



Department of Homeland Security Office of Inspector General

Immigration and Customs Enforcement Management Controls Over Detainee Telephone Services





January 13, 2010

Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the strengths and weaknesses of the U.S. Immigration and Customs Enforcement's management controls over detainee telephone services. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Richard L. Skinner".

Richard L. Skinner
Inspector General

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Abbreviations

DHS	Department of Homeland Security
OIG	Office of Inspector General
ICE	U.S. Immigration and Customs Enforcement
IGSA	Intergovernmental Service Agreements
COTR	Contracting Officer's Technical Representative

OIG

*Department of Homeland Security
Office of Inspector General*

Executive Summary

This report presents the results of our audit to determine whether U.S. Immigration and Customs Enforcement information and communications management controls provide reasonable assurance that detainee telephone service is consistent with applicable standards and contract provisions.

U.S. Immigration and Customs Enforcement has made considerable progress in assuring detainees' access to contractor telephone and *pro-bono* services at Service Processing Centers, Contractor Operated Facilities, and Intergovernmental Service Agreement sites where the majority of illegal aliens are detained. U.S. Immigration and Customs Enforcement has implemented layered procedures to monitor and test the status of telephone hardware and software and ensure *pro-bono* telephone numbers are updated and accurate. However, additional controls are needed to ensure contractor compliance with the financial provisions contained in the existing and future telephone services contracts and that individuals assigned to oversee these contracts are knowledgeable in financial matters.

We are recommending that U.S. Immigration and Customs Enforcement develop and implement policies and procedures to ensure contractor compliance with all financial provisions contained in existing and future telephone services contracts. We are also recommending that U.S. Immigration and Customs Enforcement ensure that the individuals assigned to oversee these contracts are conversant in financial matters. U.S. Immigration and Customs Enforcement concurred with both recommendations.

Background

The Department of Homeland Security, U.S. Immigration and Customs Enforcement as the successor agency of Immigration and Naturalization Service currently operates 15 Service Processing Centers and Contractor Operated Facilities that are responsible for the care and custody of approximately 10,000 aliens. Most of these facilities operate a direct dial telephone system for the use of the detainee population. ICE also uses 215 Intergovernmental Service Agreements (IGSA) detention facilities located in state and local jurisdictions to accommodate an additional 20,000 detainees nationwide. ICE procures bed space at these sites at a pre-negotiated per diem rate. In addition, ICE operates hold rooms in their field and sub-offices which presently do not offer telephone services.

In 2000, the Immigration and Naturalization Service issued National Detention Standards that require ICE facilities and IGSA sites that hold detainees for more than 72 hours to provide detainees “reasonable and equitable access” to telephone services. These standards also authorize detainees free telephone calls to legal services providers, consular officials, and federal and state courts where the detainee is or may be involved in a legal proceeding. The requirement that detainees be permitted access to telephone services is still in force.

In January 2004, DHS awarded a no-cost contract to replace the existing Detainee Telephone System. The contractor was responsible for installing, maintaining, and repairing the telephone system at ICE facilities, in addition to connecting outgoing “*pro-bono*” calls under the detainee telephone system. The contractor was also responsible for providing access to *pro-bono* calls at IGSA sites where other vendors provide telephone services. The contract was structured as a no-cost to the government contract. The contractor was to recover operating expenses from profits derived from collect calls and debit card sales at 15 ICE facilities and 1 dedicated IGSA site.

In fiscal year 2007, we, as well as the Government Accountability Office, reported instances of inoperable telephones and were unable to connect to *pro-bono* telephone numbers at detention facilities visited.¹ In May 2008, we reported that the contract did

¹ *Alien Detention Standards*, GAO-07-875, July 2007; *Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities*, OIG-07-01, December 2006.

not require the contractor to furnish financial information nor validate call rates charged to detainees and remaining balances on unused calling cards.² We also reported that the contract did not contain incentives to compel improved contractor performance.

In 2008, ICE revised the detention standards to provide detainees reasonable and equitable access to "reasonably priced" telephone services in addition to previously mandated free call services. The revised standards were initially implemented at the eight Service Processing Centers and are scheduled for full implementation in early 2010 for the remaining detention facilities.

