

United States Senate

WASHINGTON, DC 20510

November 15, 2018

Jennifer H. Nakamoto
President
The Nakamoto Group, Inc.
11820 Parklawn Drive, Suite 240
Rockville, Maryland 20852

Dear Ms. Nakamoto,

We write to express deep concern with the findings of a recently released report¹ by the Department of Homeland Security (DHS) Office of Inspector General (OIG), which documents poor conditions and mistreatment of immigrants at a facility your company is contracted to inspect. We are particularly concerned that OIG found that your company's inspections of these facilities – which are supposed to ensure safety and quality standards are met – are potentially misrepresenting conditions in these facilities or underreporting violations.² In light of these reports, we request information about your company's contract with U.S. Immigration and Customs Enforcement (ICE) and your inspection procedures in overseeing these facilities.

ICE currently detains around 40,000 immigrants in 211 facilities across the United States.³ According to DHS, as of September 2016, 65 percent of those detainees were held in facilities operated by private, for-profit companies.⁴ Nine of the ten largest ICE detention centers are run by private corporations.⁵ Since taking office, President Trump has pursued aggressive immigration policies that have significantly increased the number of immigrants in detention.

A combination of federal inspectors and inspectors from your company oversee detention centers. All detention facilities under contract with DHS to house immigrant detainees are

¹ U.S. Department of Homeland Security Office of Inspector General, "Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California," September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

² U.S. Department of Homeland Security Office of Inspector General, "Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California," September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>; U.S. Department of Homeland Security Office of Inspector General, "ICE's inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements," June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>; U.S. Department of Homeland Security Office of Inspector General, "Concerns about ICE Detainee Treatment and Care at Detention Facilities," December 11, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

³ Bloomberg, "Prison Operators Could Cash In on Trump's 'Zero Tolerance' Immigration Policy," Rob Urban and Bill Allison, June 28, 2018, <https://www.bloomberg.com/news/articles/2018-06-28/prison-operators-gain-as-u-s-immigration-detentions-surge>.

⁴ U.S. Department of Homeland Security, Homeland Security Advisory Council, "Report of the Subcommittee on Privatized Immigration Detention Facilities," December 1, 2016, <https://www.dhs.gov/sites/default/files/publications/DHS%20HSAC%20PIDF%20Final%20Report.pdf>

⁵ KCET, "Immigration Detention is Profitable for Private Prisons," Pilar Marrero, July 17, 2018, <https://www.kcet.org/shows/socal-connected/immigration-detention-is-profitable-for-private-prisons>.

contractually obligated to abide by ICE detention standards for holding immigrants.⁶ Your company was awarded contracts with ICE's Enforcement and Removal Operations (ERO)⁷ in 2007, 2009, 2011, and 2015 to conduct several types of inspections, including quality assurance reviews, technical assistance reviews, follow-up inspections, special assessments, pre-occupancy inspections, and annual and biennial inspections to determine whether a facility is complying with detention standards.⁸ Since 2007, ICE has awarded your company over \$55 million total,⁹ and the current contract has a potential award of an additional \$16 million.¹⁰

Over the past year, the DHS OIG examined ICE's oversight of immigration detention facilities and those facilities' compliance with detainee treatment standards and found many that failed to

⁶ When ICE was formed in 2003, the agency operated under a set of National Detention Standards (NDS) that were based on policies and procedures DHS issued in September 2000. These standards, according to ICE, "established consistent conditions of confinement, program operations, and management expectations within the agency's detention system. The standards were revised in 2008 in the Performance-Based National Detention Standards (PBNDS 2008) and again in 2011. ICE also revised several, but not all, of the standards in 2016. Based on information released through DHS FOIA requests, the National Immigrant Justice Center (NIJC) reported that only 65% of ICE adult detention centers are contractually bound by one of the three sets of detention standards. 14% of detained immigrants are held in facilities contracted under other standards such as the American Correctional Association accreditation guidelines, the Department of Justice's 2000 Federal Performance-Based Detention Standards for federal prisons, and standards created by ICE's predecessor – the Immigration and Naturalization Service (INS). Other contracts only require the facilities to operate under "minimum service standards," "local standards," or to standards that simply require enforcement of the technical contract terms rather than based on any conditions inside the detention center. U.S. Immigration and Customs Enforcement, "ICE Detention Standards," <https://www.ice.gov/factsheets/facilities-pbnnds>; National Immigrant Justice Center, "ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming.," Tara Tidwell Cullen, March 13, 2018, <https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet>.

