

Local and Federal Contract Partnerships to House Inmates

Craig E. Burke

Abstract

Fiscal impacts and budgetary constraints continue to be problematic for jail managers. While inmate population rises, budgets and resources continue to decrease. This research will review the strengths and weaknesses associated with entering into contracts with state and federal agencies to house offenders. A survey of sixteen Florida county jails was conducted with eighty-one percent (81%) participating. The survey identified strengths and weaknesses encountered during the contract process. The data in this study does support that qualitatively evaluated contractual partnerships between local and federal agencies does provide a successful and cost effective means of generating additional revenue for local government.

Introduction

Florida Criminal Justice professionals are challenged with the responsibility of identifying cost effective strategies that will enable organizations to continue to contend with statewide budget cuts at all levels of government. Jail and prison administrators continue to work to identify innovative means to off-set the costs associated with jail operations. Faced with a continued declining in the economy, many Sheriff's and jail executives have turned to federal funding opportunities to augment declining budgets and cutbacks.

There is much debate as to the long term benefit to organizations that decide to contract local jail beds for federal detainees. The focus of this research is to determine if contracting jail beds is a successful and cost effective method of generating additional revenue to off-set significant budget reductions currently facing county government. This paper will review literature that identifies both the strengths and weaknesses associated with local jails housing federal inmates in an effort to determine organizational best practices.

Literature Review

Federal Partnership Opportunities

Jail executives who are seeking to enter into the business of housing external federal agency inmates have several different partnership opportunities that can be established. Local agencies can establish inmate housing contracts with the U.S.

Marshals Service (USMS), Immigration and Customs Enforcement (ICE), Federal Bureau of Prisons, state Department of Corrections, other local agencies, and the United States Armed Forces.

The two agencies that are the most common for local jails to partner include the United States Marshals Service (USMS) and the Department of Homeland Security Immigration and Customs Enforcement (ICE) (McKinstry, 2008). Such partnerships are established as a result of the creation of an Intergovernmental Service Agreement (IGSA) which is designed to manage interaction between the facility provider and the agency with detention service needs. Both agencies offer per diem payments generally much higher than those provided by local law-enforcement organizations to governments and private companies that house immigrants (Barry, 2008).

Immigration and Custom Enforcement

The Immigration and Customs Enforcement detainee population is placed in one of four detention systems, to include:

- Local and State facilities
- Contracted Detention Facilities
- ICE Owned Facilities
- Federal Bureau of Prisons

The ICE detention system consists of over 350 local and state facilities acquired through intergovernmental service agreements (IGSA). Sixty-seven percent (67%) of the ICE population is designated to IGSA. The IGSA provides a reliable and justifiable structure to the contract negotiation process.

Seventeen percent (17%) of ICE detainees are secured in seven contract detention facilities, which are selected and monitored by the Office of Detention and Removal (DRO) a division of Immigration and Custom Enforcement. These facilities are located in Aurora, Colorado; Houston, Texas; Laredo, Texas; Seattle, Washington; Elizabeth, New Jersey; Queens, New York; and San Diego, California. The Office of Detention and Removal (DRO) secures bed space in detention facilities and monitors these facilities for compliance with National Detention Standards (www.ice.gov).

Thirteen percent (13%) of ICE detainees are housed in one of eight ICE owned facilities called Service Processing Centers (SPCs). ICE Service Processing Centers are located in Aguadilla, Puerto Rico; Batavia, New York; El Centro, California; El Paso, Texas; Florence, Arizona; Miami, Florida; Los Fresnos, Texas; and San Pedro, California (ICE, 2008).

Three percent (3%) of ICE detainees are secured in one of five Bureau of Prisons (BOP) facilities. These facilities are funded directly through congressional appropriations to BOP or through ICE reimbursement (ICE, 2008). (See Appendix B)

United States Marshals Service

The USMS maintains a daily inmate population of approximately 55,200 detainees. These inmates are detained in federal, state, local and private jails throughout the nation (Sobal, 2008). The USMS contracts with approximately 1,800 state and local governments to rent jail space. Seventy-nine percent (79%) of the prisoners in the Marshals' custody are detained in state, local and private facilities; the remaining twenty-one percent (21%) are housed in Federal Bureau of Prisons (BOP) facilities (ICE, 2008). (See appendix C)

In locations where detention space is scarce, the Marshals can provide state and local governments with Cooperative Agreement Program (CAP) funds to improve local jail facilities and expand their capacities. In return, the Marshals receive guaranteed detention bed space for its federal prisoners (Donelson, 2007).

