analyzers and rapid PCR cartridges, and MCMU will continue to provide close monitoring to ensure compliance at these sites.

Overall, ICE ERO ensured that Endeavors was in compliance with FRS at the Emergency Family Staging Centers. Although these centers are not traditional detention settings, ICE ERO worked closely with Endeavors to develop an operationally sound and feasible plan to meet the standards, which ICE believes to be sufficient. Further, it is important to note that OIG's statement in the draft report that ICE did not modify or alter standards surrounding funds, personal property, and admission and release is inaccurate. In actuality, ICE ERO tailored certain FRS standards, as appropriate, and other standards (i.e., food services and grievances) were not waived or modified, because families had 24-hour access to items that would normally have limitations in a detention facility. For example, family residents have 24-hour access to snacks, drinks, and food, as these items are located within their room. If food needs to be restocked, then family residents simply contact Endeavors staff and the snacks, drinks, and food are restocked in a timely manner within their room. Therefore, there is no limitation to the amount or access to food for families.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

OIG Analysis: In its response, ICE contends that it provides sufficient guidance and oversight of these facilities with its FMCs and site visits conducted by MCMU. However, as stated previously, we found that both Endeavors and ICE did not always complete testing to reduce the COVID-19 exposure of migrants who had contracted the virus on their passage into the United States.

Next, ICE contends Endeavors complied with FRS at the Emergency Family Staging Centers, deeming the plan that it developed with Endeavors to meet these standards to be sufficient. However, when ICE initially issued its contract with Endeavors, it had not updated the standards for Behavior Management, personal property, and admission and release. It was not until July 2021 that ICE updated those



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standards. Specifically, ICE did not amend the FRS Behavior Management standard until 3 months after the contract was issued and did not properly ensure video recordings of facility interiors complied with the standards for use of physical control measures and emergency plans.

ICE also contends that it was inaccurate to state the standards for Funds and Personal Property, and Admission and Release were not modified or altered and that the standards for food services and grievances did not need to be modified because families had 24-hour access to snacks. However, ICE did not modify these standards until September 2021, which was 6 months after the contract was issued and after our fieldwork had been completed. Number 2.3 in the below excerpt from the March 2021 contract between ICE and Endeavors outlined modifications to FRS plainly shows there was “no change” to the FRS Funds and Personal Property standard.

Modifications to the Family Residential Standards –Under 72 Hours

#	Title	Status
1.0	FRS: Program Philosophy, Goals, and Expected Outcomes	TBD
1.1	Emergency Plans	No change
1.2	Environmental Health and Safety	No change
1.3	Transportation (by Land)	No change
1.4	Housekeeping	No change
2.1	Admissions and Release	Modify
2.2	Contraband	No change
2.3	Funds and Personal Property	No change

In addition, ICE did not update the Admissions and Release standard until September 2021. Under the March 2021 standards, facility staff were required to maintain control over important documents such as passports, and therefore, facilities should not have allowed migrant families to keep important documents in their hotel rooms. ICE also contends the FRS Grievances standard did not need to be modified but does not address Endeavors’ failure to outline the grievance process in the handbook as required.



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Finally, during our fieldwork in May 2021 we did not observe snacks to be available in migrants' hotel rooms but confirmed ICE's assertion that snacks had to be restocked by calling Endeavors staff. The standard specifies "24-hour availability of snacks, fruits, juice, and milk via self-service within each living area." It is not "self-service" if migrants must wait for Endeavors staff to bring them snacks, because migrants are unable to leave their rooms without an escort to retrieve snacks themselves.

Nonetheless, Officials reported in their management response that ICE closed six of the eight hotels. Subsequently, ICE closed the remaining two hotels on March 31, 2022 and did not extend the hotels contract past March 31, 2022, because it is transitioning all forms of family staging to alternatives to detention programs. Therefore, we consider the recommendation administratively closed.



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Appendix A

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*.

Our objective was to evaluate ICE’s plans to house migrant families in hotels and how ICE selected a contractor to implement these plans.

We conducted the inspection remotely, given the inherent risks associated with onsite inspections during the COVID-19 pandemic. Prior to our inspection, we reviewed relevant background information, including:

- ICE 2020 *Family Residential Standards*;
- ICE *Modified Family Residential Standards*;
- ICE Office of Detention Immigration Oversight reports; and
- information from nongovernmental organizations.

