

Congress of the United States

Washington, DC 20515

March 29, 2019

The Honorable Lucille Roybal-Allard
Chairwoman
Subcommittee on Homeland Security
Committee on Appropriations

The Honorable Chuck Fleischmann
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations

The Honorable José Serrano
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations

The Honorable Robert Aderholt
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations

Dear Chairwoman Roybal-Allard, Chairman Serrano, Ranking Member Aderholt and Ranking Member Fleischmann:

As you begin consideration of the Fiscal Year 2020 Commerce, Justice, Science, and Related Agencies and the Homeland Security Appropriations bill, we respectfully request that you include language curtailing the Department of Homeland Security's (DHS) use of private prison facilities, and any agreements that attempt to use funds for Department of Justice (DOJ) contracted agreements for immigration enforcement. Specifically, we are concerned over the use of federal funds to subsidize private prisons involved in immigration enforcement. Such prisons are disproportionately used for immigration related purposes. Generally, we know that prison companies account for roughly 10 percent of federal and state prison beds. Yet despite this overall number, the figure skyrockets when comparing private prison beds allocated for immigration enforcement purposes. In such contexts, a third of all immigrant detention centers are privately owned or operated.

According to National Public Radio (NPR), Immigration and Customs Enforcement (ICE) allocates over \$2 billion to private prison facilities. In a number of instances, we have seen these facilities fail to address incidents in a timely fashion. For example, a private facility in Louisiana, in collaboration with ICE, failed to put the health of detainees first and instead focused on expedient deportation of detainees, including those that may have been exposed to contagious disease.¹ Customs and Border Protection (CBP) Commissioner Kevin McAleenan attempted to correlate the increase of disease-related quarantines with the increased number of Central American migrants. This argument was made, notwithstanding the fact that vaccination rates for Central Americans against illnesses like mumps are above 90 percent.² In a separate incident at a California private prison facility, detainees allege potential human trafficking law violations based on egregious protocol followed at the facility requiring detainees to perform forced labor.³

¹ <https://www.cnbc.com/2019/03/10/thousands-of-migrants-quarantined-in-us-detention-centers-due-to-outbreaks.html>

² Id.

³ https://www.washingtonpost.com/opinions/who-has-most-to-gain-from-trumps-immigration-policies-private-prisons/2018/06/29/4ae9c6a8-7a4d-11e8-aece-4d04c8ac6158_story.html?utm_term=.1e8f01de9836

Such allegations at private prisons seriously undermine our collective responsibility to ensure that detainees—regardless of their immigration status—are treated with respect and provided humane living conditions.

Earlier this month, a number of financial institutions voluntarily decided to withdraw from financial agreements with the private prison industry. Given the above scenarios, and the likely continuation and proliferation of similar agreements allowing for the detention of immigrants in contracted facilities (but outside of an agreement with ICE or CBP), we believe that Congress should follow the private sector's example and divest from private prison facilities for immigration related purposes. Over the past few days, we have been aware of a facility to be run by a private company in New York with the potential option of housing detainees from ICE custody at an additional cost to taxpayers.^{4,5} While the agreement generally puts the burden on the private operator, certain provisions suggest that taxpayers will pay additional costs for certain medical care. **It is, in our view, time for Congress to reign in these unscrupulous actors who have largely benefited from inhumane practices.** Therefore, we respectfully request the following language be included in FY2020 appropriations:

Notwithstanding any other provision of law, none of the amounts appropriated or otherwise made available by this Act shall be expended by Immigration and Customs Enforcement, or Customs and Border Patrol, or immigration enforcement operations in jurisdictions whose state or political subdivision has entered into a written agreement under section 287(g) 8 USC 1357(g) of the Immigration and Nationality Act, for contractual agreements with detention facilities not operated by the federal government, or to enter such agreement, for the detention or transfer of alien detainees allegedly in violation of the immigration laws. Provided further that nothing in this section shall be construed to permit the transfer or detention of an alien detainee to any alternative facility under a contractual agreement with an agency not performing duties relating to the enforcement of the immigration laws.

Inserting this critical language would ensure that Congress has taken a stance against the use of private prisons for immigration enforcement. Reports detailing worrisome conditions should be taken seriously. The private sector has taken the lead in denouncing the use of such facilities for immigration enforcement. The federal government should follow its lead and end its dependence on private prisons for such purposes.

⁴ Solicitation, Offer and Award. Solicitation No. 15M40018RA3500001. Requisition/Purchase No. M-18-D53-R-000001

⁵ For the purposes of the term "potential option" as used, the solicitation notes that "ICE and BOP must receive prior written approval from the Contracting Officer." ICE and BOP would be responsible for payment of all invoices directly to the contractor. ICE or BOP may be required to relocate detainees to other facilities with 14 days' notice (p. 14 generally, and p. 24 for medical emergencies/pre-approved outside medical care)

Sincerely,



Nydia M. Velázquez
Member of Congress



Gregory W. Meeks
Member of Congress



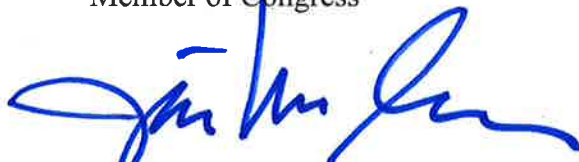
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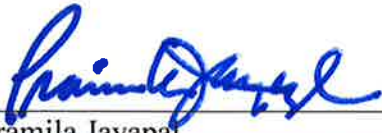
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Member of Congress



Sylvia R. García
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