According to Donelson (2007) since the CAP establishment in 1983 the Marshals have awarded more than \$279 million in funds to state and local jails throughout the nation resulting in more than 12,000 guaranteed bed spaces for federal prisoners. Until 1997 local government was able to retain all of the funds dispersed through the CAP (Donelson, 2007). As a result of the 1997 Federal Inmate Recovery Program this is no longer the case. The 1997 Federal Inmate Recovery Program significantly impacted the cooperative agreements designed to build partnerships between federal and local agencies. The Federal Inmate Recovery Program mandated that local agencies return an unused percentage of federal funding. The 1997 mandate has caused agencies who have previously partnered with the federal government to become disinterested as a result of the mandatory return rate. In many cases this reimbursement rate exceeds fifty percent (50%) of the yearly total (Nair, 2007).

State and Local Partnerships

Another strategy utilized by local agencies to produce additional revenue is to develop contractual partnerships with other state and local agencies. Similar to federal contracts, state and local agencies have the opportunity to utilize excess jail space to house inmates from other states or jurisdictions.

New York City is renting out prison beds for up to \$150 a day to Long Island authorities who don't have enough room for their own inmates. Suffolk County, New York will pay the city \$3.18 million to house up to 151 of its inmates each month. In 2007 alone, the Department of Correction expects to collect \$1.4 million from renting out hundreds of beds (Markson, 2007).

In response to the current state of the economy, the Virginia Department of Corrections plans to rent 1,000 prison beds to other states and collect a daily per diem rate per inmate of \$75.00. Virginia currently has 33,500 inmates at 43 facilities. Nearly 1,700 of these inmates are housed in 75 local and regional jails that were waiting to be moved to a state prison (Kumar, 2008). The Virginia Department of Corrections estimates the plans will off-set \$40 million of the current \$2 billion dollar state deficit (Alexander, 2008).

Daily Per Diem Rates

Local agencies receive a per inmate daily per diem rate that is determined through the use of various price analysis techniques. The process for determining the Per Diem rate is designed to be fair and equitable for both parties. Examples of pricing strategies include a comparison of the requested per diem rate with the independent government estimate for services; a comparison of other state and local facility per diem rates of similar size and economic condition, and a comparison of previously proposed contract prices with the current contract price (www.usdoj.com).

The explosion in the number of beds housing U.S. Marshals Service and Bureau of Immigrations and Customs Enforcements detainees has been financed almost entirely by counties and private prison companies (Barry, 2008). A large majority of the more than 600 facilities housing federal detainees do so under Inter-Governmental Agreements. Inter-Governmental Agreements are much easier to procure but they offer few guarantees. The promise of profitable federal detention business has spurred counties to "super-size" their jails and build facilities solely intended to serve the federal detention market (Bates, 2007).

The value of entering into federal contracts for a local agency is the additional revenue generated from renting out beds to house state and federal prisoners. This external revenue provides local government opportunities to enhance programs and services both internal to the agency as well as within the community (Swan, 2007). The Pinellas County Sheriff's Office has proposed a contract with the U.S. Marshal's Service that is estimated to generate external funding in excess of \$400,000.00 per month. The proposed daily per diem rate is \$79.40 per inmate (Alexander, 2008). The average stay for a federal inmate in a local jail is 26 days (www.usmarshals.gov). The partnership will enable the agency to house 200 federal pre-trial inmates with minimal impact to the jail operations (Alexander, 2008).

In 2004, Columbia County located in Portland Oregon was able to generate nearly \$800,000.00 from the practice of bed renting from ICE. In contrast, 2005 Columbia County only brought in \$165,000.00 from the practice. This decrease resulted from ICE opening a federal housing institution in Tacoma, Washington. In 2006 an increase in ICE/Homeland Security enforcement against illegal aliens contributed to a significant resurgence for Oregon. As a result, local agency bed rentals to ICE averaged \$65,300.00 per month (Swan, 2007).

Santa Rosa County Florida proposed to increase the number of federal inmates housed in its jail to 100 to gain approval for a jail expansion to ease the conditions of his jail. Santa Rosa County currently receives a daily per diem rate of \$49.00 per inmate. In the proposed five year plan the agency is projected to bring an estimated \$7.15 million dollars. Factoring in costs for construction startup and expenses for the inmates, the projected profit for the county for the five year period is estimated at \$3.16 million dollars (Brannon, 2008).

