



CITY OF EL PASO

ITEM 2

ICE Detention Centers

Follow-up from February 3, 2026 City Council direction

Council Direction

- February 3, 2026 Council direction:
 - Direct the City Manager, in collaboration with the City Attorney, to develop a plan of action to prevent the installation of any Immigration Customs Enforcement (ICE) detention facilities in the city. Additionally, to collaborate with the County of El Paso to support this measure.
 - Further, direct the City Manager and City Attorney to research and look into the following and report back within 60 days:
 1. Create and present a protocol that prevents federal law enforcement officers from entering any city facility, with the intention to search, detain, or arrest a person without a signed judicial warrant.
 2. Explore a moratorium on permitting, zoning and licensing for Immigration and Customs Enforcement facilities.
 3. Produce a report that details all points of cooperation between the City of El Paso and Immigration and Customs Enforcement.

Background Executive Orders

January 20, 2025

EO 14160: Protecting the Meaning and Value of American Citizenship

EO 14159: Protecting the American People Against Invasion

EO 14161: Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats

EO 14163: Realigning the United States Refugee Admissions Program

EO 10886: Declaring a National Emergency at the Southern Border of the United States

EO 14165: Securing Our Borders

“Create and present a protocol that prevents federal law enforcement officers from entering any city facility, with the intention to search, detain, or arrest a person without a signed judicial warrant.”

- State Law – Senate Bill 4 (2017)
 - A local entity may **not** adopt, enforce or endorse a policy under which the entity prohibits or materially limits the enforcement of immigration laws.
- Federal ICE Agents have power to arrest or detain in public places (areas generally accessible to the public)

Recommendation

- Employee protocol to immediately notify a supervisor/Department Head and the City Attorney’s Office.

“Explore a moratorium on permitting, zoning and licensing for Immigration and Customs Enforcement facilities.”

Zoning Authority

- Zoning authority given to home-rule municipalities through State law
- Texas Local Government Code (TLGC) 211 governs zoning boundaries for municipalities to work within
- TLGC 211.013 Conflict with Other Laws; Exceptions
 - “(c) This subchapter **does not apply** to a building, other structure, or land under the control, administration, or jurisdiction of a **state or federal agency**.”

Summary: cities cannot regulate federal or state agencies for development requirements

Current El Paso Requirements

- Falls within the current definition in Zoning Code (Title 20) for Correctional facility/Detention center
 - "Correctional facility" means a publicly or privately operated facility housing persons awaiting trial or persons serving a sentence imposed by a court of law
 - Allowed by right: C-3, C-4, C-5, M-1, M-2, M-3
 - Special Permit: R-F, C-2
 - Master Zoning Plan: I-MU
 - Use not allowed: All other zoning districts not indicated

Texas Local Government Code 212.1352

- Moratorium on certain commercial property development
 - To address a gap in development regulations
 - Finding that existing rules are inadequate to prevent the new development from being harmful to the community
 - Any new ordinances and regulations need to protect health, safety, and welfare

Development Moratorium

- Minimum of 100 days before a moratorium can take effect



- Short-lived – expires after 90 days, may have one extension
 - Total of no more than 180 days
- 2-year waiting period before City can try again on the same issue

Recommendation

- Recommend that City Council direct City Manager and City Attorney to draft revisions to the zoning ordinance for the correctional facility use
 - Modify approval from “by-right” (permitted) to special permit in all applicable zoning districts
 - Allows stronger oversight by City Council
 - Notification requirements – direct mail to abutting property owners, CPC, Council
 - Evaluate other requirements
 - May include items such as distance (from each other, from residential), setbacks, and size requirements

“Produce a report that details all points of cooperation between the City of El Paso and Immigration and Customs Enforcement.”

Points of Cooperation

- Federal, State and Local law enforcement collaboration
- Application and award of Federal and State Grants

EL PASO POLICE DEPARTMENT

- Established May 17, 1873
- Policing on the International Border for over 152 years
- Have continuously worked cooperatively with local, state and federal agencies over the history of the department.

