

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) constitutes an agreement between the United States Department of Homeland Security (DHS) and the Arizona Department of Corrections (ADOC) under which U.S. Immigration and Customs Enforcement (ICE) authorizes nominated, trained and certified ADOC personnel to perform certain immigration enforcement functions as specified herein. The ADOC represents the State of Arizona in the implementation and administration of this MOU. It is the intent of the parties that this agreement will result in enhanced capacity to deal with immigration violators in Arizona.

I. PURPOSE

The purpose of this MOU is to set forth the terms and conditions for this agreement to authorize selected ADOC personnel (participating ADOC personnel) to perform certain functions of an immigration officer, and how those participating ADOC personnel will be nominated, trained, authorized, and supervised in performing the immigration enforcement functions specified in this MOU.

Nothing herein shall otherwise limit the jurisdiction and powers normally possessed by participating ADOC personnel as members of the ADOC. The exercise of immigration enforcement authority granted under this MOU to participating ADOC personnel shall occur only as provided in this MOU.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of the Department of Homeland Security, acting through the Under Secretary for Border and Transportation Security, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOU constitutes such a written agreement.

III. POLICY

This MOU sets forth the scope of the immigration officer functions that DHS is authorizing the participating ADOC personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating ADOC personnel be subject to ICE supervision while performing immigration-related duties pursuant to this MOU. For the purposes of this MOU, ICE officers will provide

supervision for participating ADOC personnel only as to immigration enforcement functions. ADOC retains supervision of all other aspects of the employment of and performance of duties by participating ADOC personnel.

Before participating ADOC personnel will be authorized to perform immigration officer functions granted under this MOU, they must successfully complete mandatory training in the enforcement of federal immigration laws and policies as provided by DHS instructors and pass examinations equivalent to those given to ICE officers. This MOU further sets forth requirements for regular review of this agreement. Only participating ADOC personnel who are selected, trained, authorized and supervised as set out herein have authority pursuant to this MOU to conduct the immigration officer functions enumerated in this MOU.

The ICE and ADOC points of contact for purposes of this MOU are identified in Appendix A.

IV. DESIGNATION OF FUNCTIONS

For the purposes of this MOU, the functions that may be performed by participating ADOC personnel are indicated below with their associated authorities:

| AUTHORITY | FUNCTIONS |
|--|---|
| <ul style="list-style-type: none"> • The power to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States. INA § 287(a)(1) and 8 C.F.R. 287.5(a)(1). • The power and authority to administer oaths and to take and consider evidence. INA § 287(b) and 8 C.F.R. 287.5(a)(2). • The power to issue detainers. 8 C.F.R. 287.7. | <ul style="list-style-type: none"> • Interrogate in order to determine probable cause for an immigration violation • Complete required criminal alien processing, to include fingerprinting, photographing, and interviewing, for ICE supervisor review • Prepare immigration detainers and I-213, Record of Deportable/Inadmissible Alien for aliens in categories established by ICE supervisors • Prepare affidavits and take sworn statements |

| AUTHORITY | FUNCTIONS |
|--|---|
| <ul style="list-style-type: none"> The authority to prepare charging documents. INA Section 239, 8 C.F.R. 239.1; INA Section 238, 8 C.F.R. 238.1; INA Section 241(a)(5), 8 C.F.R. 241.8; INA Section 235(b)(1), 8 C.F.R. 235.3. | <ul style="list-style-type: none"> Prepare, as needed, a Notice to Appear (NTA) or other removal charging document, as appropriate, including Notice of Intent to Administratively Remove, Notice of Intent to Reinstate Removal, or Notice of Intent to Expeditiously Remove for signature of ICE officer for aliens in categories established by ICE supervisors |

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating ADOC personnel in exercising these authorities shall be DHS policies and procedures. However, when engaged in immigration enforcement activities, no participating ADOC personnel will be expected or required to violate or otherwise fail to maintain ADOC standards of conduct, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law, or ADOC rules, standards, or policies.

V. NOMINATION OF PERSONNEL

The Director, Arizona Department of Corrections, will initially nominate to ICE, twelve (12) correction officer candidates and two (2) supervisory correction officer candidates for initial training and certification under this MOU.

Eight of these officer candidates must have the Arizona State Prison Complex - Alhambra as their primary place of duty. Of the eight nominated Alhambra candidates, six will act in a primary capacity under this MOU, with the remaining two candidates acting as alternates.

Four of these officer candidates must have the Arizona State Prison Complex – Perryville as their primary place of duty. Of the four nominated Perryville candidates, two will act in a primary capacity under this MOU, with the remaining two candidates acting as alternates.

Of the supervisory correction officer candidates, one must have the Arizona State Prison Complex-Alhambra as his/her primary place of duty, and one must have the Arizona State Prison Complex-Perryville as his/her primary place of duty.

ADOC will not reassign approved candidates from their primary place of duty for a period of at least one year following training and certification of approved candidates as outlined in this MOU. Further, where feasible, ADOC will give ICE sixty (60) days' notice of its intent to reassign any approved candidate.

For each candidate nominated, ICE may request any information necessary for a background check and evaluation for suitability to participate in the enforcement of immigration authorities under this MOU. All candidates must be United States citizens. All candidates must be English/Spanish bilingual. All candidates will have at least two years' correctional work experience for ADOC. No candidate will be married to a person illegally present within the United States or knowingly have family associations which could adversely impact their ability to perform ICE functions under this MOU. All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances. Should a candidate not be approved, a substitute candidate may be submitted, so long as such substitution happens in a timely manner and does not delay the start of training. Any future expansion in the number of participating ADOC personnel or scheduling of additional training classes may be based on an oral agreement of the parties, but will be subject to all the requirements of this MOU.

VI. TRAINING OF PERSONNEL

ICE will provide appropriate training of nominated and accepted ADOC personnel tailored to the designated immigration functions and types of cases typically encountered by ADOC correctional personnel at a mutually designated site in Phoenix, Arizona, utilizing ICE-designed curriculum and competency testing. Training will include presentations on this agreement, elements of this MOU, scope of immigration officer authority, immigration and nationality law, cross-cultural issues, the ICE Use of Force Policy, civil rights law, the U.S. Department of Justice "Guidance Regarding The Use Of Race By Federal Law Enforcement Agencies" dated June 2003, public outreach and complaint procedures, liability and other relevant issues. ICE will provide all training materials. ADOC is responsible for the salaries and benefits, including overtime, for any of its personnel being trained or performing duties under this MOU. ADOC will cover the costs of all candidates' travel, housing and per diem while involved in training required for participation in this agreement.

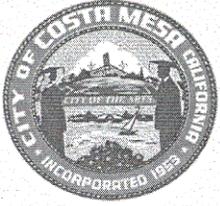
All nominated and accepted personnel will receive specific training regarding their obligations under federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating ADOC personnel are trained and certified, ICE will provide certified personnel with additional updated training on relevant administrative, legal and operational issues related to the performance of immigration officer functions, unless either party terminates this MOU pursuant to Section XVII, below. Local training on relevant administrative, legal and operational issues will be provided on an ongoing basis by ICE supervisors.

VII. CERTIFICATION AND AUTHORIZATION

The ICE Training Division will certify in writing to the ICE Special Agent in Charge in

LAW ENFORCEMENT SENSITIVE – FOR LIMITED OFFICIAL USE



CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

FROM THE OFFICE OF THE CITY CLERK

**IF YOU ARE INTERESTED IN VIEWING THE REMAINDER
OF THE THIS DOCUMENT
PLEASE CONTACT THE CITY CLERK'S OFFICE
AT (714) 754-5221**