

**Response to Allegations that  
a U.S. Customs and Border  
Protection Contractor  
Transport Detainees in  
Non-Air-Conditioned Vehicles**

**(Redacted)**





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Department of Homeland Security

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January 27, 2016

MEMORANDUM FOR: The Honorable Gil Kerlikowske  
Commissioner  
U.S. Customs and Border Protection

FROM: John Roth *John Roth*  
Inspector General

SUBJECT: *Response to Allegations that a U.S. Customs and Border Protection Contractor Transports Detainees in Non-Air-Conditioned Vehicles – ~~For Official Use Only~~*

Attached for your information is our *Response to Allegations that a U.S. Customs and Border Protection Contractor Transports Detainees in Non-Air-Conditioned Vehicles – ~~For Official Use Only~~*. We received a hotline complaint alleging that “due to repair cost,” U.S. Customs and Border Protection’s contractor in the Border Patrol’s Tucson sector was transporting some detainees in non-air-conditioned vehicles. The complainant also alleged the contractor did not maintain some vehicles adequately and would hide “defective” vehicles from inspection. Through an inspection of the contractor’s vehicles and its maintenance program, we determined the vehicles operated at or were able to attain reasonable temperatures; the contractor has adequate policies, procedures, and processes to maintain detainee transport vehicles; and the Border Patrol has sufficient oversight of the contractor’s vehicle maintenance. We also determined that U.S. Customs and Border Protection and its contractor had adequately addressed previously known problems with vehicles that could not maintain reasonable temperatures. We are not making any recommendations in this report.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Anne L. Richards, Assistant Inspector General for Inspections and Evaluations, at (202) 254-4100.

Attachment





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## Background

In August 2013, U.S. Customs and Border Protection (CBP) awarded an Indefinite Delivery, Indefinite Quantity contract to provide transportation, medical escort, and guard services for detainees along the Southwest border. The contract minimum is \$10 million and maximum is \$234 million, for up to 5.5 years.

The contract requires the contractor to transport non-violent detainees to and from CBP Border Patrol stations, Field Offices, Ports of Entry, highway checkpoints, processing centers, hospitals, courts, and detention facilities. CBP estimated the contractor would need to transport an average of [REDACTED] detainees per day. In the Border Patrol's Tucson sector, the contractor uses three types of vehicles, pictured in figure 1: intercity buses, mid-sized shuttles, and vans.

**Figure 1: Intercity Bus, Mid-Sized Shuttle, and Van**



Source: Office of Inspector General

In some remote locations, where CBP requires the vehicles to serve as a collection point for people the Border Patrol apprehends, the contractor's vehicles may idle for 2 or more hours. The contract requires "[h]eating, cooling, and ventilation of the transport vehicle adequate to operate reliably in desert environments for the duration of each shift." However, the contract does not specifically define an adequate temperature. The Code of Federal Regulations requires "a reasonable temperature" for passenger carriers, but does not define this term.<sup>1</sup> According to the Occupational Safety and Health Administration, the National Weather Service's heat index, which incorporates temperature and relative humidity, is a better measure than air temperature alone for assessing heat-related hazards.<sup>2</sup> The contract also requires the contractor to conduct pre- and post-shift vehicle checks to identify and address safety, security, and cleanliness deficiencies.

<sup>1</sup> Code of Federal Regulations, 49 § 374.313

<sup>2</sup> U.S. Department of Labor, Occupational Safety and Health Administration, *Using the Heat Index: A Guide for Employers* ([https://www.osha.gov/SLTC/heatillness/heat\\_index](https://www.osha.gov/SLTC/heatillness/heat_index))



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## **Results of Inspection**