⁷ The initial contract was with the predecessor of ICE's ERO, the ICE Office of Detention and Removal (DRO). U.S. Immigration and Customs Enforcement Office of Detention & Removal, Order for Supplies or Services from Nakamoto Group, Inc., Contract No. 0DT-6-0002, August 15, 2007, <https://www.ice.gov/doclib/foia/contracts/hsceop-07-f-01038-nakamotogroup.pdf>.

⁸ Different versions of the national detention standards apply to ICE's detention facilities. OIG reported that "[c]ontracts and agreements with facilities that hold immigrant detainees include either NDS, PBNDS 2008, or PBNDS 2011." U.S. Department of Homeland Security Office of Inspector General, "ICE's inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements," June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>. The NIJC reported that ICE maintains that all facilities are inspected under one of the three national detention standards, even if the contractual language does not outline one of the three standards. But reportedly only 63% of detained immigrants are held in detention centers that were last inspected under the most recent set of guidelines (PBNDS 2011), 24% are in detention centers last inspected under the oldest version of the NDS, and 13% are held in facilities inspected under PBNDS 2008. National Immigrant Justice Center, "ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming.," Tara Tidwell Cullen, March 13, 2018, <https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet>.

⁹ USA Spending, Contract Summary, Nakamoto Group Inc., Award ID: HSCEOP07F01038, <https://www.usaspending.gov/#/award/23840407>; USA Spending, Contract Summary, Nakamoto Group Inc., Award ID: HSCECR09C00001; <https://www.usaspending.gov/#/award/68913099>; USA Spending, Contract Summary, Nakamoto Group Inc., Award ID: HSCECR12F00002, <https://www.usaspending.gov/#/award/23819688>; USA Spending, Contract Summary, Nakamoto Group Inc., Award ID: HSCECR15F00008, <https://www.usaspending.gov/#/award/23820098>.

¹⁰ USA Spending, Contract Summary, Nakamoto Group Inc., Award ID: HSCECR15F00008, <https://www.usaspending.gov/#/award/23820098>.

meet those standards.¹¹ In their review, OIG found that immigration detention facilities were not in compliance with ICE detention standards despite being inspected by your company. They found that certain facilities had spoiled and moldy food, detainees lacked access to hot water, or had showers that lacked cold water, had limited access to prompt and adequate medical care, and were not promptly given (or not given at all) basic hygiene products such as toilet paper and toothpaste. The report also found that detainees were placed in solitary confinement or locked down in their cells for minor rule violations without being told why.¹² In Adelanto Detention Center in Adelanto, CA, OIG found that in 15 out of approximately 20 cells examined, inspectors saw nooses fashioned from twisted bedsheets hanging from vents.¹³ A detainee quoted in the report explained that detainees use the braided bedsheets to attempt to commit suicide. OIG reported that there have been at least seven suicide attempts at the detention center from December 2016 to October 2017. These reports on facility conditions are appalling and reveal serious problems at ICE – and with Nakamoto Group’s inspections of those facilities.

Our government has a responsibility to ensure the safety and well-being of the individuals in immigration detention, and DHS and ICE detention standards are critical to preventing abuse or mistreatment of detained individuals.¹⁴ However, since there is no continuous monitoring at all of these facilities, inspectors are critical to ensuring that all detention facilities comply with detention standards. The Nakamoto Group inspects around 100 facilities per year, and inspectors from DHS Office of Detention Oversight (ODO) inspect an average of 28 facilities a year. Under the terms of your original government contract, your company must provide, “support services for the onsite detention standards compliance,” which includes in each type of facility at minimum to provide “monthly and annual onsite compliance reports with trend analysis,” “contractor staff participation in [detention standards] Training and Orientation,” and ongoing “tracking and reporting of [Significant Event Notifications] and associated compliance findings.”¹⁵ For the facilities that your company inspects, it is your responsibility to provide a complete and accurate accounting of the facilities’ compliance with detention standards.