As the immigration crackdown escalates, county commissions and sheriff departments are increasingly signing contracts with the federal government to house arrested immigrants. For the most part, county governments are eager to receive immigrants into their jails. The per diem payments they receive from Immigration and Customs Enforcement (ICE) and U.S. Marshals Service (USMS) are covering shortfalls

in county budgets, funding the hiring of new deputies, and paying for jail expansion projects (Barry, 2008). Currently in Florida there are thirty-three local and private jails that contract with the U.S. Marshal's Office to house 2,131 inmates combined (www.usdoj.gov).

Methods

Data was collected and analyzed regarding the strengths and weaknesses associated with local agencies entering into contracts with federal agencies to house offenders. The data for this research was collected through distribution of a twenty-three question survey to sixteen Florida county jails (see appendix A). Each of the survey recipients has existing partnerships with federal agencies.

Each of the participants was contacted by this researcher prior to distribution of the survey. The purpose of this pre-survey communication was to determine an appropriate contact that could provide the necessary data for accurate data formulation. The surveys were distributed by electronic email, with delivery and read receipt acknowledgments, to designated middle and upper management employees of the respondent agency who reported they were involved in all facets of the contract negotiation process with the federal agencies.

The sample size for the research was determined using several different variables: size of facility, inmate population, number of federal inmates housed, programs and services offered, and percentage of inmate population resulting from contracted agencies. A portion of the survey identified opportunities and challenges encountered during the contract process.

Results

Sixteen local agencies throughout Florida were surveyed to obtain data for this research project, to include:

- Alachua County Sheriff's Office
- Broward County Sheriff's Office
- Escambia County Sheriff's Office
- Hillsborough County Sheriff's Office
- Indian River County Sheriff's Office
- Lake County Sheriff's Office
- Lee County Sheriff's Office
- Marion County Sheriff's Office
- Monroe County Sheriff's Office
- Orange County Corrections Dept.
- Palm Beach County Sheriff's Office
- Pinellas County Sheriff's Office
- Santa Rosa County Sheriff's Office
- Sarasota County Sheriff's Office
- Seminole County Sheriff's Office
- St. Lucie County Sheriff's Office

This researcher received thirteen of the sixteen surveys back for an eighty one percent (81%) response rate. Eighty four percent (84%) of the respondent agencies currently partner with federal affiliates to contractually house inmates. Sixteen percent (16%) of the respondent agencies no longer house federal inmates. These organizations cited overcrowding as the reason for no longer housing the federal inmates. One hundred percent (100%) of the surveys returned provided responses to all questions contained in the survey instrument. Surveys were returned via electronic communication (email). Ninety percent (90%) of the respondent agencies currently contract for both male and female inmates. Ten percent (10%) of the respondent agencies contract for male inmates only.

One hundred percent (100%) of the respondent agencies reported that the primary advantage to local and federal partnerships was the additional revenue generated as a result of providing the service. Forty percent (40%) of the respondents indicated that their organization was currently renegotiating with federal agencies for an increase in the per inmate daily per diem rate.

Review of the Data

The average daily inmate per diem rate of the respondent agencies was \$65.45 per inmate per day. Sixty percent (60%) of the respondent agencies fell below the average threshold for their daily per diem rate. Forty percent (40%) of the respondent agencies received per diem rates exceeding the average. The data reported that ten percent (10%) of the respondent agencies received a daily inmate per diem rate above their local daily inmate operational cost; eighty percent (80%) of the respondent agencies daily local operational costs per inmate exceeded the contracted daily per diem rate; ten percent (10%) of the respondent agencies were unable to provide a daily operational cost per inmate. Specific contract services did correlate to increased daily per diem rates. Twenty percent (20%) of the respondent agencies reported separate contracts for additional external services (court transport, outside medical appointments, long distance transportation).

A comparative review of the demographic locations of the responding agencies is as follows; thirty percent (30%) of the respondent agencies were located in north Florida, fifty percent (50%) were located in central Florida, and twenty percent (20%) were located in south Florida. Based on the data collected the daily per diem rates were less for the north Florida respondents than those of the central and south Florida respondents. The south Florida respondents average daily per diem rate being the highest. Although each of the respondents daily inmate per diem rate was competitively structured to their daily local costs, respondent agencies that contracted for special/high risk inmates (close management, protective custody, and/or escape risk) did not necessarily receive a higher daily per diem rate than those who did not.

