

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

13004.1: Annual Verification of Designated Immigration Officers' Recertification of Delegated 287(g) Authority

Issue Date: February 24, 2012
Effective Date: February 24, 2012
Superseded: This Directive is the originating and establishing directive pertaining to recertification of state and local law enforcement officers authorized under Section 287(g) to perform the duties of an Immigration Officer for immigration law enforcement purposes.

Federal Enterprise Architecture Number: 306-112-002b

1. **Purpose/Background.** This Directive provides U.S. Immigration and Customs Enforcement (ICE) with policy and procedures for the annual verification of Designated Immigration Officers' recertification of delegated authority under Section 287(g) of the Immigration and Nationality Act (INA). The Secretary of the U.S. Department of Homeland Security (DHS) delegated to the Director of ICE the authority under Section 287(g) to enter into a Memorandum of Agreement (MOA) with a state or local law enforcement agency (LEA) permitting designated officers to perform specified immigration law enforcement functions. ICE provides these Designated Immigration Officers with appropriate training and oversight.

Following the signing of an MOA between ICE and an LEA, officers of the LEA may be certified according to the procedures in ICE Directive 7-7.1, titled, "State Personnel Designated to Act as Immigration Officers for Immigration Enforcement Purposes." Among other things, these Designated Immigration Officers complete specific required training prior to being authorized to perform 287(g) functions. This Directive does not alter those training requirements, but describes additional annual training required for such Designated Immigration Officers to remain authorized.

2. **Policy.** Field Responsible Officials must ensure that each Designated Immigration Officer recertifies his or her 287(g) authority each fiscal year by successfully completing selected courses required by the 287(g) program on the web-based ICE Virtual University website. Field Responsible Officials must suspend the 287(g) authority of Designated Immigration Officers who fail to complete these courses by the fiscal year-end deadline. If the Designated Immigration Officer has still not completed the required courses within 90 days of his or her suspension, then Field Responsible Officials must revoke the Designated Immigration Officer's 287(g) authority. Field Responsible Officials shall follow the suspension and revocation procedures in ICE Directive 13003.1, titled "Suspension or Revocation of a Designated Immigration Officer's 287(g) Authority."

- 3. Definitions.** The following definitions apply for purposes of this Directive only:
- 3.1. Designated Immigration Officer.** Any person designated by the Secretary of DHS, pursuant to Section 287(g) of the INA, who is authorized to perform specified law enforcement functions of an immigration officer under the terms of an MOA with ICE.
- 3.2. Field Responsible Officials.** ICE officials responsible for oversight of assigned Designated Immigration Officers within their area of responsibility at ICE field locations. These officials include Special Agents in Charge, Field Office Directors, and any other supervisory position that has been delegated this authority.
- 3.3. Memorandum of Agreement (MOA).** The document signed by the authorizing officials of ICE and the LEA that sets forth the terms under which ICE grants 287(g) authority to the LEA and its Designated Immigration Officers.
- 4. Responsibilities.**
- 4.1. The Executive Associate Director of Enforcement and Removal Operations (ERO), or his or her designee, is responsible for:**
- 1) The direction of the 287(g) program, including management oversight and coordination among 287(g) Program Managers, ICE Field Responsible Officials, and state and local LEAs; and
 - 2) In coordination with the Office of Training and Development (OTD) and Homeland Security Investigations (HSI), developing any required guidance and procedures relating to the 287(g) program, including designating courses required for recertification of Designated Immigration Officers' authority.
- 4.2. 287(g) Program Managers are responsible for:**
- 1) The management of the 287(g) program, including oversight and coordination among ICE Field Responsible Officials and state and local LEAs;
 - 2) Advising Field Responsible Officials to verify ICE Virtual University administrative records for the course completion status of Designated Immigration Officers within their respective areas of responsibility; and
 - 3) Compiling suspension and revocation notices submitted by Field Responsible Officials and advising the Office of Professional Responsibility (OPR) of any suspension or revocation of a Designated Immigration Officer's 287(g) authority.
- 4.3. OTD is responsible for providing course instruction for Designated Immigration Officers and for maintaining records of Designated Immigration Officers' course completion.**
- 4.4. Field Responsible Officials are responsible for:**

- 1) Verifying the ICE Virtual University administrative records before the end of each fiscal year for the course completion status of Designated Immigration Officers within their respective areas of responsibility, and reminding those Designated Immigration Officers who have not yet completed the course requirements of the fiscal year-end deadline;
- 2) Maintaining records of Designated Immigration Officers' recertification course completion certificates;
- 3) Notifying the 287(g) Unit of those Designated Immigration Officers who have failed to complete recertification by the fiscal year-end deadline and carrying out suspension procedures; and
- 4) Carrying out revocation procedures for Designated Immigration Officers who have failed to complete recertification within 90 days of their suspension, unless Field Responsible Officials grant a waiver.