20th Century Policing by EPPD:

- FBI – National Crime Information Center (NCIC) est January 27, 1967
 - Wanted Persons
 - Stolen property
 - Stolen Vehicles
 - Stolen firearms

EL PASO POLICE DEPARTMENT (cont)

20th & 21st Century
Policing by EPPD:

FBI – National Crime
Information Center (NCIC)

Now includes:

- Criminal Histories
- Protective Orders
- Sex Offender data
- Terrorism data
- Immigration data

- Community Survey 68% feel safe in El Paso.
- February 1987 Chief Scagno decentralize the department to Regional Command concept – **Community Based Policing**
- Set foundation stronger community engagement and to becoming ranked among the safest large cities in United States

EPPD PROCEDURES MANUAL

305.8 Undocumented Immigrants

- EPPD officers may not arrest an individual based on their citizenship status.
- Probable Causes for arrest must exist.
- When officers determine that an individual is an undocumented immigrant, they will be turned over to U.S. Border Patrol.
- Requests for Asylum – immigrants requesting asylum in the United States, will be referred to the CBP.

EPPD PROCEDURES MANUAL

305.3 (D) Arrests

Updating Fall 2025 due to Federal Regulation (NCIC)

Immigration Violator File (IVF)
Administrative Warrants

- W/ Local Charges book subject on local charges.
- Officer will notify ICE of the arrest and detention facility location
- Officer will document notification to ICE on report.

- W/no local charges:
 - Thru dispatch notify Law Enforcement Support Center
 - If ICE does not respond to the scene, the subject will be released
 - Officer will send email to PD Hit Notification w synopsis of incident.

EPPD PROCEDURES MANUAL

305.3 (E) Arrests

NCIC Threat Screening Center (TSC) updated March 2025

- Presidential Exec Order 14157 (January 20, 2025) designated Cartels as Foreign Terrorist Organizations (FTOs)
- W/ No local charges officers to follow instructions on NCIC alert & contact TSC Operation Center
- Watchlist not grounds to arrest or detain.

EPPD PROCEDURES MANUAL

305.3 (E) Arrests (cont)

- Watchlist Handling Codes 1-5
- Provide officers in the field with information on subject(s) lawfully detained/arrested with:
 - Possible ties to Terrorism
 - Persons of Interest
 - Possible Immigration violator
 - Possible ties to Transnational Organized Crime

Federal Grants at Risk under Current Federal Assurances and Certifications



Grant Certifications and Assurances

- Federal Grants come with assurances and certifications; these are legal promises we make and renew
- We are seeing clearer, stricter enforcement across agencies
- Specific language is embedded in grant applications and revisions to the uniform guidance



Examples Included in Grant Applications and/or Awards

- Encourage the concealment, harboring, or shielding from detection of fugitives from justice or persons who illegally came to, entered, or remained in the United States.
- Impede federal officers from exercising their authority .
- Encourage or induce persons to come to, enter, or reside in the United States in violation of federal laws.
- Result in the illegal transport or movement of persons within the United States.



Examples Included in Grant Applications and/or Awards

- Declining to cooperate with the enforcement of Federal immigration laws
- Shield illegal persons from ICE detection contravenes Federal law and may give rise to civil and criminal liability
- Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.



Current Active Grant Totals

- Active grants current total awards : \$500.7 million
- Payroll included to date covered by Grants: \$74.8 million
- City depends heavily on Federal and State funding to operate many of the community programs offered



Noncompliance of Federal Laws can Trigger Concrete Consequences:

- **Termination or suspension** of current awards; withhold drawdowns
- **Exclude (suspension and debarment)** the City programs from future awards (min 18 months, max 3 yrs)
- **Require repayment** of disallowed cost tied to false statements; signing Assurances & certifications not followed