Based on the respondent information the average daily federal inmate length of stay in the respondent agencies local jails is 31 days. The average daily federal inmate population in the respondent agencies is approximately 94. Fifty percent (50%) of the respondent agencies reported that federal inmates make up less than two percent (2%) of their total inmate population, forty percent (40%) reported that federal inmates make up three to six percent (3-6%) of their inmate population, and ten percent (10%)

reported federal inmates make up eleven percent (11%) of their inmate population.

Based on the research collected for this project local and federal housing partnerships do not create problematic overcrowding conditions or adverse operational impacts for the respondent agencies at this time. Eighty percent (80%) of the respondent agencies reported that entering into partnerships with federal entities does not adversely affect the local agencies inmate population. Twenty percent (20%) of the respondent agencies reported that facility space utilized for federal inmates did create overcrowding concerns in the past. Seventy percent (70%) of the respondent agencies reported differences in local and federal inmate programs and privileges. An increase in inmate grievances may be reported due to this fact.

Discussion

Due to the current economic shortfalls facing federal, state, and local government, leaders are challenged with identifying innovative strategies to effectively manage businesses. This same principle applies with jail managers. Local and federal partnerships create an opportunity for organizations to generate additional revenue for providing a service that the organization already provides. Establishing partnerships between local and federal agencies is a win-win solution for both. This process is a fundamental supply and demand strategy that is the foundation for successful business management.

To ensure the process of these partnerships are fair and equitable organizations should be proactive in identifying the number of inmate beds that can be adequately managed. This requires the organization to project increases in operating expenditures. In an effort to efficiently manage the fiscal impacts the provider and federal agency must negotiate an acceptable daily inmate per diem rate.

Daily inmate per diem rates are contractually agreed to by the provider and the federal agency either through arbitration or an IGSA. Local agencies receive a per inmate daily per diem rate that is determined through the use of various price analysis techniques.

The process for determining the daily per diem rate is designed to be fair and equitable, for both parties. Pricing strategies include a comparison of the requested per diem rate with the independent government estimate for services; a comparison of other state and local facility per diem rates of similar size and economic condition, and a comparison of previously proposed contract prices with the current contract price.

Based on the research collected for this project this writer has been able to identify several strengths and weaknesses associated with local and federal agencies partnering. These are as follows:

Strengths

- Local agencies generate external revenue to improve or expand programs and services.

- IGSA contracts detail specific provider responsibilities with regard to housing federal inmates.
- Local, state, and federal cooperative partnerships are created that can be critical during crisis or emergency situations (riots, disturbances, hurricanes, flooding, wild fires).
- Fixed operational costs remain the same regardless of inmate population.
- The average cost per inmate decreases the larger the inmate population (economies of scale).
- Housing federal inmates has a minimal impact to operational resources.
- Facility Quality Control measures are implemented to ensure the care, custody, and control of inmates are being maintained.
- Additional resources such as staff and equipment may be procured as a result of the external funding.
- Provides organizations opportunity to self assess current operations for continuous improvement and reallocation of resources.

Weaknesses

- Local agencies incur additional liability for housing federal inmates.
- Long term contracts may restrict increases in per diem if operational costs rise.
- Additional management concerns if federal inmates are required to be housed separately from local or state inmates.
- Federal inmates may be accustomed to federal prison rules and regulations which may create additional disciplinary problems.
- Local agencies may become dependent on the external revenue.
- Staff may be required to follow different operational policies and protocols while managing federal inmates.
- Contracts restrict local agencies decision making with regard to federal inmates which may create additional hardships for the local agency.

Recommendations

Based on the research and data collected with regard to local and federal partnerships to house inmates this writer offers the following recommendations:

- Such partnerships prove beneficial to local agencies for generating additional revenue to county general funds.
- Local organizations entering into such partnerships should qualitatively evaluate the decision (cost benefit analysis) to ensure operational resources are appropriate.
- Local organizations should be very specific with regard to contract terms and services provided for federal inmates.
- Local organizations should consult legal counsel prior to entering into a contract, to ensure the organization is not assuming unnecessary liability.

- Determine appropriate resource allocation and space within facilities to designate for federal inmates.
- Determine a, per inmate, daily per diem rate that is competitive to that of the organization's current and future operating per diem rate.

Based on the information collected by this researcher local and federal partnership to house and detain federal inmates is an excellent strategy for local government. Such opportunities to generate additional revenue lessen the hardships currently facing local leaders. These partnerships create a cost savings to the federal government and negate the need for federal tax dollars to be spent on building additional federal prison facilities to house inmates.

