

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 2007.3: ICE Acquisition Governance

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Superseded: ICE Directive 2007.2, ICE Acquisition Policy (June 19, 2014)

- 1. Purpose/Background.** This Directive, in support of Department of Homeland Security (DHS) Directive No. 102-01, Acquisition Management (Rev. 3.1, Feb. 25, 2019), or as updated, establishes Immigration and Customs Enforcement (ICE) policy and guidance for the planning, decision-making governance, management, and execution oversight of Department-governed (Level 1 and 2) major acquisition programs and ICE-governed (Level 3) acquisition and related acquisition activities. The Directive also establishes procedures and requirements for acquisition programs which provide operational capabilities through capital assets¹ and/or through enterprise/ICE-level service contracts². A comprehensive list of ICE's Level 1-3 acquisition programs is prescribed in the ICE Acquisition Oversight List (AOL).
- 2. Policy.** It is ICE policy to comply with applicable laws, regulations, and relevant DHS policies on acquisition management. Acquisition management consists of planning, governing, and executing programs throughout their lifecycle. ICE acquisition programs, including capital asset and mission service acquisitions, must adhere to the Acquisition Governance process which includes the management of the acquisition workforce, the identification of acquisition programs, and the annual review process. ICE Acquisition Governance begins when a decision is made to invest resources towards closing an operational capability gap, or when a capital investment level acquisition is required to address operational capability gaps. The Acquisition Governance process³ continues until the testing of the capital asset or service has demonstrated the program successfully delivered its approved Key Performance Parameters (KPPs) and the program has implemented Full Operational Capability (FOC). All current and future acquisition programs are required to enter the acquisition process to ensure proper governance and oversight. ICE acquisition policy adheres to DHS Directive No. 102-01 and its implementing DHS Instruction No. 102-01-001, Acquisition Management Instruction (Rev. 1.3, Jan. 21, 2021), or as updated.
- 3. Definitions.** The following definitions apply for purposes of this Directive only:

¹ Including both information technology (IT) systems and non-IT systems and projects.

² Not including those programs that are currently in the operations phase and the maintenance/sustainment phase.

³ ICE Acquisition Governance adheres to DHS Directive No. 102-01 and its implementing Instruction, DHS Instruction No. 102-01-001, provide overarching policy for all Department and Component acquisitions along with specific policy for major acquisitions which are governed at the Department-level.

- 3.1. **Acquisition.** An acquisition is an investment in a capital asset or service that meets a unique mission of the agency. It begins at the point at which a new mission need is identified and continues until the capital asset or service achieves KPPs and FOC.
- 3.2. **Acquisition Decision Authority (ADA).** An ADA is the individual designated in accordance with criteria established by the DHS Under Secretary for Management (USM) to approve entry of an acquisition program into the next phase of the acquisition lifecycle. The ADA has overarching responsibility for the acquisition cost, schedule, risk, and system performance of the acquisition portfolio, and is responsible for establishing and assessing Acquisition Program Baseline (APB), APB breaches, directing corrective actions, and approving revisions.
- 3.3. **Acquisition Decision Event (ADE).** An ADE is a predetermined point within the Acquisition Lifecycle Framework (ALF) at which the acquisition will undergo an Acquisition Review Board (ARB) review prior to commencement of the next phase for assessing readiness of the program to proceed based on appropriate planning and critical thinking. Compliance with law and policy will also be evaluated. The ADE is chaired by the ADA.
- 3.4. **Acquisition Decision Memorandum (ADM).** The ADM is a documented record of decisions, exit criteria, and assigned actions for a specific type of acquisition as determined by the ADA. The ADM is the official ADE record.
- 3.5. **Acquisition Governance.** Acquisition Governance is the management framework within which decisions regarding acquisition programs are made, in support of the strategic mission and priorities of ICE and the principles of effective and efficient oversight processes consistent with DHS Directive No. 102-01 and other directives, legal requirements, and best practices.
- 3.6. **Acquisition Lifecycle Framework (ALF).** An ALF is a four-phase process implemented by DHS to determine whether it is appropriate and advisable to proceed with a proposed acquisition program, enterprise/component level service contracts, and strategic sourcing. The four phases are as follows: Need, Analyze/Select, Obtain, and Produce/Deploy/Support. Each phase culminates in an ADE review and decision by the ADA.
- 3.7. **Acquisition Oversight List (AOL).** The AOL provides oversight requirements for programs within the ICE acquisition portfolio. It distinguishes the requirements among ICE's portfolio programs, non-major (Level 3) programs, and post-FOC operational activities. Further, it delineates between the differing acquisition oversight and reporting requirements each face. The ICE AOL is broken into categories, with information and basic requirements for each category outlined at the beginning of each category.
- 3.8. **Acquisition Program.** An acquisition program is the totality of acquisition activities directed to accomplish specific business and/or operational goals and objectives. It provides new or improved capabilities in response to approved end-user requirements.