Currently, all ICE facilities allow detainees controlled access to contractor-operated telephones to make both outgoing and *pro-bono* calls under the Detainee Telephone System. These detention facilities permit the use of calling cards, collect calls, and free preprogrammed calls. Additionally, all ICE facilities provide international calling capability. At IGSA sites, the contractor provides access to *pro-bono* calls only by using the facilities' present telephone systems, where the local carriers do not provide *pro-bono* calls.

Results of Audit

Considerable Progress Has Been Made to Assure Detainee Telephone Services, Yet More is Needed

ICE has made considerable progress in assuring detainees have access to telephone services at ICE facilities and IGSA sites where the majority of illegal aliens are detained. ICE implemented layered procedures to monitor and test the status of telephone hardware and software and ensure *pro-bono* telephone numbers are updated and accurate. In addition, the telephone services contractor voluntarily amended the contract to reduce fees charged for certain debit card calls and implemented a debit card refund process. However, ICE management controls ensuring contractor compliance with a variety of financial provisions contained in the existing telephone services contract could be improved.

ICE officers and contracted compliance reviewers monitor and test compliance with National Detention Standards on a daily or weekly basis, and reside in the 37 largest detention facilities. ICE officers in field

² *Review of Immigration and Customs Enforcement Detainee Telephone Services Contract*, OIG-08-54, May 2008.

offices consolidate the test results and submit a summary status report to the agent located in ICE headquarters Detention Standards Compliance Unit that is assigned to perform Contracting Officer's Technical Representative (COTR) duties.³ The COTR also monitors the progress of repair tickets resulting from service outages and inaccurate *pro-bono* telephone numbers until resolved.

Although significant progress has been made to improve the development and execution of the telephone service contract, there continues to be a risk that detainees could be mischarged for these services. For example, the existing telephone services contract requires the contractor to produce the following financial information:

- Call pricing information before and as a call is being processed;
- Cost and call accounting and management reports; and
- Call history, cost, and call accounting information on commonly used electronic media.

While the existing telephone services contract requires the contractor to produce financial-related data, the COTR assigned to oversee the contract did not review this information. According to the COTR, it is in the service provider's best financial interest, in order to profit from the contract, to ensure that phones are working and that detainees are making as many collect and debit card calls as possible. For these reasons, the COTR said that the contract is "self-policing" and therefore the current level of oversight being provided is sufficient.

However, the fact that it is in the contractor's best interest to enable detainees to make as many debit card and collect calls as possible should be reason enough for ICE to closely monitor and evaluate the charges associated with these calls to ensure they were accurate and reasonable. As stated earlier, the telephone services contract contains schedules of the charges permitted for local and international debit and collect calls. Further, cost and call accounting and pricing data is being regularly provided to the government via a series of management reports. Despite evidence that detainees had, in the past, been inappropriately charged an additional fee to obtain access to a local telephone service,⁴ the COTRs assigned to monitor the telephone services contract were neither monitoring nor evaluating contractor adherence to the contract's financial

³ Contracting Officer's Technical Representative is responsible for monitoring the contractor's progress toward fulfilling technical requirements of the contract.

⁴ A former COTR disclosed that detainees in the Buffalo Federal Detention Center had once been charged an additional surcharge to connect to the local telephone service provider that was prohibited under the contract.

reporting requirements for accuracy and fairness. By their own admission, none of the COTRs interviewed were sufficiently knowledgeable to conduct the much-needed analyses. Assigning COTR's to the telephone services contract who have experience analyzing financial reports, or providing them access to staff with that skill would help authorities identify, document, and respond to any billing irregularities and provide assurances that the service provided remains accessible and charges accurate and reasonable.

Recent Improvement

In August 2007, ICE awarded a contract to provide support services to the onsite detention standard compliance capability of the Office of Detention and Removal. This contract was in effect through mid April 2009. In April 2009, DHS subsequently awarded a contract to the same contractor; however, the scope of the new contract was expanded to provide a greater level of service. For example, the new contract requires the use of subject matter experts in health care, safety, and security. The contract provides permanent compliance reviewers at 37 of the largest detention facilities where over 70% of detainees are held and teams of rovers to inspect the remaining IGSA sites based on a schedule agreed to by ICE. We reviewed compliance review guidelines used by these inspectors to determine how tests of telephone detention standards were to be performed. The guidelines include requirements that reviewers verify telephones are inspected daily, usage rules and operating instructions are posted, *pro-bono* telephone numbers are accurate, and there is at least 1 telephone for each 25 detainees. Compliance inspection results are reported monthly to quarterly depending on the degree of use of a given facility to house ICE detainees.

