

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ICE Policy System

OFFICE OF PRIMARY INTEREST: OFFICE OF HUMAN CAPITAL

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DIRECTIVE TITLE: Foreign Language Proficiency Awards for Non-Bargaining ICE Law Enforcement Officers

1. **PURPOSE and SCOPE.** This Directive establishes policy and procedures for paying cash awards to U.S. Immigration and Customs Enforcement (ICE) law enforcement officers (LEOs) who are proficient in and utilize a foreign language in the performance of their official duties.
2. **AUTHORITIES/REFERENCES.**
 - 2.1. 5 U.S.C. Section 4521, Definition.
 - 2.2. 5 U.S.C. Section 4522, General Provision.
 - 2.3. 5 U.S.C. Section 4523, Award Authority.
 - 2.4. 5 U.S.C. Section 5305, Federal Law Enforcement Pay Reform Act of 1990, Section 404.
3. **SUPERSEDED/CANCELLED POLICY/SUMMARY OF CHANGES.** This Directive supersedes previously recognized processes and guidance issued by ICE Program Offices regarding the payment of foreign language proficiency awards for LEOs. It is the originating and establishing Directive for ICE policy regarding payment of cash awards to LEOs who utilize a foreign language in the performance of their official duties. Effective with this policy, all current and previous policies on this matter are hereby rescinded and replaced by this centralized ICE Directive.
4. **BACKGROUND.** ICE's mission requires that LEOs interact with persons who speak languages other than English in conducting investigations and interviews. ICE LEOs who are proficient in one or more foreign languages may be required to utilize their foreign language skills in the performance of their official duties. 5 U.S.C. Section 4523 authorizes Federal agencies to compensate their LEOs for this ability.
5. **DEFINITIONS.** The following definitions are provided for the purposes of this Directive:

- 5.1. Basic Pay:** The rate of pay fixed by law for the position held by an employee before deductions and exclusive of additional pay of any kind. Basic pay does not include the following:
- 1) Interim geographic adjustments;
 - 2) Special pay adjustments for law enforcement officers in selected cities under section 404 of the Federal Enforcement Pay Reform Act of 1990, 5 U.S.C. Section 5305;
 - 3) Premium pay, which includes law enforcement availability pay, administratively uncontrollable overtime, night differential, Sunday pay, holiday pay, and overtime pay;
 - 4) Post differentials; or
 - 5) Cost of living allowances.
- 5.2. The Cash Award** is a discretionary award that is in addition to basic pay and does not increase an employee's base salary for purposes of retirement or life insurance. The cash award is considered taxable income. Payment of the award is subject to availability of funds.
- 5.3. Foreign Language:** A language other than English.
- 5.4. ICE Principal Field Officers (PFOs)** are the Office of Investigations Special Agents in Charge (SACs), ICE Attachés, the Senior ICE Representative (SIR) Frankfurt, and the SIR Hong Kong; Office of Professional Responsibility SACs; Detention and Removal Operations Field Office Directors; Federal Protective Service Regional Directors; Field Intelligence Unit Directors; and other officials as designated in writing by the ICE Assistant Secretary.
- 5.5. ICE Principal Headquarters Officers (PHOs)** are the Program Office Directors, Assistant Directors, and Deputy Assistant Directors.
- 5.6. Law Enforcement Officer (LEO):** Any employee within the meaning of 5 U.S.C. Section 8331(20) (Civil Service Retirement System law enforcement definition) or 5 U.S.C. Section 8401(17) (Federal Employees Retirement System law enforcement definition), also known as 6(c) and 12(d) retirement, respectively.
- 5.7. Official Duties** include, but are not limited to, teaching, translating, interpreting, surveillance monitoring, or speaking in the performance of investigative, protective, training, and/or official public relations work concerning ICE. Hours spent learning a foreign language or attending class as a student do not count as official usage to qualify for this award.

5.8. Proficiency in a Foreign Language: The level of proficiency using tests based on the Federal Interagency Language Roundtable level description system is specified below:

- S2 Limited Working Proficiency
- S2+ Limited Working Proficiency plus
- S3 General Professional Proficiency
- S3+ General Professional Proficiency plus
- S4 Advanced Professional Proficiency
- S4+ Advance Professional Proficiency plus
- S5 Functional Native Proficiency

5.9. Rate of Basic Pay: The following forms of compensation are included in the definition of "rate of basic pay":

- 1) Higher minimum rates of pay (applies to GS-3 through GS-10 only) for LEOs, effective January 1992 and authorized in section 403 of the Federal Employees Comparability Act of 1990; and
- 2) Special salary rates authorized by the Office of Personnel Management under the provisions of the Federal Enforcement Pay Reform Act of 1990 (5 U.S.C. Section 5305), with the exception of section 404 of 5 U.S.C. Section 5305. (See Section 5.1.3.)

