November 17, 2026

Charles Wall
Deputy Director
U.S. Immigration and Customs Enforcement
500 12h St Street NW
Washington, D.C. 20536

Dear Mr. Wall:

The New York State Department of Environmental Conservation (DEC) and New York State Department of Health (DOH) write jointly to seek information relating to Akima Infrastructure Protection LLC (Akima)'s construction and anticipated operation of a tent detention facility on behalf of U.S. Immigration and Customs Enforcement (ICE) at the Buffalo Service Processing Center (BSPC) in Batavia, New York. To date, DEC and DOH have not received any information or outreach from the federal government or Akima about this facility. We understand from public reporting, however, that the facility may be used to detain up to 100 women and will employ numerous staff. Because aspects of this facility's construction and operation may implicate DEC's and DOH's regulatory authority over environmental and public health issues, we request additional information about the project.[1]

DEC has a duty "to conserve, improve and protect [New York's] natural resources and environment and to prevent, abate and control water, land and air

[1] This letter pertains specifically to the temporary detention facility being constructed at BSPC. We understand that ICE also has entered into a $1.5 billion contract for a permanent expansion of BSPC. *See* SAM.gov, Award Notice for Single Award Construction Contract (SACC) Indefinite Delivery Quantity (IDIQ) – Batavia, NY, Sept. 24, 2026, https://sam.gov/workspace/contract/opp/f7881d5815c24203a2332e92bcd55251/view (disclosing a $1.5 billion contract awarded to Rapid Deployment Inc for construction-related services). We anticipate additional consultations with the federal government on that project.

pollution, in order to enhance the health, safety, and welfare of the people of" New York. *See* N.Y. Envt'l Conserv. Law §§ 1-0101(1)-(2); *id.* § 3-0301. DEC's statutory powers include "[p]rovid[ing] for prevention and abatement of all water, land and air pollution including, but not limited to, that related to hazardous substances, particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids," *id*. § 3-0301(1)(i), "[p]romot[ing] and coordinat[ing] management of water, land, fish, wildlife and air resources to assure their protection, enhancement, provision, allocation, and balanced utilization consistent with the environmental policy of the state…," *id.* § 3-0301(1)(b), and "prevent[ing] pollution through the regulation of the storage, handling and transport of solids, liquids and gases which may cause or contribute to pollution," *id*. § 3-0301(1)(m). Depending on the project details, Akima may need to apply to DEC for required permits and/or registrations. *See*, *e.g.*, *id*. §§ 17-0505, 17-0803 (relating to permits under the State Pollutant Discharge Elimination System permit program); *id*. § 19-0311 (relating to air pollution permits); 6 N.Y.C.R.R. Part 201 (governing DEC air permits and air registrations with DEC).

DOH "ha[s] all necessary powers to make investigations and examinations into . . . questions affecting the security of life and health in any locality." N.Y. Pub. Health Law § 1300. Among other duties, DOH is responsible for overseeing public and private hospitals throughout the state and ensuring adequate hospital access and capacity, *see id*. § 2800 *et seq*.; assessing whether institutions that "store[], prepare[] or serve[]" food comply with the sanitary code, *id.* §§ 1351 and 1352; and investigating potential contamination of drinking water, *id*. §§ 1102, 1107.

DEC and DOH are State agencies within the meaning of the Intergovernmental Cooperation Act (ICA), 31 U.S.C. § 6501 *et seq.* The ICA is intended to ensure that federal agencies, when undertaking programs and projects having a significant impact on area and community development, consider objectives such as the "[a]ppropriate land uses for . . . industrial, governmental, institutional, and other purposes" and account for "properly planned community facilities, (including utilities for supplying power, water, and communications) for safely disposing of wastes, and for other purposes." 31 U.S.C. § 6506(b). The ICA requires that, "[t]o the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government." 31 U.S.C. § 6506(c).