The research collected for this project supports local and federal partnerships for inmate housing. Faced with significant budget reductions at all levels of government, opportunities to supplement declining budgets and cutbacks should be qualitatively evaluated to determine financial costs and financial benefits of such a change. Federal monies generated as a result of these partnerships may be placed back into local government to be used internally for jail expansions, renovations, establishment of new or enhanced programs or externally in the community. Local government will benefit from such a partnership if they are able to determine the ideal number of inmates that make the partnership profitable without overburdening their current resources.

Lieutenant Craig Burke has worked with the Polk County Sheriff's Office since 1993. He has worked in several areas to include Housing, Training, Intake and Records and the Juvenile Boot Camp. Craig has an Associates Degree in Criminal Justice from Polk Community College, is a Florida Certified Public Manager from Florida State University, a Bachelor of Arts in Organizational Management and a Master's Degree in Management both from Warner Southern College.

References

- Alexander, J. (2008, June, 17). Jail has new way to boost revenue. *St. Petersburg Times*. Retrieved July 1, 2008 from <http://www.tampabay.com/news/publicsafety/article630123.ece>
- Barry, T. (2007, May, 27). County jails welcome immigrants. *Americas Policy Programming Online*. Retrieved October 29, 2008 from <http://americas.irc-online.org/am/5253>
- Bates, M. (nd). Doing borrowed time: The high cost of back-door prison finance. *Justice Strategies*. Retrieved November 18, 2008 from <http://www.justicestrategies.net/?q=node/102>

- Brannon, P. (2008, March). Federal prisoners fund jail. *Gulf Breeze News*. Retrieved August 10, 2008 from http://www.gulfbreezenews.com/news/2008/0306/front_page/004.html
- Donelson, R. (2007, January, 17). Lack of jail space hampers federal authorities in Virginia. U.S. Marshals Office Press Release. Retrieved October 24, 2008 from <http://www.usmarshals.gov/district/va-w/news/chron/2007/011707.htm>
- Kumar, A. (2008, June, 1). VA to rent out prison space even as inmates wait. *The Washington Post*. Retrieved October 1, 2008 from http://www.washingtonpost.com/wp-dyn/content/article/2008/05/31/AR2008053102013_pf.html
- Immigration and Customs Enforcement. Detention Management. Retrieved November 17, 2008 from <http://www.ice.gov/pi/dro/index.htm>
- Markson, S. (2007, May, 14). Cellsmanship: City rents out jail space. *The New York Post*. Retrieved November 10, 2008 from http://www.nypost.com/seven/05142007/news/regionalnews/cellsmanship__city_rents_out_jail_space_regionalnews_sharri_markson.htm
- McKinstry, L. (2008, October, 24). Essex county jail gets federal prisoners. *The Press Republican*. Retrieved November 17, 2008 from http://www.pressrepublican.com/0703_essex_county/local_story_297230038.html/resources_printstory
- Nair, L. (2007, June). Crowded jails put marshals in tight spot. *The Roanoke Times*. Retrieved August 7, 2008 from <http://www.roanoke.com/news/roanoke/wb/102184>
- Sobal, W. (2008, June). Jail inmates mid-year 2007. Bureau of Justice and Statistics Bulletin. Retrieved November 15, 2008 from <http://www.usdoj.gov/>
- Swan, D. (2007, June). Jail Bed Revenue Breeds New Proposal. *The Spotlight*. Retrieved June 30, 2008 from http://www.spotlightnews.net/news/story.php?story_id=119801987658369700
- United States Marshals Service. (n.d.). Defendants in Custody and Prison Management. Retrieved November 17, 2008 from <http://www.usmarshals.gov/prisoner/index.html>
- United States Department of Justice. Intergovernmental Agency Service Agreements. Retrieved November 18, 2008 from <http://www.usmarshals.gov/prisoner/detention-e-iga.htm>

Appendix A

Contracted Inmate Program Data Final Project Survey

Agency Name:

Name and rank of respondent:

Respondent's contact information: Phone:

Email:

1. Does your agency house federal male inmates? Yes No
2. Does your agency house federal female inmates? Yes No
3. What is your role and responsibilities with regard to federal contract service for your organization? Briefly explain.
4. How many beds within your facility are designated for federal inmates?
5. What percentage of your inmate population is contracted from federal agencies?

