



ICE's Fiscal Mismanagement: Deceit and Abuse

Since Trump took office in 2017, Immigration and Customs Enforcement (ICE) **detention and deportation budget has grown by nearly \$1 billion dollars** (from \$3.2 to \$4.1 billion) – [a 40% increase](#). Much of this growth has been facilitated by purposeful financial mismanagement by the agency in an effort to rapidly expand immigration detention, evade Congressional oversight, and avoid accountability for detention abuses.

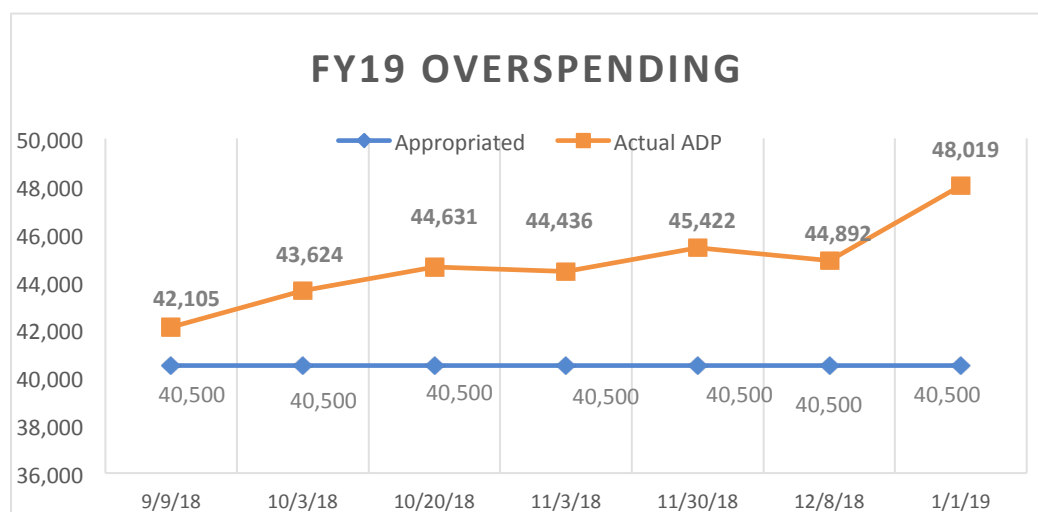
Overspending:

Over the last three years, ICE has [aggressively pursued a strategy](#) to write its own appropriation, particularly for immigration detention. In essence, each fiscal year the agency overspends, gets bailed out, ignores Congressional reprimands and overspends again, and then pulls money from other accounts to compensate—each time using its newly elevated funding to raise the floor for the next round of funding negotiations.

In part, ICE has been able to do this by taking advantage of Congress' frequent use of continuing resolutions (CR) to cover short-term funding gaps in recent years. During the period of the CR, ICE systematically overspends its detention account. Then, when Congress negotiates the final funding bill for the year, ICE is already at a deficit and demands to be bailed out via an increased appropriation. In the second part of the fiscal year, ICE again overspends in the detention account. To cover this second phase of overspending, the agency uses its transfer and reprogramming authority to raid other DHS accounts. In FY18 for example, a year in which communities across the United States were ravaged by hurricanes and forest fires, [ICE took \\$10 million](#) from the Federal Emergency Management Agency (FEMA) to cover for its own overspending (and [\\$190 million from other accounts](#) throughout DHS). ICE also moved significant sums into its detention and deportation account in FY16 and FY17.

This strategy has allowed ICE to **ratchet up its funding twice per fiscal year**—once in the final funding bill when Congress invariably bails out ICE for its overspending in the first part of the year, and then again by moving additional money into its account through transfers and reprogramming.

FY19, however, has already seen a new low for ICE fiscal chicanery. To date, ICE has either been funded through a continuing resolution or has been unfunded due to the partial government shut down. Under the continuing resolution, ICE was appropriated to detain [an average of 40,500 people per day](#). Despite this, under CRs and



then then during the government shut down, the agency detained significantly more individuals than were covered by its Congressional appropriation. [ICE expanded significantly in December, peaking at 48,019 individuals in detention in early January](#) in the midst of the government shutdown.

Reckless Contracting:

In order to expand detention at such a rapid rate, ICE engages in reckless contracting methods that fly in the face of government accountability mechanisms and place the lives of those in its custody in danger. In 2018 alone:

- ICE [re-opened](#) the Willacy Detention Center with capacity for 1,000 individuals which had previously been shuttered twice, the last time after a riot due to poor medical care, sexual abuse, and overuse of solitary confinement. The facility's new name is El Valle Detention Facility but it is unclear what, if any, other changes were made to [prevent systematic abuse](#) from plaguing the facility once again.
- ICE grew its detention capacity by 1,600 people in one week by [signing interagency agreements](#) with five Bureau of Prison (BOP) facilities. This was done without notice to Congress or adequate concern immigrants' well-being, and [left many immigrants unable to communicate](#) with their family or attorneys. This rushed expansion also [exacerbated the existing use of augmentation](#) within BOP facilities, a concerning practice of filling vacant guard positions with civilian employees such as nurses, teachers, or cooks.
- ICE also expanded its capacity by modifying an existing contract with the city of Eloy, Arizona and CoreCivic to hold 1,000 adults at the [La Palma Correctional Center](#). This modification used the city of Eloy, Arizona as a contracting "middleman," an irregular practice which DHS's own Office of the Inspector General [previously deemed both improper and unnecessary](#).

Fatal Results:

The stakes couldn't be higher. Too often, ICE's rampant mismanagement has fatal consequences. Since 2003, over 180 individuals have died in ICE custody. [Multiple recent reviews](#) of ICE investigations into deaths in detention found that in nearly half, medical neglect or the violation of medical standards was a contributing, or even causal, factor. Despite this, in all but one case, the responsible facility passed its inspection immediately before and immediately after the death. Recent unannounced inspections of ICE facilities by DHS's Office of the Inspector General (DHS OIG) have affirmed these concerns. [Numerous inspections](#) have found deficiencies severe enough to threaten the health and safety of detained people. The DHS OIG has also affirmed that ICE's underlying [inspections process is wholly inadequate](#).

Total Lack of Transparency:

Congress has attempted to rein in ICE's out of control behavior by [calling out the agency's](#) "lack of fiscal discipline and cavalier management of funding for detention operations" and has repeatedly directed the agency to live within its appropriated means. Congress has also [included increased oversight language](#) in recent appropriations bills. However, despite pressure from Congress [and civil society](#), ICE has repeatedly flouted their responsibility to report to Congress. For example:

- ICE is to provide Congress with the number of people in detention on a weekly basis. On multiple occasions, ICE refused to do so for weeks at a time.
- Per report language, ICE is supposed to maintain a publicly available list of its facilities on its website. After ignoring this responsibility for months at a time, ICE finally posted information online that was largely inaccurate – [even failing to list multiple known detention facilities](#).
- In December, ICE belatedly published documents intended to comply with required reporting on in-custody deaths. However, ICE's documentation was missing three deaths entirely, and provided [only superficial overviews](#) for the others.