Grievance Process

We reviewed monthly reports of compliance reviews conducted at 4 ICE facilities and quarterly inspections conducted at 1 smaller IGSA during June and July 2009 to determine whether inspections identified detainee complaints or grievances related to detainee telephone services. The compliance reviews reported no telephone-related complaints or grievances.

Replacement Contract

ICE has taken a number steps to improve detainee access to telephone and *pro-bono* services and to provide assurances that detainee grievances are identified and addressed in a timely manner. ICE incorporated these measures in the replacement telephone services contract implemented in

August 2009 after a protest of the May 2009 award was dismissed. The replacement contract includes performance incentives and requires the contractor to provide ICE management with monthly reports on financial issues, such as revenue, call volume, and refunds paid to detainees. If fully implemented, these measures should further improve the detainees' access to telephone and *pro-bono* services.

Recommendations

We recommend that the Assistant Secretary, U.S. Immigration and Customs Enforcement:

Recommendation #1: Develop and implement policies and procedures to review the financial aspects of the telephone services contract to ensure detainees are not being mischarged for telephone services.

Recommendation #2: Ensure that individuals assigned to oversee the telephone services contract are fully capable of understanding and evaluating the financial data requirements associated with existing and future contracts.

Management Comments and OIG Analysis

ICE Comments to Recommendation #1:

ICE concurred with this recommendation and plans to develop policies and procedures for monthly reporting by the contractor, monthly verification and spot checks by the COTR, and annual review comparing contract pricing to industry standards and market rates. ICE plans to have these policies and procedures in place within 30 days of the transition to its new telephone contract. The scheduled transition date is February 28, 2010.

OIG Analysis

ICE's efforts to develop and implement standardized policies and procedures will improve its ability to conduct effective contract oversight. This recommendation is resolved, but will remain open until ICE completes and issues the policies and procedures to review financial aspects of the telephone services contract.

ICE Comments to Recommendation #2:

ICE concurred with our recommendation and said it had contracted an industry expert capable of understanding and evaluating financial reports submitted by the contractor. The industry expert will assist with Contracting Officer and COTR oversight of the telephone services contractor's performance. ICE said the current COTR is provided periodic financial management training. Further, ICE said it will coordinate with department and agency officials to ensure the COTR has additional technical support, if needed.

OIG Analysis

ICE's use of contractors as technical agents and its commitment to provide its COTRs with financial management training will help ensure compliance with contractual financial data requirements. However, ICE's use of contractors as technical agents does not relieve its COTRs of their oversight duties and responsibilities. This recommendation is resolved and closed.

Appendix A

Purpose, Scope, and Methodology

The objective of our audit was to determine whether ICE information and communications management controls provide reasonable assurance that detainee telephone service is consistent with applicable standards and contract provisions.

We interviewed government officials and compliance inspection contractors at ICE headquarters in Washington, DC. A support contractor assigned to coordinate telephone repairs was interviewed via teleconference. Immigration Enforcement Agents and contract compliance inspectors were interviewed at the Krome Service Processing Center in Miami, Florida and the McHenry County Correctional Center in Woodstock, Illinois.

We reviewed contract terms and conditions of the telephone services contract (COW-4-C-0122), compliance inspection contracts (HSCECR-09-C-00001, HSCECR-09-C-00004); and the solicitation for the replacement telephone services contract (HSCEDM-09-R-00009). We also reviewed the results of compliance inspections conducted by the contractors and telephone status reports prepared by ICE field agents for the period January through July 2009.

We tracked how information travels between detention facilities, field offices, and ICE headquarters. We reviewed and compared (1) weekly telephone serviceability reports prepared by ICE field agents assigned to monitor conditions at detention facilities; (2) summary phone tracker reports prepared at Detention and Removal field offices; and, (3) Telephone Reports distributed at ICE headquarters. We analyzed these reports and the results of monthly, quarterly, and annual compliance inspections prepared by contract compliance reviewers. These included records of detainee complaints recorded by the DHS-OIG hotline to identify the types and frequency of complaints, telephone outages, and inaccurate *pro-bono* telephone numbers.