5.10. Substantial Use: The number of hours of usage in the performance of official duties. ICE defines minimum substantial use as at least 10 percent of a basic work schedule (equivalent to at least 208 hours annually).

6. POLICY.

6.1. ICE may award an annual cash award of up to 5 percent of basic pay to law enforcement officers (LEOs) for demonstrated proficiency and substantial use of one or more foreign languages in the performance of their official duties. No LEO may receive foreign language award amounts exceeding 5 percent of basic pay in any calendar year.

6.2. Law enforcement officers must be full-time employees and must have achieved at least a "pass" or "fully successful" rating on the most recent performance appraisal in order to be eligible for a foreign language proficiency award.

7. RESPONSIBILITIES.

7.1. **Principal Headquarters Officers** are responsible for determining whether funds are available to pay foreign language awards.

7.2. **Supervisors** are responsible for certifying that the required minimum levels of foreign language hours are recorded and documented.

7.3. Law Enforcement Officers (LEOs) are responsible for:

- 1) Making a reasonable determination, after reviewing the proficiency criteria, that they possess foreign language skills that meet at least the minimum proficiency levels, and that they use, or expect to use, the foreign language(s) in the performance of their official duties for the minimum amount of time required;
- 2) Ensuring that all forms are accurately completed and submitted on a timely basis; and
- 3) Applying for proficiency testing and for documenting their use of one or more foreign languages.

7.4. Program Office Field Training Program Managers (FTPMs) are responsible for coordinating testing activity within their Program Offices.

7.5. A representative from the Office of Investigations' Office of International Affairs will coordinate testing activity for foreign offices.

7.6. Program Offices' respective Mission Support Divisions are responsible for scheduling and documenting test scores for their respective Program Office.

8. PROCEDURES.

8.1. Application: All applicants must be tested in the foreign language(s) for which they claim proficiency. Applicants must submit a written application requesting to be tested that includes the applicant's name, Social Security Number (SSN), credential number, language(s) in which the applicant claims proficiency, and a statement that the language(s) is (are) used during at least 10 percent of the basic work schedule and during the performance of their official duties. The "Foreign Language Testing Application" must be signed by both the employee and the supervisor and must be submitted through the appropriate chain of command to the respective Program Office's FTPM. The FTPM will maintain the application for one year and will forward the information as required by their Program Office.

8.2. Testing Requirements.

- 1) Each Program Office will pay the cost of the initial test for any foreign language, any validation or retest, and recertification testing as noted below. Employees who do not reach the minimum score of S2 on the initial test may apply through their chain of command for retesting after 1 year. PHOs and PFOs will make retesting determinations on a case-by-case basis, considering the following factors:
 - Availability of funds;

- Information provided which indicates why there is a greater expectation of passing the test; and
 - The expectation that the foreign language(s) will be used during at least 10 percent of the basic work week.
- 2) Employees who request testing but did not take the test or did not cancel during the 24-hour period prior to the test will not be allowed to request retesting for 1 year from the previous scheduled test date. The employee's PFO or PHO will consider exceptions to this rule on a case-by-case basis.
 - 3) Proficiency tests will be administered as close as possible to the employee's basic work week based on Eastern standard time at a government work site. Management will establish appropriate means to verify and document the identity of the employee tested.
 - 4) Program Offices will coordinate the testing of prospective participants either through a contractor or in house, as appropriate.

8.3. Certification and Recertification Procedures.

- 1) Program Office Mission Support Divisions will maintain original proficiency scores. The Mission Support Divisions will send copies of proficiency scores to the PHOs and the FTPMs for further dissemination through the chain of command to the employee. FTPMs must maintain a copy of the proficiency scores and employees must present a copy to their new FTPM upon permanent change of station or extended TDY of 12 months or more.
- 2) Employees must recertify their language proficiency every 5 years for S2 through S3+. The employee's Program Office will pay for recertification tests. Recertification will not be required for S4 and above.

8.4. Reporting Procedures.

- 1) Program Office Mission Support Divisions will maintain information on foreign language award payments. This information will include the total number of employees paid, total expenditures, and a summary of percentages paid, including the number of employees at each percentage level.
- 2) Each employee certified in one or more foreign languages is required to complete the Foreign Language Reporting Form on a monthly basis until the minimum requirement of 208 hours of substantial use of a foreign language has been met. The supervisor shall certify that the information provided is accurate.
- 3) Employees shall record hours of usage per day in increments of 1 hour. Credit will not be given for increments of less than 1 hour.