In June 2015, we received a hotline complaint that “due to repair cost,” CBP’s contractor in the Border Patrol’s Tucson sector was transporting some detainees in non-air-conditioned vehicles. The complainant also alleged the contractor did not maintain some vehicles adequately and would hide “defective” vehicles from inspection. In August 2015, we conducted unannounced spot inspections of CBP’s contractor’s vehicles in the Tucson sector. The contractor did not hide vehicles from inspection. Through our inspections, we determined the contractor’s vehicles could reach reasonable temperatures or were operating at reasonable temperatures; we also determined that CBP and its contractor had addressed previously known problems with inadequate vehicle air conditioning. Finally, we reviewed the contractor’s maintenance program and determined the contractor has adequate policies, procedures, and processes to maintain detainee transport vehicles, and the Border Patrol’s Tucson sector has sufficient oversight of the contractor’s program.

### Transportation of Detainees by CBP’s Contractor

The complainant alleged the Tucson sector contractor was transporting some detainees in vehicles that were not air-conditioned. In response to the hotline complaint, we conducted unannounced spot inspections in the Border Patrol’s Tucson sector on August 12 and 13, 2015, and examined 31 of the contractor’s vehicles. According to the National Weather Service, ambient (outside) temperatures in the Tucson sector reached 102 degrees Fahrenheit at mid-day on August 12, 2015, and the relative humidity was 62 percent or below. Temperatures reached 107 degrees on August 13, 2015, and the relative humidity was 67 percent or below.

On August 12, 2015, we examined 15 vehicles during unannounced spot inspections at the Florence and Eloy detention facilities, the Nogales Ports of Entry and Border Patrol Station, the Douglas Port of Entry and Border Patrol Station, the Border Patrol’s Tucson Coordination Center and U.S. Federal Court House, and at a collection point for people apprehended in the sector. Some of the vehicles were empty and others had detainees onboard. We boarded each vehicle and upon entry recorded the interior temperature.

On August 12 and 13, 2015, we examined 18 empty vehicles in the contractor’s maintenance yard, 2 of which we also examined in the field. For these vehicles, the contractor started the engine and turned on the air conditioning, and we recorded the interior air temperature after the vehicle idled for 10 minutes with the air conditioning on.



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Of the 31 vehicles we examined, 2 empty vans at the Border Patrol's Tucson Coordination Center, with engines and air conditioning on, had relatively high interior temperatures, between 95 and 100 degrees. Using the Occupational Safety and Health Administration's heat index as a guide, we concluded these temperatures were not excessive given the 62 percent humidity. The remaining 29 vehicles, including the 18 vehicles we examined in the contractor's maintenance yard after they idled for 10 minutes, were cooler. Of the 31 vehicles we examined, 29 did not require repair; 2 required repair during or after transit.

During our spot inspections, we interviewed the contractor's staff and the Border Patrol's contract oversight staff. From these interviews, we learned some Border Patrol and contractor staff members had received information about past problems with hot temperatures in some of the contractor's vehicles while these vehicles idled at detainee collection points. Although the contractor's buses and shuttles are designed to maintain a reasonable temperature while idling, some contractor vehicles have difficulty doing so while idling for 2 or more hours at collection points. For example, even though the contractor's vans are equipped with a front air-conditioning unit and a rear auxiliary air-conditioning unit, some older vans could not maintain a reasonable temperature while idling.

Both the contractor and the Border Patrol have taken measures to address this problem. The contractor tried to modify these older vans, but was not successful. The contractor has purchased 10 new vans and will phase out the older vans by the end of 2015. The newer vans have more effective air conditioning, but are still harder to cool than buses and shuttles while idling. As a result, the contractor and Border Patrol contract oversight staff recommended against idling vans at collection points during hot weather. The contractor was using shuttles at the collection point we visited during our spot inspections.

As a result of our inspections, we concluded that the contractor was not hiding defective vehicles, the contractors' vehicles had reasonable temperatures, and the contractor and the Border Patrol had adequately addressed past problems with vehicles that could not maintain a reasonable temperature while idling.