DEC and DOH are also State agencies for purposes of the consultation requirements of the National Environmental Policy Act (NEPA). *See* 42 U.S.C. § 4332(C)(v) (requiring the incorporation of comments and views of appropriate State agencies into environmental documents prepared under NEPA). As a sub-agency of DHS, ICE is subject to DHS procedures implementing NEPA, specifically the 2014 DHS Directive on Implementation of the NEPA ("DHS NEPA Directive") and the 2014 DHS Instruction Manual ("DHS Instruction Manual").[2] The DHS NEPA Directive mandates that "it is DHS policy to comply with NEPA" and the 2014 DHS Instruction Manual states that NEPA "applies to the majority of DHS actions."[3] Together, the DHS NEPA Directive and Instruction Manual lay out how ICE must comply with NEPA.

The DHS Instruction Manual states that "[o]pen communication, consistent with other Federal requirements, is DHS policy."[4] It also expressly recognizes that "collaboration with other Federal, Tribal, State, and local agencies, as well as non-governmental organizations and the general public is an effective way to identify environmental issues that need to be considered in DHS planning and decision-making."[5] The Manual states that "[p]ublic involvement starts early and continues throughout the NEPA process. Components schedule sufficient time and make diligent efforts to ensure that potentially interested parties are identified and notified and have an opportunity to provide input in a manner that could have a practical influence on proposed DHS actions before decisions are made."[6]

We understand that Akima has entered into a contract with ICE and/or DHS to construct and operate a "temporary detention structure" to house up to 100 female detainees of all security levels.[7] Public contracting documents indicate that the facility

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[2] DHS Directive No. 023-01, Rev. 01, https://www.dhs.gov/sites/default/files/publications/mgmt/environmental-management/mgmt-dir_023-01-implementation-national-environmental-policy-act_revision-01.pdf; DHS Instruction Manual 023-01-001-01, Rev. 01, https://www.fema.gov/sites/default/files/2020-07/fema_dhs_instruction-manual_023-01-001-01.pdf.
[3] DHS Instruction Manual 023-01-001-01, Rev. 01, https://www.fema.gov/sites/default/files/2020-07/fema_dhs_instruction-manual_023-01-001-01.pdf
[4] *Id*. at IV-1.
[5] *Id*.
[6] *Id*. at IV-6.
[7] U.S. Immigration and Customs Enforcement, *Contract Approval: Batavia Service Processing Center Soft Sided Facility*, Jun. 15, 2026 [hereinafter *Contract Approval Memo*], enclosed.

will be "soft sided" and will be located adjacent to where the Batavia Service Processing Center is located.[8] News reports confirm that construction is underway.[9]

The construction and maintenance of a safe and environmentally sound tent-based residential or institutional facility can be difficult. Severe weather, including extended subfreezing temperatures and winter storms, can present additional challenges. Federal oversight agencies have documented unsanitary conditions, gaps in medical services, and deficiencies with clean water access at tent immigration detention facilities in Texas and Florida. The U.S. Government Accountability Office recently reported problems with the prevention and control of tuberculosis at Camp East Montana at U.S. Army Fort Bliss in Texas.[10] DHS's Office of Inspector General recently found that at Everglades Detention Facility, a tent facility used for immigration detention in Florida, detainees were subjected to unsanitary drinking water, limited access to showers, insect infestations, and increased risk of foodborne illness from the improper storage of food.[11] Non-governmental organizations have also raised concerns about plumbing issues, sanitary issues, inadequate medical care, exposure to communicable diseases, and exposure to extreme weather in a range of other detention facilities, including tent-based facilities as well as detention centers managed by other Akima affiliates.[12]

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[8] *Id.* Notwithstanding the language of the Contract Approval Memo, we note that ICE has elsewhere indicated that the facility would be "hard-sided." *See* Letter from Sec. Markwayne Mullin to Rep. Timothy M. Kennedy, Sept. 29, 2026 [hereinafter *Kennedy Letter*], enclosed.

[9] WHEC.com, *New soft-sided facility at Batavia ICE detention center will house women detainees*, Nov. 11, 2026, https://www.whec.com/top-news/new-soft-sided-facility-at-batavia-ice-detention-center-will-house-women-detainees/.