We conducted our remote inspection of four of the six ICE hotels operated by Endeavors from April 19, 2021, to September 1, 2021. During the inspection we:

- Directed the locations within the facilities we would observe during live video walkthroughs in May 2021. We viewed areas used by migrant families, including intake processing areas; medical facilities; residential areas, including sleeping, showering, and toilet facilities; and recreational facilities.
- Reviewed select video surveillance footage of ICE hotels from April, May, and June 2021.
- Reviewed facilities’ compliance with the modified FRS, including the standard on medical care.
- Reviewed the facilities’ response to COVID-19.
- Interviewed ICE and facility staff members, including key ICE operational and facility oversight staff.
- Interviewed migrants held at the ICE hotels to evaluate compliance with the modified FRS.
- Reviewed documentary evidence, including medical files, internal emails, and contract formation documents.

We contracted with a team of medical professionals to conduct a comprehensive evaluation of migrant families’ medical care at the ICE hotels.



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We incorporated information provided by the medical contractors into our findings.

We conducted this review under the authority of the *Inspector General Act of 1978, as amended*, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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Appendix B
ICE Comments to the Draft Report

Office of the Chief Financial Officer

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



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

March 15, 2022

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

FROM: Stephen A. Roncone
Chief Financial Officer and
Senior Component Accountable Official

STEPHEN A. RONCONE Digitally signed by
STEPHEN A. RONCONE
Date: 2022.03.16
17:00:56 -0400

SUBJECT: Management Response to Draft Report: “ICE Spent Funds on
Unused Beds, Missed COVID-19 Protocols and Detention
Standards While Housing Migrant Families in Hotels”
(Project No. 21-031-SRE-ICE)

Thank you for the opportunity to comment on this draft report. 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, however, does not agree with the OIG’s assertion that ICE did not adequately justify the need for using a sole source contract to house migrant families in hotel space. Following January 2021, the Department of Homeland Security (DHS or the Department) encountered an increase in irregular migrant flows to the Southwest Border (SWB) of the United States, including greater numbers of family units (FAMUs) that created an urgent need for appropriate housing due to the limited available housing capacity for FAMUs.

Accordingly, ICE signed a short-term contract with the non-profit division of Endeavors to provide temporary shelter and processing services for noncitizen families, and utilized an expedited contracting authority established in the Federal Acquisition Regulations (FAR) exception 6.302-2, “Unusual and compelling urgency.” ICE used this exception to competition based on an urgent need to obtain Emergency Family Staging Centers and meet its critical mission of housing, feeding, transporting, and providing medical attention to thousands of noncitizen families.



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ICE is committed to ensuring that noncitizens in its custody reside in safe, secure, and humane environments, and under appropriate conditions of confinements. As such, ICE has implemented, executed, and ensured healthcare protocols and testing procedures for the COVID-19 were in alignment with the Center for Disease Control and Prevention (CDC) Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities. This is described more fully in the detailed response to OIG's recommendations (see attached).

The draft report contained four recommendations. ICE concurs with Recommendation 2 and non-concurs with Recommendations 1, 3, and 4. Attached 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.

Attachment



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**Attachment: Management Response to Recommendations
Contained in 21-031-SRE-ICE**

OIG recommended that the Executive Associate Director of Enforcement and Removal Operations (ERO) direct the Director of ICE Enforcement and Removal:

Recommendation 1: Ensure appropriate contract processes and policies are followed, including the use of sole source contracting for hotel space.

Response: Non-concur. The ICE Office of Acquisition Management (OAQ) utilized a valid exception to competition given the urgency of the migrant crisis on the SWB. Based on market research, ICE determined that utilizing FAR exception 6.302-2, was appropriate to meet the urgent housing needs of the agency on the SWB for the migrant crisis in early 2021. The DHS Office of Chief Procurement Officer concurred with ICE's strategy in February 2021 and reviewed and approved the justification and approval (J&A) on March 29, 2021. ICE OAQ proceeded with issuing the J&A for a sole source award and posted the J&A after award as permitted by FAR 6.305(b), "Availability of the justification."

ICE OAQ subsequently awarded a contract to Endeavors, as they were the only known qualified source that was able to meet the immediate needs of the SWB crisis for bedding and other required ancillary support for the migrant population. Further, the total period of performance did not exceed one year and met the requirements of 6.302-2. It is also important to note that ICE ERO and OAQ continued to monitor the marketplace for any potential follow-on support for hoteling spaces based on the SWB migrant crisis, and later issued a request for quotation against all DHS strategic sourcing vehicle contract vendors. However, ICE decided against awarding a task order for the additional hotel beds based on the agency current SWB requirements.