#### Contractor Policies, Procedures, and Processes for Maintaining Vehicles

The complainant alleged that CBP's contractor did not maintain some vehicles adequately. During our inspection of the contractor's maintenance yard on August 12 and 13, 2015, we conducted interviews, toured the maintenance facility, and reviewed vehicle maintenance records. We reviewed records





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documenting that the contractor's transportation officers complete a vehicle inspection checklist before they drive each transport vehicle and when they return the vehicle. We also reviewed records documenting that a subcontracted maintenance crew independently checks each vehicle before every trip. We obtained and reviewed air-conditioning repair work orders documenting that when the maintenance crew takes vehicles out of service for repairs, it repairs the vehicles. Finally, we reviewed records documenting that the maintenance crew conducts vehicle inspections every 5,000 miles.

As a result of our interviews, tour, and record review, we determined the contractor's policies, procedures, and processes are adequate to maintain detainee transport vehicles.

Both the Department of Transportation and Border Patrol contract oversight staff inspect the contractor's maintenance program. The Border Patrol has access to some of the contractor's data, including [REDACTED]

We concluded external oversight of the contractor's maintenance program is sufficient.

### **Objectives, Scope, and Methodology**

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

On June 16, 2015, we received a hotline complaint that the Border Patrol's Tucson sector contractor was transporting some detainees in vehicles that did not maintain a reasonable temperature, and the contractor did not maintain some vehicles adequately. On August 12 and 13, 2015, a team of 23 DHS OIG investigators, auditors, and inspectors conducted unannounced spot inspections of the contractor's vehicles and observed the maintenance program.

To assess whether CBP's contractor transports some detainees in non-air-conditioned vehicles, we conducted unannounced spot inspections of the contractor's vehicles. We placed teams at the Florence and Eloy detention facilities, the Nogales Ports of Entry and Border Patrol Station, the Douglas Port of Entry and Border Patrol Station, the Tucson Coordination Center and U.S. Federal Court House, and at a collection point in the sector. Of the [REDACTED]



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vehicles in the contractor's Tucson fleet, we examined 15 vehicles in the field on August 12, 2015.

To measure interior vehicle temperatures, we used thermal lasers and digital thermometers, and in some instances, recorded the humidity level as well. To measure interior temperatures at these field locations for actively used vehicles, we boarded the vehicles and recorded interior temperatures while the buses idled. On August 12 and 13, 2015, we examined 18 transport vehicles in the contractor's maintenance yard, 2 of which we also examined in the field. For 16 of these inactive vehicles, when the contractor started the engine and turned on the air conditioning, we recorded the interior air temperature after the vehicle idled for 10 minutes with the air conditioning on. For one vehicle, which arrived at the contractor's maintenance yard requiring repair, we only recorded the initial temperature. For one vehicle, which we had already examined in the field, we did not record the temperature in the contractor's maintenance yard. In total, we examined 31 vehicles.

To assess whether the contractor maintained its vehicles adequately, we observed the contractor's maintenance program on August 12 and 13, 2015. We conducted interviews, toured the maintenance facility, and reviewed maintenance records. For all [REDACTED] vehicles, we reviewed 100 percent of the pre- and post-trip inspections completed by the contractor's transportation officers, and 100 percent of service lane inspections completed by maintenance crews. Approximately 5 months of paper maintenance records were stored onsite, covering the period of the hotline complaint. We also obtained air-conditioning repair work orders for this period that documented when the maintenance crew took vehicles out of service for repairs, it repaired the vehicles; the maintenance crew maintains these records electronically.

We conducted interviews with the Border Patrol's Tucson sector Assistant Chief and contract oversight staff, and the contractor's Director for Arizona, New Mexico, and Texas. We conducted interviews with officials of the contractor's maintenance subcontractor. We also conducted interviews with transportation officers driving vehicles we inspected at field locations on August 12, 2015. We gave these transportation officers our hotline information and posted the hotline information at the contractor's facility.

We conducted this review under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.



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