

January 30, 2020

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**RE: State Audit concerning Local Governments and Private Detention Contracts**

We are writing in our capacity as citizens, advocates and community members in order to express our grave concern over public corruption and misconduct in the cities of Adelanto and McFarland, directed and influenced by the GEO Group Inc. (GEO) a Florida based private prison corporation, for its financial benefit and gain, and designed as part of a broader scheme to undermine California state law.

Scope and Authority of Audit

We believe action by your office is warranted, within the following scope of authority.

- 1.) Follow-up and oversight with respect to recommendations outlined in: *Report 2018-117: City and County Contracts With U.S. Immigration and Customs Enforcement: Local Governments Must Improve Oversight to Address Health and Safety Concerns and Cost Overruns* (Release Date: February 2019). This includes specific concerns related to:
  - a.) The termination of contracts with the city of Adelanto and McFarland, and the circumstances and ongoing financial dealings proceeding this termination are a significant development with respect to the prior audit.
  - b.) Whether ongoing monetary contributions or financial relationships between local cities and GEO has played an improper or unethical role in decision making at the local level, including influencing decisions around contracts, permitting or other matters.
  - c.) Whether the termination, financial accounting and ongoing monetary relationships between GEO and the local cities conform with California law, as well as the standards of the California State Contracting Manual, or other ethical standards.
- 2.) California State Auditor high-risk local government audit program
  - a.) The city of Adelanto and Holtville did not publish audited financial statements in accordance with GAAP.

- b.) The city of McFarland had not published an audited comprehensive annual financial reports for fiscal year 2017-18.<sup>1</sup>

## **Background**

The recent release of documents obtained through the California Public Records Act (CPRA), as well as investigative reports by the press, and allegations made by city officials have raised serious concerns over potential impropriety in the cities of Adelanto and McFarland related to contracts with GEO. Our concerns directly draw upon a 2019 audit by the State of California focused on "*City and County Contracts With U.S. Immigration and Customs Enforcement.*" The report highlighted serious concerns with respect to the roles and responsibilities of local cities in contracts with U.S. Immigration and Customs Enforcement (ICE) and private contractors.

In particular, we request a follow up audit with respect to the City of McFarland and the City of Adelanto and their relationship with the GEO Group, including but not limited to the creation and termination of intergovernmental services agreements (IGSAs) with ICE. In addition we believe additional audits and investigations may be appropriate with respect to the city of Holtville, and other cities which previously held IGSAs. Of particular concern are the financial awards GEO and other private prison corporations provided city officials outside the terms of a contract for services, as well as promises for continued financial contributions after the termination of the IGSAs.

The documentary record has provided strong evidence that the decision to end the IGSAs in both McFarland and Adelanto was motivated by GEO's desire to circumvent California state law (SB 29), and expand these for-profit facilities. SB 29, which went into effect on January 1, 2018, prohibits the expansion of any civil detention facility which is operated pursuant to a contract by a California city or county. Thus GEO sought to remove the local cities from the contracts in order to expand facilities and obtain a financial benefit. **We believe that GEO exercised undue influence in coercing local city officials to end these IGSA's, and may have engaged in conduct which amounts to bribery.**

Based on the totality of evidence which we have gathered and presented, we assert the following allegations and request a thorough investigation by your office in order to ascertain a complete and clear record with respect to this matter.

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<sup>1</sup> [https://www.auditor.ca.gov/bsa/cities\\_risk\\_not\\_assessed](https://www.auditor.ca.gov/bsa/cities_risk_not_assessed)

## The City of Adelanto

- GEO Group, Inc., a Florida-based private prison corporation, exerted undue and potentially illegal influence over officials in the city of Adelanto in the process of procuring, maintaining and subsequently terminating intergovernmental services agreement (IGSA's) with U.S. Immigration and Customs Enforcement (ICE).
- As noted in your 2018 audit, GEO had taken unusual steps of approaching multiple cities in California to join an IGSA with ICE.
- During the course of their agreement with the city of Adelanto GEO engaged in a pattern of financial dealings outside the scope of the IGSA, providing financial contributions to various local causes, at the direction of city Officials. For example, On February 5th 2019, GEO was directed to make donations to local causes by City Manager Jessie Flores [Exhibit A].
- Reports indicate that GEO was involved in a number of meetings with city officials calling for the termination of existing contracts between GEO and the city. [Exhibit's A, B,C,D] Documents obtained through a PRA and published by the press indicate that GEO likely directed and advised city officials with respect to the talking points used for the termination, as well as the actual language for a termination letter. [Exhibit A]
- On April 8th 2019 the Los Angeles Times ran a story entitled “Adelanto cuts ties to troubled ICE detention center — and removes a layer of oversight” which uncovered the role which GEO played in the sudden termination of the IGSA between ICE and Adelanto. The article included an interview with then Mayor Pro Tem Stevevonna Evans, in which she recounted her own first hand knowledge of GEO's attempts to lobby the Adelanto City Manager Jesse Flores to end the IGSA in order to expand the facility. [Exhibit B]
  - “Evans said Flores’ idea to cancel the contract goes back to late February, when she walked in on a meeting between him and GEO Group Chief Executive George Zoley over the possibility of ending the contract. She said they explained that ending the contract would alleviate the city of potential future litigation.

