

ORANGE



COUNTY
FLORIDA

Intergovernmental Services Agreement (IGSA) with the U.S. Marshals Service (USMS) and ICE Discussion

April 21, 2026

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PRESENTATION OUTLINE

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- INCARCERATION STATISTICS
- REIMBURSEMENT RATE NEGOTIATIONS
- LEGAL CONSIDERATIONS
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BACKGROUND

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- Orange County has maintained an IGSA with the USMS since 1983.
- The IGSA is our primary agreement with the Federal Government under which we house federal inmates in the Orange County Jail and receive reimbursement for expenses related to their incarceration.
- Not every Florida county has an IGSA with the USMS.

BACKGROUND

- ICE has been included in our IGSA since 2011.
- Our current per diem reimbursement rate is \$88/day, per inmate. This rate was most recently established in our Agreement from March 2011.

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COSTS OF INCARCERATION

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- Timeframe:
 - FY 2025-26 Adopted Budget
- Total Annual Operating Costs:
 - Corrections Department and Corrections Health Services Unit
- Average Daily Population (ADP)
- Data Source:
 - Jail Management System
 - Comptroller's Office Financial Advantage System

COSTS OF INCARCERATION

Departments	FY 2026 Budget	Subtract Units	Expenditures Allocable
Corrections Dept	\$208.2M	(\$16.3M)	\$191.9M
Corrections Health Services (CHS)	\$42.9M	(\$15.3M)	\$27.6M
TOTALS	<u>\$251.1M</u>	<u>(\$31.6M)</u>	<u>\$219.5M</u>
		Projected ADP	3,340
		# of Days	365
		Per Diem Cost	\$180.09

*General Fund Only

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INCARCERATION STATISTICS

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- Orange County's IGSA reimburses us for all federal inmates in our custody, including those under criminal charges by the FBI, DEA and other federal law enforcement agencies.
- A majority of our jail's federal inmates are under criminal charges for something other than ICE immigration charges. For example:
 - FBI – Possession of Child Pornography, Human Trafficking, Violent Crimes
 - DEA – Trafficking in Fentanyl, Trafficking in Cocaine
 - USSS – Money Laundering, Fraud, Counterfeiting

INCARCERATION STATISTICS

- A minority of our jail's federal inmates are under ICE – Immigration only charges.
- On February 3, 2026, Mayor Demings sent a letter to ICE advising them of Orange County's limitations to accepting their increased volume of inmates to the Orange County Jail.
 - 72-hour repeat bookings
 - 130 total inmate capacity

INCARCERATION STATISTICS

- ICE immediately complied with our restrictions and significantly decreased the volume of ICE inmates in the Orange County Jail.
- Since February 3, 2026, we have housed significantly fewer ICE inmates in our jail as compared to previous months' figures.

INCARCERATION STATISTICS

ICE Detainee Monthly Analysis from March 2025 to March 2026

Month	Total Population with ICE Detainers	Local Charges	No Local Charges (with Other Detainers)	No Local Charges (No Other Detainers)
March 2025	187.8	170.5	3.4	13.9
April	212.3	190.8	3.3	18.2
May	201.2	178.5	3.5	19.3
June	221.8	180.1	9.9	31.8
July	264.5	174.8	10.9	78.8
August	239.3	169.7	12.2	57.4
September	231.9	164.6	14.2	53.0
October	201.8	158.0	13.5	30.3
November	265.6	181.6	14.1	69.9
December	295.0	185.3	17.0	92.7
January 2026	361.1	190.6	28.3	142.3
February	255.0	188.8	17.7	48.6
March	252.5	202.4	16.6	33.5

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REIMBURSEMENT RATE NEGOTIATIONS

REIMBURSEMENT RATE NEGOTIATIONS

- On August 11, 2025, Orange County initiated our request to renegotiate our per diem rate of reimbursement.
- Orange County provided all data requested by the USMS in support of our rate negotiations.
- On January 23, 2026, the USMS offered us a new per diem rate of \$95/day. During the subsequent negotiations, the USMS increased their offer to \$125/day.