With these actions, ICE demonstratively shows it followed appropriate contract processes and policies and obtained approval from all required levels of leadership regarding the Endeavors contract. ICE is committed to continuing to follow, all federal, departmental and agency statutes, regulations and polices and for contract competition and awards.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: Conduct a full assessment of ICE's migrant family housing needs, including its existing agreements at Family Residential Centers, before entering into a similar or follow-on contract for additional bed space.

Response: Concur. When the OIG conducted its inspection, ICE was overseeing three family residential centers (FRC): (1) Berks in Leesport, Pennsylvania; (2) Karnes County in San Antonio, Texas; and (3) South Texas Family Residential Center (STFRC) in



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Dilley, Texas. Due to mission requirements, ICE stopped housing families at the Berks Family Residential Center on February 26, 2021, and the Karnes County Family Residential Center on November 5, 2021. ICE stopped housing families at STFRC on December 10, 2021.

The contract with Endeavors was specifically for the provision of emergency temporary shelter at eight hotels, and for processing of families placed in ICE custody. Pursuant to the terms of the contract, six of the eight hotels were demobilized and are no longer in use as of December 2021. The remaining two hotels will continue to remain open until the end of March 2022. At this time, ICE does not plan to execute a contract extension, since ICE has begun to transition all forms of family staging to alternatives to detention programs.

Should ICE's requirement for housing migrant families change in the future, then ICE will conduct an assessment to appropriately determine the housing needs of families before entering into a similar or new contract.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 3: Implement testing protocols for the remainder of the COVID-19 response to ensure that migrant families are tested.

Response: Non-concur. ICE believes that the current testing protocols for COVID-19, which are documented within ICE's Pandemic Response Requirements (PRR) (current version 7.0, dated October 19, 2021) are sufficient. The PRR sets forth requirements and expectations so that detention facility operators sustain detention operations while mitigating potential risk to the safety and wellbeing of detainees, staff, contractors, visitors, and stakeholders. These testing protocols are in alignment with the CDC's Guidance on Management of COVID-19 in Correctional and Detention Facilities, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>, and are mandatory requirements to be adopted and implemented by all detention facilities.

Accordingly, ICE ERO procedures already require that all new admissions are tested upon intake to an ICE facility, regardless of vaccine status, and address further testing to be performed based on exposure to COVID-19 or following CDC requirements. Further, ICE will continue to follow the CDC's guidance, and will adapt testing protocols, as appropriate.

ICE requests OIG consider this recommendation resolved and closed, as implemented.

Recommendation 4: Ensure Endeavors complies with the new healthcare protocols and



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modified FRS [Family Residential Standards] at facilities covered by those standards.

Response: Non-concur. The ICE Health Service Corps Field Medical Coordinators (FMCs), from the Medical Case Management Unit (MCMU), conducted a number of site visits to facilities in Texas from May 2021 to February 2022 to ensure compliance and adherence to healthcare protocols and standards. Additionally, FMCs are in daily contact with the sites to ensure strict adherence to current healthcare protocols, and any new protocols as they arise. For example, FMCs provide guidance and oversight on the screening and testing of incoming migrant families for COVID-19 upon arrival, to include informed consent and informed consent documentation, as well as ensuring that migrant individuals who test positive remain isolated and exposed families are quarantined, in accordance with CDC guidance.

Further, FMCs provide oversight to ensure that all migrant families receive timely access to care, including daily sick calls which are documented appropriately. Families are screened and tested for COVID-19 upon arrival and departure, which is included in medical discharge and discharge documentation. Since the date of opening, onsite testing has been performed using the Abbott ID NOW analyzers and rapid PCR cartridges, and MCMU will continue to provide close monitoring to ensure compliance at these sites.

Overall, ICE ERO ensured that Endeavors was in compliance with Family Residential Standards (FRS) at the Emergency Family Staging Centers. Although these centers are not traditional detention settings, ICE ERO worked closely with Endeavors to develop an operationally sound and feasible plan to meet these standards, which ICE believes to be sufficient. Further, it is important to note that the OIG's statement in the draft report that ICE did not modify or alter standards surrounding funds, personal property, admission, and release is inaccurate. In actuality, ICE ERO tailored certain FRS standards, as appropriate, and other standards (i.e., food services, and grievances) were not waived or modified since families had 24-hour access to items that would normally have limitations in a detention facility. For example, family residents have 24-hour access to snacks, drinks, and food, as these items are located within their room. If food needs to be restocked, then family residents simply contact an Endeavors staff and their snacks, drinks, and food is timely restocked within their room. Therefore, there is no limitation to the amount or access to food for families.

ICE requests OIG consider this recommendation resolved and closed, as implemented.



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Appendix C
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Appendix D
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