At that February meeting, Evans said, Zoley also explained that state law prohibited the company from expanding operations — unless the city backed out of the contract.

In fiscal year 2017, Adelanto transferred more than \$71 million in payments from ICE to GEO Group. In return, GEO has paid the city a yearly fee of about \$1 million to oversee the distributions. Evans said that Zoley assured city leaders that they would continue receiving payment even after they ended the contract.”

- Evans went on record with Associated Press in an article titled: “Adelanto Cuts Ties to Troubled ICE Facility, But Private Ownership Could Actually Expand Detention” and noted:
  - “Without us being involved, they can expand,” said Steevonna Evans, an Adelanto councilwoman who opposed ending the contract. She said she discussed the issue with GEO officials several times. “I had three meetings with them where they were trying to get me to see it their way — GEO is for this happening.” [Exhibit C]
- In an article by The Guardian, entitled “A US city cut ties with its troubled migrant detention center. That could make things even worse” Evans Reiterated her concerns:
  - “ According to the city’s newly elected mayor pro tem, Steevonna Evans, the plan to terminate the agreement was hatched in secrecy.

Evans told the Guardian she had walked in on a meeting between Flores, the city manager, and Dr. George Zoley, CEO and chairman of the Geo Group, in early 2019.

“I was early for a meeting, so I just did what I do every other day and just walked into his office,” Evans said. “They were discussing their proposal, which was for us to sign the letter to ICE saying we wanted out of the contract.” [Exhibit D]

- In addition to exerting undue influence on city officials, GEO appears to have promised city officials that they would continue to provide the city with financial compensation, even if the agreement with the city was terminated. An email sent on February 6th by a GEO employee to Adelanto City Manager Jesse Flores, appears to indicate that George Zoley, CEO of GEO, promised that financial contributions to the city would continue beyond the termination of the agreement.
  - “George asked me to let you know that there would be no financial impact to the city,” she wrote. [Exhibit A]
- In addition a March 13 email by GEO included a memo by Zoley outlining GEO’s financial commitments to the city which would continue after the termination of the agreement.
  - In addition to the bed taxes, GEO would continue paying the city \$50,000 a year, even though Adelanto would no longer be contractually involved in the detention center and the city would have no oversight role of the facility, he said. Terminating the contract, he said, would “reduce the city’s legal and financial exposure to ICE critics advancing claims for detainee records, or other facility documents.”

“The annual financial compensation to the City of \$50,000 for facilitating the IGSA will be continued by GEO,” he wrote. GEO would also keep paying the bed tax — nearly \$1 million — outlined in the 2016 development agreement between the company and the city, he said. Critics see GEO’s pledge to continue paying Adelanto \$50,000, with no strings attached, as an incentive to get the struggling city to comply with its request.[Exhibit A]

- This evidence was corroborated by Steevonna Evans in the Los Angeles Times.
  - “In fiscal year 2017, Adelanto transferred more than \$71 million in payments from ICE to GEO Group. In return, GEO has paid the city a yearly fee of about \$1 million to oversee the distributions. Evans said that Zoley assured city leaders that they would continue receiving payment even after they ended the contract.” [Exhibit B]
- The termination of the IGSA with the city of Adelanto in 2019 allowed for GEO to receive a direct contract from ICE for the duration of one year for \$63 million dollars. Allowing for GEO to receive a federal contract outside the standard procurement process, but also paving the way for the eventual expansion of the facility. [Exhibit A] Advocates have taken up the violations of Federal Procurement law with congressional oversight committees. [See Exhibit G, J]

### The City of McFarland

- Additional information obtained through PRA raises concern that GEO may have repeated the same pattern of pressure and influence on the city of McFarland. [Exhibit E]
- In November of 2018 it was reported that McFarland City Council voted in closed session to end their IGSA with GEO.
  - “McFarland Mayor Manuel Cantu Jr. also provided no reasons for the city’s withdrawal from the agreement.” -[Exhibit K]
- Documents obtained by the ACLU pursuant to a PRA request indicated that a closed session was held by the City Council of the City of McFarland on September 20th 2018 in which the issue of the Mesa Verde Detention facility was raised, including inspections and oversight at the facility by the California Attorney General. The record shows a proposal put forth by City Manager John Wooner to request increased financial compensation from GEO for the operations of the facility. The minutes state:
  - “The City Manager advised that he was recommending that the City contact the GEO Group to advise them that the City would be terminating its agreement with ICE and therefore its agreement with the GEO group unless the compensation paid to the City by the GEO Group was increased to \$250,000.00 which makes it

more competitive with what the GEO Group is paying the City of Adelanto for a similar facility. The Mayor disagreed with continuing the agreement and argued that the City should simply terminate the agreement and not demand any further compensation for its continuance...