REIMBURSEMENT RATE NEGOTIATIONS

- Comparison with other counties:
 - Pinellas County
 - Daily cost of incarceration - \$180/day
 - New IGSA per diem rate - \$138/day – Previously \$118/day
 - Increased 17%
 - Seminole County
 - Daily cost of incarceration - \$130/day
 - Current per diem reimbursement rate is \$88/day
 - Currently negotiating new per diem rate, but negotiations are at less than \$125/day

REIMBURSEMENT RATE NEGOTIATIONS

<u>Counties</u>	<u>Previous Rate</u>	<u>New Rate</u>	<u>Percentage Change</u>
Pinellas	\$118/day	\$138/day	17% increase
Seminole	\$88/day	in negotiations	in negotiations
Orange	\$88/day	*\$125/day	*42% increase

*Proposed

REIMBURSEMENT RATE NEGOTIATIONS

- Orange County's negotiations have resulted in a substantial increase to our per diem reimbursement rate.
- Effect of accepting new per diem rate.
 - 2025 reimbursement received was \$4,123,504.
 - Under the newly proposed terms, Orange County would have received an additional \$1,731,872 in reimbursement, based on 2025 statistics.

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LEGAL CONSIDERATIONS

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- Is the County required to have an IGSA under **federal** law?
 - **No.** Federal law does not require an IGSA.
- The Federal Government cannot mandate the County's participation in a contract to house federal inmates.
- The 10th Amendment to the U.S. Constitution limits the Federal Government's ability to require states or local governments to perform federal functions.

LEGAL CONSIDERATIONS

- Is the County required to have an agreement with ICE to house immigration detainees?
 - **Yes.** Florida law requires the County to maintain an agreement to house ICE detainees.
 - Section 908.106, Florida Statutes, mandates that each county correctional facility in the state enter into an agreement with the Federal Government to temporarily house persons subject to **immigration detainers**.
 - The State has authority to enforce compliance. (Section 908.107)

LEGAL CONSIDERATIONS

- What qualifies as a **compliant agreement** under state law?
 - State law allows different types of agreements to satisfy the requirement.
 - Acceptable agreements include:
 - IGSA (Intergovernmental Services Agreement)
 - BOA (Basic Ordering Agreement)
 - If the County terminates the IGSA, it must enter into another agreement with ICE
 - Ending the IGSA does not eliminate the County's obligation to house ICE detainees

LEGAL CONSIDERATIONS

- Transition Requirements Under State Law
 - The County must remain in **continuous compliance** with state law
 - Any replacement agreement with ICE must be in place before terminating the current IGSA
 - Gaps in compliance could result in state enforcement action

LEGAL CONSIDERATIONS

- “72-Hour” Detention — What It Means
 - The “72-hour” timeframe comes from ICE detention practices, **not statute**
 - It is not a legal limit that independently governs release
 - Under the IGSA, ICE detainees are held as **federal inmates** under federal authority
 - The Federal Government assumes custody and cost of detention
 - The County does not independently release ICE detainees without federal direction or court order

LEGAL CONSIDERATIONS

- Basic Ordering Agreement (BOA)
 - Provides short-term housing for ICE detainees (up to 48 hours)
 - Base reimbursement: **\$50 per detainee (48-hour period)**
 - Reimbursement is limited to the 48-hour detention period
 - Additional funding available through state grant program (Section 908.1033)
 - Total **potential** reimbursement: up to \$200 for 48 hours (while state funds are available)

LEGAL CONSIDERATIONS

- BOA Standard Terms (Key Language)
 - BOA terms are structured around 48-hour detention periods
 - “**No payment** will be made for any detention beyond 48 hours, and the Service Provider will not house the alien for longer than 48 hours under this BOA”
 - “Services end when ICE personnel remove the individual, issue a new Form I-203, or after 48 hours of detention, whichever comes first”
 - The extent to which detention may be **extended** beyond a 48-hour period is uncertain