Acquisition programs typically have multiple projects to obtain specific capability requirements. Programs are funded by one or more investments and falls into one of the two categories (Services Acquisitions or Capital Assets Acquisitions) per DHS Instruction No. 102-01-001.

- 3.9. Acquisition Program Baseline (APB).** The APB is a summary of the critical cost, schedule, and performance parameters, expressed in measurable, quantitative terms, which must be met to accomplish the goals of the investment.
- 3.10. Acquisition Program Manager (PM).** An Acquisition PM is assigned and approved by the Component Acquisition Executive (CAE) in writing. They must hold the required certification and specialization prior to being assigned to a PM position, in compliance with DHS Acquisition Workforce Policy No. 064-04-001, Acquisition Certification Requirements for Program and Project Management (Rev. 1, Apr. 16, 2014), or as updated.
- 3.11. Acquisition Review Board (ARB).** The ARB is the executive-level body responsible for reviewing ICE acquisition programs to ensure they have completed adequate planning and secured sufficient resources and support to achieve success. The ICE ARB members are the CAE (as Chair) and the Assistant Director (AD), or their management-level delegate from the following offices: Office of Chief Financial Officer, Office of Human Capital, Office of the Chief Information Officer, Office of Acquisition (OAQ), Office of Information Governance and Privacy, Office of Principal Legal Advisor, Office of Regulatory Affairs and Policy, and the ICE Component Requirements Executive (CRE). ARB reviews will also include non-member representatives who are subject matter experts within ICE as determined by the CAE.
- 3.12. Affordability.** Affordability is the comparative analysis of the Life Cycle Cost Estimate (LCCE) funding requirements to available funding performed to determine the degree to which an acquisition program's funding requirements fit within the ICE's overall portfolio plan and should address requirements at least through the programming period and, preferably, several years beyond. If the analysis determines that the program's acquisition strategy has an adequate budget for its planned resources, it is deemed to be affordable. An ICE Chief Financial Officer (CFO) certification of funds memorandum will document the affordability determination at appropriate ADEs.
- 3.13. Breach.** A breach is a condition that occurs when a program fails to meet any cost, performance, or schedule threshold as identified in the APB.
- 3.14. Business Management Council (BMC).** The BMC is the senior decision board within the ICE Acquisition Governance structure. The CFO, Chief Information Officer (CIO), and CRE are members. The BMC is also the senior ICE management and decision board for other corporate business activities. This policy only applies to the BMC's role in acquisition matters.