- After considerable discussion, a motion was made by Councilmember Coker, seconded by McFarland, and approved three votes to two to adopt the City Manager's recommendation to contact the GEO Group and advise that the City would be terminating the agreement with the GEO group unless the GEO Group agreed to pay the city \$250,000.00 per year." [See Exhibit E]
- There is no documentary record available with respect to the discussions or negotiations between GEO and the City of McFarland. However circumstantial evidence appears to indicate an agreement was reached, though the details were not released to the public. **A serious question remains as to whether this deal included a financial "kick-back" by GEO to the city of McFarland, similar to that which was promised to Adelanto.**
  - On November 30th the City Manager sent a signed letter informing GEO Group it was terminating its agreement. The contents of this letter mirror those of the letter produced by the City of Adelanto. [See Exhibit E and H]
  - The City Manager, Wooner, disappeared in May 2019 and was found dead in the Kern River Canyon August 2019.[See Exhibit A]
  - GEO would subsequently be awarded a direct one year \$19,377,50 contract by ICE to operate the facility. [See Exhibit J]

#### AB 32, Current Contracts and Local Permits

- In 2019, California passed AB 32, a bill which bans all for-profit prisons and detention facilities in the state. In the lead up to the signing of this bill, GEO coordinated with local city officials in Adelanto to lobby the Governor to oppose this bill.
  - In a September 17th letter to Gov. Gavin Newsom, Adelanto City Manager Jesse Flores urged a veto noting: "Considering that the city is currently faced with a \$6 million structural deficit, this bill will put the chances of the City closing the gap simply out of reach," he wrote. "This will likely result in the City being forced to pursue disincorporation." [See Exhibit A]
- In December 2019, following the signing of the bill into law, ICE and GEO signed multiple 15 year contracts, valued in the billions in order to entrench and expand private detention in California in advance of January 1, 2020 the effective enactment date of AB32. Legal scholars and advocates have decried these newly minted contracts as being in violation of federal procurement laws. A broad Congressional delegation, including the chairs of a number of oversight committees have raised concerns about violations of

federal procurement law with respect to the manner in which the solicitation directed.  
[See Exhibit F, J]

### SB29, Local Permit Process and Hearings

- The December 2019 detention facility contracts include expansions of the Mesa Verde Detention Facility (currently at a capacity of 400) to approximately 1,800 beds and the Adelanto facility (current capacity of 1,940) to approximately 2,690 beds.
- The increased bed capacity will be obtained via annexation of the following facilities which are presently or until recently were operating as privately run state prisons: Golden State Modified Community Correctional Facility, the Central Valley Modified Community Correctional Facility, and Desert View Modified Community Correctional Facility.
- In order for these 3 facilities to be converted from prisons to immigration detention centers, they must undergo local permitting. Pursuant to SB29, before any locality can issue a permit related to an immigration detention facility, it must (1) Provide notice to the public of the proposed conveyance or permitting action at least 180 days before execution of the conveyance or permit, and (2) solicit and hear public comments on the proposed conveyance or permit action in at least two separate meetings open to the public. *See CA Civ Code § 1670.9 (2017)*
- There are serious questions as to how GEO's financial contributions have and stand to influence this permitting process. The ACLU recently submitted a letter to the city of McFarland requesting public documents with respect to the permitting process for the expansion of the Mesa Verde Detention Facility. As detailed in a report by a January 29th report in the Bakersfield Californian, the ACLU alleges that GEO representatives appear to have been the only members of the public provided with documents ahead of permitting hearings.
  - “The city of McFarland has received two requests from private prison company GEO Group Inc. to modify conditional use permits for the Golden State Modified Community Correctional Facility and the Central Valley Modified Community Correctional Facility to allow the facilities to detain immigrants.

In a letter sent to McFarland on Tuesday, the ACLU says the city has not provided relevant documents to interested members of the public, failed to offer Spanish translation services during the meeting and apparently favored GEO supporters over immigrant advocates during the meeting.

Those alleged oversights could delay the city’s processing of the permits, and force the Planning Commission to hold an additional public meeting to meet the tenets of the law.

“I certainly understand from their perspective, they want this 180 day clock to start running,” said ACLU Attorney Jordan Wells. “But they can’t do that until the public has the same materials that GEO — who is the interested party here — has.”

He added that reviewing the documents could reveal if McFarland city officials are indeed vetting GEO’s permit applications or are merely rubberstamping the company’s request.” [See Exhibit I]

### Audit Request

Based on the aforementioned circumstantial evidence and the outstanding questions with respect to conduct between city officials and GEO, we request an immediate investigation into but not limited to the following issues.

- The circumstances surrounding the creation and termination of IGSAs between the cities of McFarland and Adelanto, and GEO- including but not limited to any quid-pro-quo, financial agreements or considerations provided to the city for the creation or termination of a contract.
- Any violations of California law by city officials involved in directing, accepting or routing financial contributions from GEO.
- Any coordination, aiding or abetting with respect to the violation or circumvention of California law by city officials and GEO.
- The financial contributions, agreements and transactions between GEO and the local cities involved; as well as third party beneficiaries.
- Any and all continuing payments between GEO and city officials that may influence local permitting or other legal mechanisms pertaining to these facilities.

We believe that an accounting with respect to the conduct of the parties involved is of paramount importance to protect the citizens of California, and uphold state laws and the transparency required at every level of government.

Sincerely,