National Immigrant Justice Center

NATIONAL IMMIGRATION LAW CENTER

Seven Ways ICE is Dodging Accountability in its Mass Detention Expansion — and How Congress Can Fix it

Since January 2025, Congress has given Immigration and Customs Enforcement (ICE) roughly $85 billion in taxpayer funding, making it the highest-funded U.S. law enforcement agency. This funding is enabling ICE's massive detention expansion, while the Trump administration guts federal oversight offices. The result is a detention system that places hundreds of thousands of people and their families in the crosshairs of an expansive authoritarian administration. This resource briefly summarizes ICE's contracting moves and policy changes, many intended to skirt Congressional oversight and accountability. Congress must step in before it's too late.

ICE is heralding a new era of mass incarceration

When Immigration and Customs Enforcement (ICE) was created in 2003, it inherited an immigration detention system that held about 20,000 people per day. ICE's daily detention capacity continued to grow over the years under multiple administrations. Capacity reached a new high of over 70,000 beds under Donald Trump's second administration—while ICE works to jail 100,000 people daily for civil immigration violations.

Since January 2025, ICE doubled the number of "authorized" facilities from 134 to 272 by July 23, 2026, not including makeshift detention capacity such as holding rooms and guarded hotel rooms. As detailed below, the agency appears to be in a race against time to amass even more sites of detention.

Taxpayers pay the price for ICE mass detention

All of ICE's new contracts and facility re-openings have come with a hefty price tag – and constituents are paying for it. As of March 2026, the Cato Institute reported that more than $24.8 billion had been apportioned for ICE detention facilities across FY25 and FY26. The Government Accountability Office (GAO) has issued two separate reports, on Camp East Montana and one about warehouse purchases, detailing how much money has been wasted by ICE in its reckless expansion. According to GAO, ICE spent $1.07 billion to date on purchasing warehouses that it now plans to sell, with $7.7 million spent on recoverable costs.

How ICE's Detention Contracting Practices Sidestep Oversight & Accountability

1) ICE granted no-bid contracts to issue contracts faster and without competitive bidding.

In January 2025, the White House issued Proclamation 10886, declaring a national emergency at the U.S. southern border. ICE used this declaration to exploit a contracting loophole allowing it to bypass the regular competitive bidding process, entering into direct agreements with vendors. These are known as "no-bid contracts." Since then, ICE and its parent agency the Department of Homeland Security (DHS) have issued an overwhelming number of no-bid contracts. The Congressional Research Service reports that DHS used no-bid contracts for 92% of its spending for the first half of Fiscal Year 2026.

No-bid contracts are a key tactic for skirting transparency and accountability. ICE awarded many no-bid contracts to massive private prison contractors CoreCivic and GEO Group, companies with abusive records. These no-bid contracts are lucrative, with GEO Group recently renewing a 10-year contract with ICE without competition and more than doubling its contract to receive $1.5 billion. All the while avoiding competitive processes and giving Congress, local communities, and other stakeholders little opportunity to object.

2) ICE is acquiring new federal property without local input and to avoid laws passed to ensure new federal property does not harm local communities.

In early 2026, ICE laid out a multi-prong plan on how it would "reengineer" and expand the detention system, including acquiring new physical locations such as warehouses and prisons. However, federal land acquisition procedures typically involve coordination with local officials, extensive review processes, and bidding procedures. ICE has side-stepped these procedures. Local elected officials often learned of the warehouse purchases only after the government finalized real estate deals.

The same appears to be happening with new prisons. For example, the General Services Administration (GSA) keeps an inventory of all federal executive branch real property. However, DHS is permitted to exclude property from the database for "national security" concerns. This exception means that stakeholders regularly learn that a new government-owned jail has been added to the ICE detention system after the contract has likely been signed. ICE also told GAO that it will work on a strategic plan for its detention expansion efforts but did not expect to complete it until Aug. 31, 2027.

While ICE is now quickly trying to sell off some of the warehouses it purchased, it continues to add new federal properties by purchasing prisons from the same private companies that will run them. For example, ICE spent nearly $1 billion purchasing California's Adelanto private prison facilities, previously owned by GEO Group. This purchase followed the passage of California laws aiming to increase oversight and accountability for immigrant detention centers—a law that will be much more difficult to implement, given Adelanto's new federal ownership. For example, since this building is not a new construction or alteration, ICE will argue that it can avoid local zoning rules.

3) ICE is steamrolling state regulations and shielding contractors from local lawsuits.