5. Procedures.

5.1. Subsequent to the federal fiscal year (October through September) in which ICE first delegated authority to a Designated Immigration Officer under Section 287(g) of the INA, Field Responsible Officials must verify annually that Designated Immigration Officers successfully complete the following courses on the web-based ICE Virtual University website:

- 1) 287(g) Refresher Curriculum including:
 - a) Section 287(g) (1) – Refresher Training Course Navigation;
 - b) Section 287(g) (2) – Orantes Injunction;
 - c) Section 287(g) (3) – Consular Notification and Access;
 - d) Section 287(g) (4) – Board of Immigration Appeals (BIA) Decisions;
 - e) Section 287(g) (5) – Revised DHS/U.S. Citizenship and Immigration Services Documents (including Employment Authorization Document), Alien Documentation and Identification System Stamp, and I-551;
 - f) Section 287(g) (6) – Nonimmigrant Refresher Training;
 - g) Section 287(g) (7) – Electronic Sources of Information; and
 - h) Section 287(g) (8) – Stop Trafficking Refresher Training;

- 2) Information Assurance Awareness Training;
 - 3) DHS Basic Records Management Training;
 - 4) A Culture of Privacy Awareness;
 - 5) Operations Security Basic;
 - 6) Guidance Regarding the Use of Race by Federal Law Enforcement Agencies; and
 - 7) Any other course designated by the Executive Associate Director of ERO, or his or her designee, in coordination with OTD and HSI.
- 5.2. No later than 90 days prior to the end of each fiscal year (July 3), 287(g) Program Managers shall advise Field Responsible Officials to check ICE Virtual University administrative records for the course completion status of Designated Immigration Officers within their respective areas of responsibility.
- 5.3. No later than 60 days prior to the end of each fiscal year (August 2), the Field Responsible Officials shall review the records of ICE Virtual University to ascertain whether any Designated Immigration Officers have not yet completed the mandatory recertification courses.
- 5.4. No later than 30 days before the end of the fiscal year (September 1), Field Responsible Officials shall send notices to the Designated Immigration Officers who have not yet completed the mandatory recertification courses reminding them of the need to do so.
- 5.5. Field Responsible Officials shall request and obtain copies of Designated Immigration Officers' course completion certificates. Field Responsible Officials shall maintain records of these certificates in accordance with agency-established record keeping requirements.
- 5.7. No later than 5 business days after the end of each fiscal year, Field Responsible Officials shall notify the 287(g) Unit of those Designated Immigration Officers who have failed to complete recertification by the end of the fiscal year, and those Designated Immigration Officers shall be suspended in accordance with ICE Directive 13003.1, titled, "Suspension or Revocation of a Designated Immigration Officer's 287(g) Authority."
- 5.8. If a suspended Designated Immigration Officer fails to complete the mandatory course requirements for recertification within 90 days of his or her suspension, the Field Responsible Officials, with concurrence from the 287(g) Unit, may revoke the Designated Immigration Officer's 287(g) authority. Under exigent circumstances, Field Responsible Officials can approve a waiver that extends the Designated Immigration Officer's suspension without revocation. Field Responsible Officials must notify the 287(g) Unit when such waivers are granted; however, Field Responsible Officials can rescind this waiver at any time and revoke the Designated Immigration Officer's

authority if the Designated Immigration Officer has still not completed the recertification requirements.

6. Authorities/References.

- 6.1. Immigration and Nationality Act (INA) Section 287(g), 8 United States Code (U.S.C.) Section 1357(g).
 - 6.2. 8 Code of Federal Regulations (C.F.R.) Part 287, Field Officers; Powers and Duties.
 - 6.3. Federal Information Security Management Act of 2002, 44 U.S.C. Section 3541 et. seq., Public Law Number 107-347, Sections 301-305.
 - 6.4. DHS Delegation Order 7402, "Delegation of Authority for Performance of Immigration Officer Functions by State Officers and Employees" (September 9, 2009).
 - 6.5. ICE Delegation Order 13001.1, "Delegation of Authority for Performance of Immigration Officer Functions by State Officers and Employees" (March 24, 2011).
 - 6.6. ICE Directive 13001.1 (formerly Directive 7-7.1), "State Personnel Designated to Act as Immigration Officers for Immigration Enforcement Purposes" (December 4, 2008).
 - 6.7. ICE Directive 13002.1, "Review, Suspension, and Termination of 287(g) Memoranda of Agreement."
 - 6.8. ICE Directive 13003.1, "Suspension or Revocation of a Designated Immigration Officer's 287(g) Authority."
- 7. Attachments.** None.
- 8. No Private Right.** These guidelines are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.



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