[10] GAO, *Waste and Performance Issues at Camp East Montana Provide Valuable Lessons for Future Facilities*, Jun. 9, 2026, https://www.gao.gov/products/gao-26-108886.

[11] GAO, *Unannounced Inspection of ICE's Florida Soft-Sided Facility ("Alligator Alcatraz") in Ochopee, Florida*, Sep. 11, 2026, https://www.oig.dhs.gov/sites/default/files/assets/2026-09/OIG-26-22-Sep26.pdf.

[12] See, e.g., AMNESTY INTERNATIONAL, *USA: New Findings Reveal Human Rights Violations at Florida's "Alligator Alcatraz" and Krome Detention Centers*, Dec. 4, 2025, https://www.amnesty.org/en/latest/news/2025/12/estados-unidos-nuevas-investigaciones-revelan-violaciones-de-derechos-humanos-en-los-centros-de-detencion-de-alligator-alcatraz-y-krome-en-florida/ (discussing reports of inadequate medical care, overflowing toilets, lack of shower access, and broken air conditioning at North Krome Service Processing Center in Florida); *id.* (discussing reports of overflowing toilets with fecal matter in living space and denials of medical care at Everglades Detention Facility); FLORENCE IMMIGRANT & REFUGEE RIGHTS PROJECT, *Arizona Adult Immigration Detention Center Complaints: September 2023 – February 2024*, Apr. 14, 2024, https://firrp.org/florence-project-six-month-report-ongoing-

To date, we have not received any information about the tent facility. To ensure that this project is undertaken in compliance with applicable public health and environmental laws and regulations implemented by DOH and DEC, respectively, we request that you provide the following information **no later than Wednesday, November 25, 2026**:

1. Federal government documents indicate that utilities shall be "self-sustaining" and "shall not tie into existing water, sewage, electrical, or other facility infrastructure unless expressly authorized by the Government."[13] Has ICE or any other federal agency authorized Akima to tie into existing water, sewage, electrical, or other infrastructure at BSPC or another other facility? If so, please describe which utilities will be connected to existing infrastructure and the specifications for such connections. If not, please describe how Akima plans on addressing water, sewage, and other infrastructure needs at BSPC.

2. Has ICE or any other federal agency sought and/or received any permits, registrations or approvals relating to this facility? If so, please describe all such permits, registrations and approvals.

3. Has ICE or any other federal agency conducted any type of environmental review and/or issued any categorical exclusion determination under the National Environmental Policy Act (NEPA) relating to this facility? If so, please provide the supporting documents.

4. Has ICE or any other federal agency consulted with local governments pursuant to NEPA and/or the Intergovernmental Cooperation Act? If so, please provide copies of such correspondence.

5. We note that ensuring compliance with NEPA and the ICA is the responsibility of the federal government. We have enclosed a letter to Akima with questions about the design and construction of this facility. To the extent that the answers to these questions are available to ICE, please provide this information.

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complaints-and-systemic-issues-in-arizona-adult-immigration-detention-centers/ (discussing reports of unsanitary conditions and inadequate medical care at Florence Service Processing Center in Arizona).

[13] U.S. Immigration and Customs Enforcement, *Justification for Other Than Full and Open Competition*, enclosed.

We request that you provide the information requested above in writing no later than Wednesday, November 25, 2026. Please e-mail your response to wrocomm@health.ny.gov and DEPPermitting@dec.ny.gov.

Sincerely,

James V. McDonald, MD, MPH
Commissioner of Health
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, NY 12237

Amanda Lefton
Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Enclosures:
- Letter to Akima Infrastructure Protection LLC dated November 17, 2026
- U.S. Immigration and Customs Enforcement, *Contract Approval: Batavia Service Processing Center Soft Sided Facility*, Jun. 15, 2026
- Letter from Sec. Markwayne Mullin to Rep. Timothy M. Kennedy, Sept. 29, 2026
- U.S. Immigration and Customs Enforcement, *Justification for Other Than Full and Open Competition*