Federal Funded Programs

- **Public Health Programs:** WIC, Family Planning, Emergency Preparedness, Immunization, HIV Prevention
- **Police Programs:** COPS (Officer hiring), Homeland Security, High Intensity Drug Trafficking Areas (HIDTA), Crime Victims, Safe Neighborhoods
- **Fire Programs:** Regional Catastrophic Preparedness Emergency Response (RCPGP), Hazard Mitigation, Staffing for Adequate Fire & Emergency Response(SAFER)
- **Community & Human Development Programs:** Community Development Block Grants (CDBG), Emergency Solutions (ESG), Housing Opportunities for Persons with AIDS (HOPWA)
- **Airport Programs:** Airport Improvement, Economic Adjustment Assistance
- **Sun Metro:** Formula Grants, Low & No Emissions, Bus & Bus Facilities



Bottom Line:

- Federal assurances are considered part of the grant agreement with immigration-related terms and conditions
- Non-Compliance with Federal Laws may result in termination, suspension, debarment and/or repayment of funds
- Federal grants provide millions of dollars in funding for priority community programs



Recommendations

1. Create and present a protocol that prevents federal law enforcement officers from entering any city facility, with the intention to search, detain, or arrest a person without a signed judicial warrant.

Employee protocol of immediately notifying a supervisor/Department Head and the City Attorney's Office of law enforcement on premises

2. Explore a moratorium on permitting, zoning and licensing for Immigration and Customs Enforcement facilities.

Direct City Manager and City Attorney to draft revisions to the zoning ordinance for the correctional facility use.

3. Produce a report that details all points of cooperation between the City of El Paso and Immigration and Customs Enforcement.

Continue points of cooperation including grant certification requirements.

MISSION



Deliver exceptional services to support a high quality of life and place for our community.

VISION



Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government.



VALUES

Integrity, **R**espect, **E**xcellence,
Accountability, **P**eople



Some Examples of Language Included in Grant Applications

Public Safety Office

I certify that Grantee does not have in effect, proports to have in effect, and is not subject to or bound by and rule, policy, or practice (written or unwritten) that would: (1) encourage the concealment, harboring, or shielding from detection of fugitives from justice or aliens who illegally came to, entered, or remained in the United States, 8 U.S.C. § 1324(a)(1)(A)(iii); (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3); (3) encourage or induce an alien to come to, enter, or reside in the United States in violation of law, 8 U.S.C. § 1324(a)(1)(A)(iv); or (4) result in the illegal transport or movement of aliens within the United States, 8 U.S.C. § 1324(a)(1)(A)(ii).



Some Examples of Language Included in Grant Applications, Continued...

Public Safety Office

I certify that Grantee will not adopt, enforce, or endorse a policy which prohibits or materially limits the enforcement or immigration laws, and will not, as demonstrated by pattern or practice, prohibit or materially limit the enforcement or immigration laws.

I acknowledge that failure to comply with this certification may result in OOG, in its sole discretion, terminating any grant made by OOG to Grantee, and that **Grantee must return all funds received from OOG for any grant terminated under this certification. I further acknowledge that Grantee will remain ineligible for OOG funding following such termination until it provides satisfactory evidence that the Grantee has complied with this certification for at least one year.**



Some Examples of Language Included in Grant Applications, Continued...

Letter from Secretary of Transportation

Under the Constitution, Federal law is "the supreme Law of the Land." U.S. Const. Art. VI. That means that where Federal and State legal requirements conflict, States and State entities must follow Federal law. Declining to cooperate with the enforcement of Federal immigration law or otherwise taking action intended to shield illegal aliens from ICE detection contravenes Federal law and may give rise to civil and criminal liability. See 8 U.S.C. § 1324 and 8 U.S.C. § 1373. Accordingly, DOT expects its recipients to comply with Federal law enforcement directives and to cooperate with Federal officials in the enforcement of Federal immigration law.



Some Examples of Language Included in Grant Applications, Continued...

Letter from Secretary of Transportation

This letter provides notice of the Department's existing interpretation of Federal law. The Department will vigorously enforce the law on equal terms as to all its recipients and intends to take appropriate measures to assess their compliance based on the interpretation of Federal law set forth in this letter. Adherence to your legal obligations is a prerequisite for receipt of DOT financial assistance. Noncompliance with applicable Federal laws, or failure to cooperate generally with Federal authorities in the enforcement of Federal law, will jeopardize your continued receipt of Federal financial assistance from DOT and could lead to a loss of Federal funding from DOT.



