



ICE Notification of Non-Performance-Based National Detention Standards 2011 Detention Contract (Nye County)

March 26, 2018

Fiscal Year 2018 Report to Congress



**Homeland
Security**

Under Secretary for Management

Message from the Under Secretary for Management

March 26, 2018

I am pleased to present the following report, “ICE Notification of Non-Performance-Based National Detention Standards 2011 Detention Contract” for Nye County, which has been prepared by U.S. Immigration and Customs Enforcement (ICE).

This report was compiled pursuant to the Joint Explanatory Statement accompanying the Fiscal Year 2017 Department of Homeland Security Appropriations Act (P.L. 115-31).

Pursuant to congressional guidelines, this report is being provided to the following Members of Congress:



The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Boozman
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries related to this report may be directed to me at (202) 447-3400 or to the Department’s Acting Chief Financial Officer, Stacy Marcott, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink that reads "Claire M. Grady".

Claire M. Grady
Under Secretary for Management



ICE Notification of Non-Performance-Based National Detention Standards 2011 Detention Contract (Nye County)

Table of Contents

I. Background.....	1
II. Notification	2
III. Summary.....	4

I. Background

This notification has been compiled in response to the Joint Explanatory Statement accompanying the Fiscal Year 2017 Department of Homeland Security (DHS) Appropriations Act (P.L. 115-31), which states:

U.S. Immigration and Customs Enforcement (ICE) shall refrain from entering into new contracts or other agreements, or changing or significantly modifying existing contracts or other agreements, to detain individuals unless such contracts or agreements meet or exceed the Performance Based National Detention Standards (PBNDS) 2011, as revised in 2016 and which were in effect on January 1, 2017, unless the Secretary submits a report to the Committees on Appropriations of the Senate and the House of Representatives at least 30 days in advance justifying the rationale for requiring changed standards.

II. Notification

The purpose of this report is to provide Congress with the required 30-day notification that U.S. Immigration and Customs Enforcement (ICE) plans to enter into an intergovernmental service agreement (IGSA) with the county of Nye, Nevada, for the use of up to 100 detention beds at Nye County Jail, located at 1521 E. Siri Lane, Pahrump, Nevada. The facility, which opened in 2012, houses Nevada state prisoners and county inmates.

Nye County Jail is one of the primary detention facilities within the state of Nevada. ICE has an operational need for long-term detention space in Nye County to support regional apprehensions and to coordinate transfers, removals, and court hearings within the Salt Lake City area of responsibility. Also, the additional beds will facilitate an efficient transition of detainees into ICE custody from the newly established 287(g) program at Nye County Jail. The jail is capable of housing male and female detainees at all security levels, and the county will provide detainee transportation services for ICE.

The jail, operated by the Nye County Sheriff's Office, has a total capacity of 220 beds. The facility will allocate up to 100 beds for ICE use. The county has offered the 100 beds at a proposed man-day rate of \$118.01, which was calculated with the intent of the facility meeting ICE's National Detention Standards (NDS) 2000. Additionally, the new agreement with ICE will require full compliance with DHS Final Rule, 6 CFR Part 115, *Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*, also known as the DHS Prison Rape Elimination Act (PREA) Standards (March 7, 2014).

Nye County Jail currently complies with the NDS 2000, as well as with all state and county inspections. The facility is staffed to accommodate its maximum capacity of 220 individuals; however, the jail does not have the staff or resources to meet some elements of Performance Based-National Detention Standards (PBNDS) 2011. These requirements include:

- The jail does not have the staffing to implement the PBNDS 2011 training requirements outlined in standard (7.3) *Staff Training* effectively. ICE assesses that the training requirements in the NDS are sufficient and that the additional training requirements in the PBNDS 2011 represent best practices rather than operational necessity.
- The jail does not offer the mental health staffing needed to meet the expected practices outlined in the PBNDS 2011 standards on (4.3) *Medical Care* and (4.4) *Medical Care (Women)*. It may be difficult for the county to recruit and retain the additional medical staff because of its rural location and local or regional employment applicant pools. ICE will work with the county during negotiations and through continued oversight of the facility to ensure that there is sufficient, qualified medical staff to care for the needs of the detainee population.
- The jail does not offer indoor recreation and has limited access to outdoor recreation. Optimally, under PBNDS 2011 standard (5.4) *Recreation*, detainees should have access to outdoor recreation at least 4 hours per day, 7 days per week, weather and scheduling

permitting. Minimally, under the 2011 standards, each detainee should have access to outdoor recreation for at least 1 hour, 7 days per week. Currently, Nye County Jail offers outdoor recreation for 1 hour but fewer than 7 days per week.

Nye County Jail's current inability to satisfy all PBNDS 2011 requirements is typical when compared with similar facilities. Because of facility design and operational scope, county jails often lack the infrastructure, staffing, and financial backing to meet some of the rigorous requirements outlined in ICE's PBNDS 2011 detention standards, which, in many ways, exceed industry correctional standards.

Finally, ICE is in the process of pursuing a dedicated detention facility in the Salt Lake City area that will meet the PBNDS 2011 and will help reduce the agency's reliance on county jails, such as Nye County Jail, for individuals who will remain in longer-term detention.

III. Summary

An IGSA between ICE and Nye County will allow the Salt Lake City Field Office to streamline its detention operations and to provide additional regional support for local apprehensions in Nevada. It also will reduce or eliminate the need for out-of-state transfers from Nevada.

Following this notification, ICE will proceed with negotiations for an IGSA with Nye County for up to 100 detention beds operated under the NDS 2000 and DHS PREA.