We developed an understanding of internal controls over detainee telephone services by reviewing prior Government Accountability Office and DHS-OIG reports, reviewing National Detention Standards, and interviewing ICE officials assigned to oversee the telephone and the compliance inspection contracts. The understanding we gained was used to plan the audit and determine the nature, timing, and extent of tests to be performed.

We conducted this performance audit between April 2008 and August 2009 under the authority of the *Inspector General Act of*

Appendix A
Purpose, Scope, and Methodology

1978, as amended, 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.

We thank ICE and its contractors for their cooperation in the performance of this audit.

Appendix B Management Comments to the Draft Report

Office of the Assistant Secretary


U.S. Department of Homeland Security
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U.S. Immigration
and Customs
Enforcement

November 30, 2009

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits

FROM: Robert F. De Antonio 
Director
Audit Liaison Office

SUBJECT: ICE Response to Recommendations in OIG Draft Report:
"Immigration and Customs Enforcement Management Controls over
Detainee Telephone Services"

U.S. Immigration and Customs Enforcement (ICE) appreciates the opportunity to comment and respond to the two recommendations in the subject Office of Inspector General (OIG) draft report.

OIG Recommendation 1: "Develop and implement policies and procedures to review the financial aspects of the telephone services contract to ensure detainees are not being mischarged for telephone services."

ICE Response to Recommendation 1: ICE concurs. The Contracting Officer and Detention Standards Compliance Unit (DSCU) Contract Officer Technical Representative (COTR) will develop policies and procedures providing monthly reporting by the contractor, monthly verification and spot checks by the COTR, and an annual review comparing contract pricing to industry standards and market rates. Policies and procedures will be in place and incorporated into a contract modification within 30 days of the completion of the transition to the new Detainee Telephone Service (DTS) contract. The transition is anticipated to be complete on February 28, 2010. The new DTS contractor reports call volume, revenue, and refunds via a Web medium. The Contracting Officer, the COTR, and the DTS industry expert, who is a contractor to the ICE Office of Detention and Removal Operations (DRO), will have Web access to current reports in "real-time." The DTS industry expert will evaluate the reports submitted by

Appendix B

Management Comments to the Draft Report

Subject: ICE Response to Recommendations in the OIG Draft Report: "Immigration and Customs Enforcement Management Controls over Detainee Telephone Services"

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OIG Recommendation 2: "Ensure that individuals assigned to oversee the telephone services contract are fully capable of understanding and evaluating the financial data requirements associated with the existing and future contracts."

ICE Response to Recommendation 2: ICE concurs. ICE acknowledges the need for qualified employees to oversee the telephone services contract. ICE DRO entered into a contract with an industry expert with more than 25 years of experience working with detainee telephone systems. The industry expert is knowledgeable and fully capable of understanding and evaluating the financial reports submitted by the new contractor. The industry expert has signed a non-disclosure agreement to work on this project. The expert has also been vetted by the ICE Office of Professional Responsibility (ICE OPR) through the security background process. The industry expert will closely monitor the contractor's performance and assist the Contracting Officer and COTR in determining whether the contractor is performing in accordance with the contract and entitled to performance incentives established in the contract.

This occupational series is designed to enable hiring agencies to attract and employ candidates with high-level critical thinking skills who are adaptable to a broader range of work requirements to include planning of programs and objectives. The current COTR is an Office of Personnel Management (OPM) occupational series 0343 Management and Program Analyst. Although the COTR position will remain in the 0343 series, ICE OAQ and DSCU will ensure the DTS-V COTR is provided periodic federal financial management training to maintain proficiency. Additionally, DSCU will coordinate with ICE OAQ; ICE OPR, OIG and the DHS Office of Financial Management (OFM) to ensure the COTR has additional support, if needed.

Should you have any questions or concerns, please contact Megan Reedy, OIG audit portfolio manager at (202) 732-4185 or by e-mail at Megan.Reedy@dhs.gov.

Appendix C
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