What's at Risk:

Current Federal Direct & Pass-Through Grants

| | | | Values |
|--------------------------|--|--|----------------|
| DEPARTMENT | Agency (Driven by ALN) | Program | Award |
| AIRPORT | DEPARTMENT OF COMMERCE | Airport Improvement and Infrastructure Investments | \$ 25,000,000 |
| AIRPORT | DEPARTMENT OF TRANSPORTATION | Airport Improvement and Infrastructure Investments | \$ 82,523,901 |
| ALL | DEPARTMENT OF THE TREASURY | Formula Grants/Community Project Funding | \$ 154,365,135 |
| CAPITAL IMPROVEMENT DEPT | DEPARTMENT OF TRANSPORTATION | Highway Planning and Construction (SMART grants) | \$ 31,487,913 |
| COMMUNITY DEVELOPMENT | CORPORATION FOR NATIONAL AND COMMUNITY SERVICE | FGP/RSVP/CDBG/ESG/HOME | \$ 671,780 |
| COMMUNITY DEVELOPMENT | DEPARTMENT OF ENERGY | FGP/RSVP/CDBG/ESG/HOME/EECBG/CPRG | \$ 595,490 |
| COMMUNITY DEVELOPMENT | DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT | FGP/RSVP/CDBG/ESG/HOME/EECBG/CPRG | \$ 59,543,145 |
| COMMUNITY DEVELOPMENT | DEPARTMENT OF THE TREASURY | FGP/RSVP/CDBG/ESG/HOME/EECBG/CPRG | \$ 9,535,888 |
| COMMUNITY DEVELOPMENT | ENVIRONMENTAL PROTECTION AGENCY | FGP/RSVP/CDBG/ESG/HOME/EECBG/CPRG | \$ 1,000,000 |
| ESD | ENVIRONMENTAL PROTECTION AGENCY | Clean Air Act/Border PM | \$ 293,099 |
| FIRE | DEPARTMENT OF HOMELAND SECURITY | RCPGP/SSP/SAFER/HAZARD MITIGATION | \$ 9,849,480 |



What's at Risk:

Current Federal Direct & Pass-Through Grants

| | | | |
|-----------------------------------|--|---|-----------------------|
| HEALTH | DEPARTMENT OF AGRICULTURE | FPS/Public Health/STD-HIV Prevention/TANF/WIC/SNAP/Child Care and Development | \$ 7,105,723 |
| HEALTH | DEPARTMENT OF HEALTH AND HUMAN SERVICES | FPS/Public Health/STD-HIV Prevention/TANF/WIC/SNAP/Child Care and Development | \$ 7,930,817 |
| LIBRARY | THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES | Literacy Programs | \$ 61,657 |
| MCAD | NATIONAL ENDOWMENT FOR THE HUMANITIES | Art Enrichment | \$ 15,000 |
| MCAD | THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES | Art Enrichment | \$ 511,625 |
| POLICE | DEPARTMENT OF HOMELAND SECURITY | HSGP/Crime Victim Assistance/Safe Neighborhoods/HIDTA | \$ 1,636,318 |
| POLICE | DEPARTMENT OF JUSTICE | HSGP/Crime Victim Assistance/Safe Neighborhoods/HIDTA | \$ 159,131 |
| POLICE | EXECUTIVE OFFICE OF THE PRESIDENT | HSGP/Crime Victim Assistance/Safe Neighborhoods/HIDTA | \$ 2,442,748 |
| STRATEGIC AND LEGISLATIVE AFFAIRS | DEPARTMENT OF COMMERCE | Build Back Better | \$ 10,000,000 |
| SUN METRO | DEPARTMENT OF TRANSPORTATION | Formula Grants/Community Project Funding | \$ 95,971,825 |
| Grand Total | | | \$ 500,700,676 |