LEGAL CONSIDERATIONS

- Habeas Corpus (Legal Challenge to Detention)
 - Detainees may challenge the legality of their detention through a habeas corpus petition
 - These challenges are reviewed by the court
 - The entity with physical custody (the County) is typically named in the petition.
 - It means “you have the body”
 - The Chief of Corrections is named regardless of what originally caused the detention

LEGAL CONSIDERATIONS

- Who Determines Whether Detention is Lawful?
 - The County reviews required documentation before accepting custody of an ICE detainee
 - The County does not **independently** make release decisions for ICE detainees
 - The County's role is to maintain custody, communicate with ICE, and comply with court orders and writs
 - The **Court** may ultimately determine whether detention is lawful

LEGAL CONSIDERATIONS

- “Best Efforts” Under State Law (Section 908.104)
 - State law requires counties to use “**best efforts**” to support federal immigration enforcement
 - The term “best efforts” is not specifically defined in statute
 - Orange County has defined its approach through the Mayor’s directive to federal partners
 - This directive establishes the scope and limits of the County’s cooperation
 - The Mayor’s directive establishes the County’s operational limits for compliance with state law

LEGAL CONSIDERATIONS

- Reimbursement and Legal Considerations
 - Federal reimbursement rates are set through federal law and administrative processes
 - The County has engaged in good-faith negotiations to address the gap between costs and reimbursement
 - State law requires the County to maintain an agreement to house ICE detainees, regardless of whether reimbursement fully offsets costs
 - The County Attorney's Office will continue to evaluate legal options and will bring forward recommendations as appropriate

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SUMMARY OF IMPORTANT FACTS

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- A majority of the Orange County Jail's population of federal inmates are individuals who are charged with serious criminal offenses, not related to ICE.
- The termination of our IGSA in its entirety would result in the Orange County Jail no longer supporting the DEA, FBI, etc. in the housing of their federal inmates. However, we still would be required by Florida law to uniquely house ICE immigration detainees under a BOA.

SUMMARY OF IMPORTANT FACTS

- Orange County Administration has negotiated a 42% increase to our current federal reimbursement rate, an amount that could equate to millions of dollars in additional reimbursement to Orange County on an annual basis for our role in housing all federal inmates.
- Orange County may uniquely terminate ICE as a participant under our IGSA. Subsequently, Orange County must enter a BOA agreement, under which we will continue to house ICE detainees under a slightly reduced reimbursement rate.

SUMMARY OF IMPORTANT FACTS

- While operating under a BOA agreement, Orange County may be able to release ICE detainees after 48 hours of detention in our jail.
- While maintaining its legal obligation to house ICE detainees, Orange County will continue to assess the legal framework in Florida law governing ICE detention requirements.

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OPTIONS FOR BOARD CONSIDERATION

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1. Accept the new terms of the IGSA (\$125/day) but uniquely terminate the section of the IGSA pertaining to ICE immigrant detainees. This will enable us the opportunity to continue to support the housing of inmates who are charged with federal criminal charges (FBI, DEA, etc.). However, we would then transition to a BOA agreement with ICE, under which we may be able to release ICE detainees after 48 hours in our jail.

OPTIONS FOR BOARD CONSIDERATION

2. Accept the new terms of the IGSA (\$125/day) in its entirety, gaining the best possible terms of reimbursement for our role in housing all federal inmates, including ICE. Concurrently, pursue all legal opportunities available to us to clarify our obligation to continue to support ICE-only immigrant detentions. If successful in any litigation, the county could exercise options to end our ICE-only immigrant detentions.

OPTIONS FOR BOARD CONSIDERATION

3. Deny the new terms of the IGSA in its entirety and notify the USMS of our intent to terminate our IGSA. We must give 50 days advance notice. The termination of the IGSA in its entirety will cause us to no longer house federal inmates charged with criminal offenses (DEA, FBI, etc.). However, Section 908.103, Florida Statutes, will still require our unique cooperation with ICE to house their detainees under a BOA.

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