¹¹ U.S. Department of Homeland Security Office of Inspector General, “Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California,” September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>; U.S. Department of Homeland Security Office of Inspector General, “ICE’s inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>; U.S. Department of Homeland Security Office of Inspector General, “Concerns about ICE Detainee Treatment and Care at Detention Facilities,” December 11, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

¹² U.S. Department of Homeland Security Office of Inspector General, “Concerns about ICE Detainee Treatment and Care at Detention Facilities,” December 11, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.

¹³ U.S. Department of Homeland Security Office of Inspector General, “Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California,” September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

¹⁴ U.S. Department of Homeland Security Office of Inspector General, “ICE’s inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

¹⁵ U.S. Immigration and Customs Enforcement Office of Detention & Removal, Order for Supplies or Services from Nakamoto Group, Inc., Contract No. 0DT-6-0002, August 15, 2007, pp. 25-40, <https://www.ice.gov/doclib/foia/contracts/hsceop-07-f-01038-nakamotogroup.pdf>

When OIG observed Nakamoto inspections at two separate facilities and reviewed Nakamoto inspection reports of five detention facilities, however, the results were troubling.¹⁶ The report revealed that not only were detention facilities committing severe health and safety violations that “posed[d] significant health and safety risks”¹⁷ to detainees, but also that your inspectors were not following inspection protocol and were found to be misrepresenting information in final inspection reports.¹⁸

Among other concerning findings, OIG’s report detailed how some Nakamoto inspectors relied on brief answers from staff interviews and reviews of written policies to evaluate facility conditions instead of conducting personal observations as required. The report also found that Nakamoto inspectors made misrepresentations in their inspection reports that were inconsistent with OIG observations during the same visit. At one facility, Nakamoto reported that detainees understood how to get assistance from ICE officers and their case managers, and that detainees also made positive comments about access to law library services and opportunities to visit with family. OIG, however, noted, “we heard detainees tell inspectors they did not know the identity of their ICE deportation officer or how to contact the officer. We did not observe inspectors asking any detainees about law library services or visiting opportunities.” At another facility, Nakamoto inspectors reported that “[correction] officers ... exhibited an understanding of the detention standards and civil detention” without having spoken to any corrections officers during the visit. OIG found that Nakamoto inspectors hadn’t interviewed the corrections officers at all, but instead relied on secondhand information from “question[ing] an ICE employee about the facility’s correction officer duties.”¹⁹

It is unclear whether your company has invested the proper resources or sufficient time into training staff and conducting thorough inspections of detention facilities. OIG described in its report that “the Nakamoto inspection scope is too broad to be completed by a small team in a short timeframe,” and Nakamoto inspectors did report to OIG that “it was difficult to complete [the Nakamoto inspectors’] work in the allotted time.” But troublingly, internal interviews from ICE employees suggest the Nakamoto inspections are “useless,” and “very, very, very difficult to fail.”²⁰ OIG further found that “the Nakamoto inspectors are not always thorough,”²¹ and when the government inspectors examined the same facilities as Nakamoto, the government inspectors often identified upwards of twice as many violations. More thorough government inspections of the facilities, however, are “too infrequent to ensure the facilities implement all deficiency corrections,” allowing “some deficiencies [to remain] unaddressed for years.”²²

¹⁶ U.S. Department of Homeland Security Office of Inspector General, “Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California,” September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

¹⁷ *Id.*

¹⁸ U.S. Department of Homeland Security Office of Inspector General, “ICE’s inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements,” June 26, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-06/OIG-18-67-Jun18.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

Ineffective and infrequent oversight raises questions about the severity of conditions in detention facilities, whether violations are underreported, and whether your company is complying with the terms of the contract with ICE.²³ Misrepresentations about both facility conditions and the work performed by your inspectors call into question the integrity of your company's inspections. Any lack of proper oversight for detention facilities cannot be allowed to continue.