DHS is memorializing its opposition to state oversight of many of these jails. In a June 2026 performance work statement seeking a facility in the Seattle region, DHS instructed any future private prison operators that federal rules override any conflict with state and local laws. ICE further states:

> *"Nothing in this performance work statement, is intended to, or shall be construed to be, a waiver of* ***federal supremacy or the immunity of the Government or its contractor****. Otherwise, applicable or* ***more stringent state or local laws or regulations shall not apply*** *to the performance under this contract when they would directly or indirectly regulate, dictate, or control the contractor's performance under these standards."*

In other words, ICE is telling future operators of its jails that protective measures from cities and states, like requiring jails to provide basic amenities to detained people or to allow for public health inspections, do not apply. This is playing out in a current lawsuit involving the state of Washington and the GEO Group over the state's efforts to send public health officials to inspect the Northwest Immigrant Processing Center. The facility, at ICE's direction, has repeatedly denied health officials access to the jail.

ICE's reference to "federal supremacy or immunity" will also further embolden private companies to claim immunity from civil litigation or even criminal prosecution. GEO Group previewed one such argument in *GEO Group v. Menocal*, claiming immunity from Colorado's labor laws because GEO Group is a federal contractor. The Supreme Court rejected their arguments, but only on procedural grounds.

4) ICE is using construction contracts to increase its carceral footprint and to move detention offshore.

A request for construction proposals published in July 2026 showed that ICE was set to expand a detention facility in Port Isabel, Texas, and listed more than a dozen potential targets for new or expanded facilities, including in St. Thomas in the U.S. Virgin Islands, which does not have any ICE detention facilities, Puerto Rico, and expanding its Guantanamo Bay facility. While some of these sites may detain people intending to migrate to the U.S., there is no reason why ICE would not send community members from our country to these distant locations. For example, one Minnesota man was forced to endure a harrowing forced journey from St. Paul to the Guantanamo Bay facility to Somalia. These contracting moves ensure that people are cut off from attorney access and their family members. ICE already routinely blocks or attempts to limit Members of Congress' oversight visits—a practice that is only likely to increase with its new facilities.

5) ICE is pursuing mobile & seemingly unregulated detention sites.

In September 2026, ICE published a Request for Proposal for multiple turnkey detention facilities. These contracts contain troubling new details, including "mobile detention facilities" – locked vans where people could sit for hours as ICE conducts raids and enforcement operations.

Separately, ICE is also looking to add ready-made "modular" detention units to sit behind Field Offices. These "Field Detention Units," which could include holding rooms, interview spaces, and virtual courtroom units, have seemingly no limit on capacity or length of detention. Notably, the Performance Work Statement mentions that these units will be used to expand "nondetained hearing space on site." This implies a one-stop shop for hearings, and opens the door to arrests and removals, creating a black hole of due process.

The contract arrangements for the new detention sites seem to further erode due process and humane treatment, leading to more concerns from advocates regarding what people will face in ICE's new types of human cages. One of the contracts even mentioned the addition of car seats, expecting children will also be subject to these cruel practices.

6) ICE is weakening detention standards, at one of the deadliest times in its history.

Our laws require ICE to provide "basic human needs" and "acceptable conditions of confinement." Nonetheless, government watchdogs and civil society have closely documented the lack of compliance with standards. Their investigations routinely find inhumane and deadly conditions inside ICE facilities, regardless of the type of contract that is used to operate them.

While expanding the ICE detention system, ICE revised its National Detention Standards in 2026 to roll back basic protections following closed-door lobbying by private prison contractors. Those new standards eliminate requirements to comply with state and local labor laws, making it more difficult to have any accountability from contractors for abuses and exploitative labor practices. It is also unclear if these minimal standards would apply to overseas and mobile sites.

7) ICE is also rigging inspections of these minimum standards.

ICE has a troubling history of using sham inspections to keep immigrants in horrid conditions. A 2026 investigation found that ICE's detention inspection system frequently awards high ratings to facilities despite documented problems, while inspections have become less rigorous and less likely to identify or penalize poor conditions.

Unreliable inspections allow ICE to subject immigrants to inhumane treatment, while legitimizing their abuse. This also allows ICE to bypass Congressional oversight and accountability, as Congress has historically barred federal funding for ICE facilities that fail two inspections in a row.

What Congress Can Do

In response to ICE's detention expansion and all its harmful impacts, Congress should:

- Increase the use of Congressional oversight visits to old and new detention facilities in the U.S. and in U.S. territories, like Puerto Rico and the U.S. Virgin Islands.
- Endorse and support federal legislation that would block new detention or phase out the use of immigration detention, including:
    - Dignity for Detained Immigrants Act (S.3702, H.R.6397),

    - Melt ICE Act (H.R. 7190), and
    - Ban Warehouse Detention Act, (H.R. 8494).
- Champion language in future appropriations legislation that prohibits additional funding for DHS, adds new restrictions on detention expansion, re-establishes provisions from prior appropriations bills and applies those requirements to all funds provided through reconciliation.
- Rescind reconciliation funding currently available to ICE for detention expansion.
- Continue to sound the alarm and issue statements in opposition to new detention expansion in your state and around the country.

Sixty people have lost their lives in ICE custody so far. Meanwhile ICE is wasting billions of taxpayer dollars, evading oversight and accountability, and leading the Trump administration's power creep. Congress can and must stop ICE's impunity.

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