%

6. What Federal agencies currently house inmates in your facilities?

Daily Per Diem Rate \$

Daily Per Diem Rate \$

Daily Per Diem Rate \$

Daily Per Diem Rate \$

7. What is your cost per day for county inmates? \$

8. What custody levels of federal inmates are housed in your facilities?

Please check all that apply: Minimum Medium Maximum

Close Management Protective Custody Escape Risk

9. What is the average length of stay for federal inmates?

10. What services and programs are included in your federal inmate per diem costs? Please check all that apply.

- a. Personnel costs (to include employee and benefits packages)
and (staffing level and ratios)
- b. Food Service
- c. Equipment
- d. Professional Services(Mental Health/Substance Abuse)
- e. Medical
- f. Canteen/Commissary
- g. Transportation (Additional Staffing requirements)
- h. Life Skills programs
- i. Educational programs (GED)
- j. Vocational programs
- k. Other, Please Explain:

11. Do any of your federal contracts require additional accreditations? If so, please list:

12. Has your agency experienced any problems receiving payments? If so, please explain:

13. Has the decision to enter into federal contracts caused overcrowding problems for your facilities? Yes No

14. Does your contract require separate housing requirements for federal inmates?

Yes No

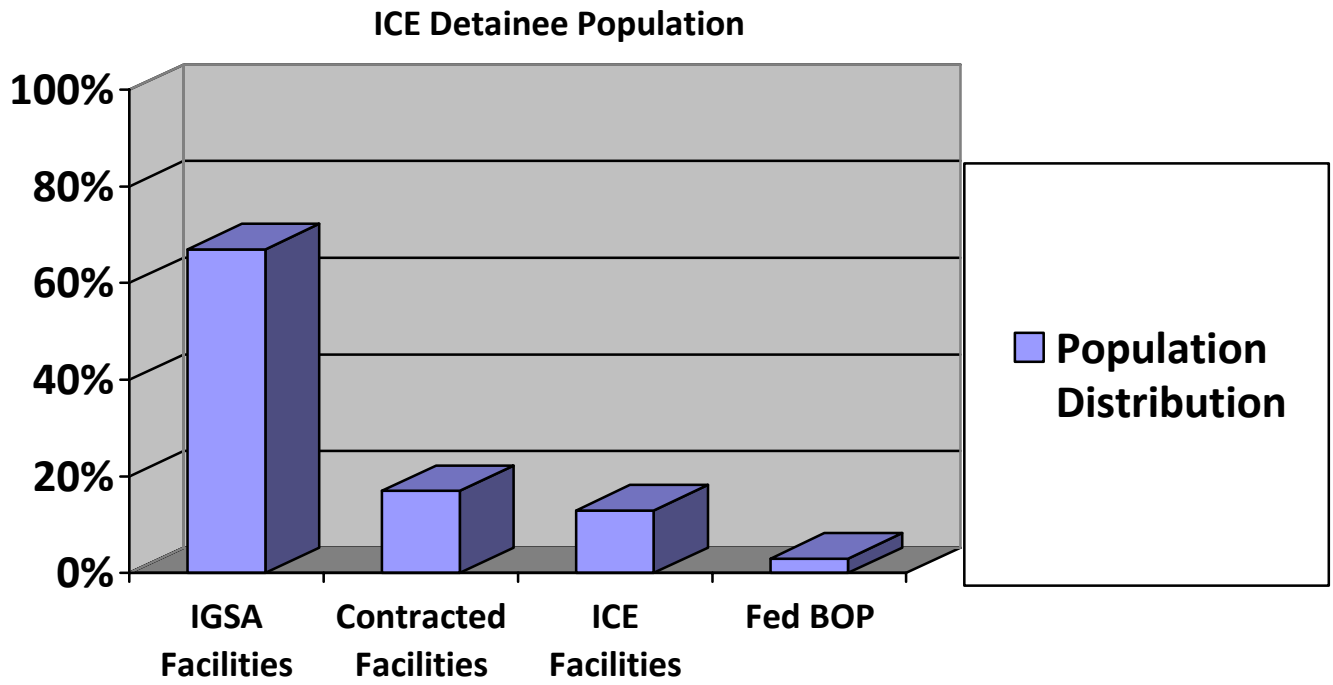
15. Based on your experience, what are the advantages of contracting with federal agencies to provide services and housing for inmates?

16. Based on your experience, what are the disadvantages of contracting with federal agencies to provide services and housing for inmates?

17. Would you recommend other agencies to enter into partnerships with federal agencies to house inmates? Yes No

If no, please explain why:

Appendix B



U.S. Marshals Detainee Population