To better understand your company's compliance with its government contract and the effectiveness of inspections your company conducts, we request you provide me with the following information no later than November 30, 2018:

1. OIG's June 2018 report examined your company's inspection methods, practices, and reporting procedures and stated that while "ICE provides Nakamoto with detention review summary forms and inspection checklists to determine compliance with detention standards ... [ICE] does not give Nakamoto clear procedures for evaluating detention conditions."
 - a. Because ICE does not give your company clear procedures to evaluate detention conditions, who creates your procedures to evaluate detention conditions? Please identify who created the procedures to complete inspections and create inspection reports?
 - b. Did DHS or ICE review or approve these procedures?
 - c. Please provide a copy of any and all procedures.
 - d. What guidance, if any, does ICE give your company on procedures to complete inspections and create inspection reports?
 - e. Please describe the training procedures you require of your inspectors, including the frequency of training and whether you consult with DHS or ICE.
 - f. OIG also found "ICE ERO does not exercise enough quality control ... to evaluate or improve Nakamoto's performance," and that potentially there has not been any quality assurance visits performed since before 2014. Please provide a list of all ICE ERO quality assurance visits to evaluate Nakamoto's performance from the date your contract was awarded (August 15, 2007) to the present, and provide the results of each evaluation.

2. Recent DHS OIG reports inspected and found numerous health and safety violations in immigration detention facilities between the periods of November 2016 to May 2018.²⁴ Please provide all inspection reports conducted by your company, and associated documentation, for inspections conducted by your company in the following facilities between August 15, 2007 and the present:
 - a. Hudson County Jail (Hudson County Correctional Facility) in Kearny, NJ
 - b. Laredo Processing Center in Laredo, TX
 - c. Otero County Processing Center in Chaparral, NM


²³ *Id.*

²⁴ U.S. Department of Homeland Security Office of Inspector General, "Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California," March 6, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/Mga/2017/oig-mga-030617.pdf>; U.S. Department of Homeland Security Office of Inspector General, "Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California," September 27, 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-86-Sep18.pdf>.

- d. Santa Ana City Jail in Santa Ana, CA
 - e. Stewart Detention Center in Lumpkin, GA
 - f. Theo Lacy Facility in Orange, CA
 - g. Irwin County Detention Center in Ocilla, GA
 - h. Johnson County Detention Center in Cleburne, TX
 - i. Adelanto ICE Processing Center in Adelanto, CA
3. Please described the terms of your contract(s) with the United States Government, including costs and all deliverables. Please provide a copy of this contract and any amendments.
4. OIG found your inspectors created reports that misrepresented detention conditions and the level of work performed in evaluating facilities. Your inspectors further gave inaccurate information in their final inspection reports that were inconsistent with what OIG observed during the same visits. Please explain why your inspectors made misrepresentations and are providing inaccurate information for inspection reports.

Thank you for your attention to this matter. We look forward to your response.

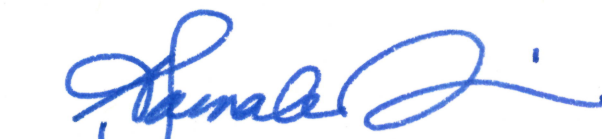
Sincerely,



Elizabeth Warren
United States Senator



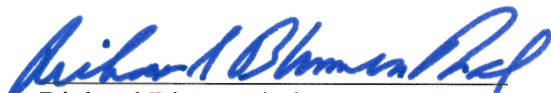
Ron Wyden
United States Senator




Kamala D. Harris
United States Senator



Kirsten Gillibrand
United States Senator



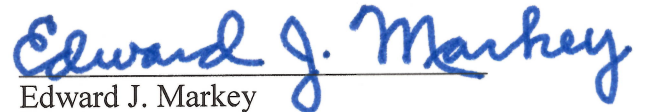
Richard Blumenthal
United States Senator



Bernard Sanders
United States Senator



Cory A. Booker
United States Senator



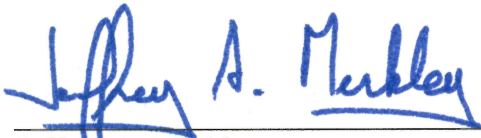
Edward J. Markey
United States Senator



Mazie K. Hirono
United States Senator



Tom Udall
United States Senator



Jeffrey A. Merkley
United States Senator