- 4) Annually, by January 31, employees must complete, and supervisors must sign and submit all Foreign Language Reporting Forms for the prior year through the chain of command to the Program Office's FTPM.
- 5) After the minimum requirement of 208 hours of foreign language usage has been met, the language proficiency score will provide the basis for determining the actual award amount. Awards are based on a calendar year.
- 6) Award computations resulting in fractions of a dollar will be rounded up to the next whole dollar amount.
- 7) Annually, by February 15, PHOs and PFOs will submit a memorandum to their Program Office's Mission Support Division which lists the following for each individual who qualifies for an award:
 - Employee name;
 - SSN;
 - Rate of basic pay;
 - Foreign language(s) used;
 - Percentage of salary for the award (3, 4, or 5 percent);
 - Number of employees qualifying in each foreign language; and
 - Dollar amount of the awards.

8.5. Payment Procedures.

- 1) Principal Headquarters Officers or designees will determine if funds are available to pay the awards. If funding is not available to pay the total amount, prorated amounts may be paid based on available funds.
- 2) Mission Support Divisions will provide the list of employees who are eligible for payment to the budget office within their respective Program Office.
- 3) Program Offices' budget offices will initiate payment of the awards.
- 4) The payment of cash awards will be made during the next calendar year that the award is earned. Note: All foreign language awards are subject to the availability of funds. The rate of awards is as follows:

<u>Proficiency Rating</u>	<u>Percentage of Basic Pay</u>
S2+	= 3%
S3/S3+	= 4%
S4 and above	= 5%

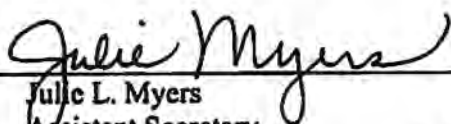
- 5) Awards will be paid on an annual basis, covering the previous calendar year. Note: No employee will receive an award on a retroactive basis prior to testing and certification. Awards will be computed at the salary rate of the permanent position of record in effect during the last pay period of the calendar year in which the foreign language(s) was used and certified. Awards shall not be computed on the basis of temporary promotions.
- 6) Awards for incidents of superior accomplishment which are enhanced by "one-time" or short-term use of a foreign language shall be made through the ICE awards program.

9. ATTACHMENTS.

- 9.1. Foreign Language Testing Application.
- 9.2. Foreign Language Reporting Document.

10. **NO PRIVATE RIGHT STATEMENT.** This Directive is an internal policy statement of ICE. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

Approved


 Julie L. Myers
 Assistant Secretary
 U.S. Immigration and Customs Enforcement

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

FOREIGN LANGUAGE TESTING APPLICATION

Last Name: _____

First Name: _____

Social Security Number: _____

Credential Number: _____

Date of Birth: _____

Position: _____

Office Phone Number: (_____) _____ Ext. _____

E-Mail Address: _____

Language to be tested: _____

I would like to be tested in the foreign language specified above. I certify that there is a reasonable expectation that I will use the foreign language during at least 10 percent of my basic work schedule.

Signature: _____ Date: _____
(Employee)

I acknowledge receipt of the above applicant's testing application.

Supervisor's Name: _____

Title: _____

Signature: _____ Date: _____

Privacy Act Notice: The Privacy Act of 1974 (5 U.S.C. § 552a) requires that the following notice be provide to you: The authority for collecting the requested information from ad about you is 5 U.S.C. § 4523 and 28 U.S. C. § 8109. The primary use of this information is by management and your payroll office to record your interest in and eligibility for a cash award based on your foreign language abilities. Additional disclosures of this information may be: in the event of litigation, to the Department of Justice, courts, adjudicative bodies, counsel, or parties or witnesses to the litigation, if the disclosure is relevant and necessary to or parties or witnesses to the litigation, if the disclosure is relevant and necessary to the litigation; In the event that the information (either alone or with other information), indicates a potential violation of law, to the appropriate authority for action. The foreign language cash award program is voluntary and you are not required to provide your Social Security Number (SSN). However, if you wish to participate in the program, your SSN must be provided. Your SSN is necessary to verify your identity, properly credit any award for which you qualify, and ensure that your tax liability for any increased earnings is properly reported. Your SSN will not be provided to contractors administering any relevant foreign language testing.

ICE Form 30-005 (01/07)

REL0000021296

**DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
FOREIGN LANGUAGE REPORTING FORM**

Log foreign language hours until the "208 hours" requirement has been met.				Reporting Period (Month/Year)		Oral Proficiency Interview Score →	
Name (Last, First, M.I.):						Title:	
Series/Grade/Step:				Social Security Number:		Office:	
Foreign Language Spoken (a separate form must be completed for each language):							
Date	Start Time	End Time	No. of Hours of Usage	Narrative	Supervisor's Initials		Date
TOTAL HOURS			<u>Note:</u> If more space is needed to answer narrative, use a separate sheet of paper with your name and Social Security Number at the top and attach it to this form.				
EMPLOYEE							
Signature						Date	
CERTIFIED BY SUPERVISOR							
Name				Title			
Signature						Date	

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DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
FOREIGN LANGUAGE REPORTING FORM
Continuation Sheet

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ICE Form 30-006 (01/07)

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