- 3.15. Business Owner.** The Business Owner is the execution office and consists of senior managers and leadership responsible for delivery of the operational capability the acquisition program will be required to deliver. They have ownership of the operational capability tasked and sponsor the acquisition portfolios.
- 3.16. Capital Assets.**⁴ Capital assets are “land, structures, equipment, intellectual property (e.g., software), and information technology (IT) (including IT service contracts) that are used by the Federal Government, have an estimated useful life of two years or more.” The assets do not include items acquired for resale in the ordinary course of operations or items that are acquired for physical consumption, such as operating materials and supplies. They may be acquired in different ways: through purchase, construction, or manufacture; through lease/purchase or other capital lease (regardless of whether title has passed to the federal government); through an operating lease for an asset with an estimated useful life of two years or more; or through exchange. Capital assets may or may not be capitalized (i.e., recorded in an entity’s balance sheet) under federal accounting standards. The assets do not include intangible assets, such as the knowledge resulting from research and development, or the human capital resulting from education and training.
- 3.17. Capability Gap.** Instance of an identified required capability that ICE does not currently possess for which there exists no current plan to provide that capability in the future.
- 3.18. Capital Planning and Investment Control (CPIC).** The CPIC is a decision-making process for ensuring that investments integrate strategic planning, budgeting, procurement, and management in support of agency missions and business needs.⁵ While originally focused on IT, it now also applies to non-IT investments. CPIC planning for IT investments is the responsibility of the ICE CIO.
- 3.19. CAE.** The CAE is the senior acquisition official within ICE who leads a process and staff to provide acquisition and program management oversight, policy, and guidance to ensure statutory, regulatory, and higher-level policy requirements are fulfilled. The CAE is nominated by the ICE Director and is designated in writing by the DHS Chief Acquisition Officer, who is the USM. The CAE consults with the ICE CFO, CIO, CRE, and Head of the Contracting Authority (HCA) in the execution of this oversight authority.
- 3.20. Configuration Management Board (CMB).** The CMB is the first of three decision boards within the ICE Acquisition Governance structure and is chartered by the Executive Steering Committee (ESC) Chair. A CMB may also conduct other mission or business activities. This policy applies only to the CMB’s role in acquisition matters.
- 3.21. ESC.** The ESC is the second of three decision boards and comprises the intermediate tier of the ICE Acquisition Governance structure. It is chartered by the BMC. The ESC may also conduct other mission or business activities. This policy applies only to the ESC’s

⁴ Office of Mgmt. and Budget, OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget (Aug. 2022).

⁵ Clinger Cohen Act of 1996, Pub. L. No. 104-106, Div. E, 110 Stat. 186 (1996), as amended.

role in acquisition matters.

- 3.22. FOC.** The FOC is the time at which investment becomes fully operational, with all functions deployed to the designated user(s), as defined by the Acquisition PM.
- 3.23. HCA.** The HCA is a vital contributor and participant in the Acquisition Governance process, especially with regards to planning and awarding of major contracts for acquisition programs after the appropriate ADE. The HCA is the AD of OAQ and is a member of the BMC.
- 3.24. Headquarters Responsible Officials (HRO)s.** HROs are the Executive Associate Directors (EADs) of Enforcement and Removal Operations, Homeland Security Investigations, and Management and Administration; the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility; and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff.
- 3.25. Joint Requirements Council (JRC).** JRC is a DHS-governing body comprising component representatives to develop and lead the Department's joint requirements process.
- 3.26. Joint Requirements Integration and Management System (JRIMS).** The JRIMS process ensures traceability throughout the implementation process between DHS's strategic objectives to both non-materiel and materiel solutions, assesses solution approaches and identifies joint or enterprise-level operational requirements, and enhances DHS executive decision-making by validating JRIMS documentation as appropriate.
- 3.27. KPPs.** KPPs are those attributes or characteristics of a system/program/project that are considered critical or essential parts of an effective system/program/project capability. Failure to meet a KPP normally requires high-level management review (e.g., ADA) of the system/program/project to determine whether to continue pursuit of the particular solution.
- 3.28. Level 1, 2, and 3 Acquisition Programs.** Acquisitions, other than services, are classified into three levels that determine the extent and scope of required project and program management, reporting requirements, and ADA. Levels are determined by the lifecycle cost of the program,⁶ not just procurement cost, per DHS Instruction No. 102-01-001.
- 3.29. LCCE.** The LCCE is a process to forecast total ownership cost of a program. The LCCE process output is documentation that includes but is not limited to: LCCE/cost model, LCCE document, cost estimating baseline document, and/or a brief supporting the annual resource allocation plan submission. The typical life cycle duration for an acquisition program is ten years, or one refresh cycle.

⁶ Special Interest Acquisition Program may be designated or elevated in level without regard to the LCCE.

3.30. Operational.⁷ Operational is a steady state and means that an asset or a part of an asset with a delivered component performing the mission.

3.31. Program Accountability and Risk Management (PARM) Executive Director (ED). They manage DHS-wide acquisition program policy, governance, and oversight.

4. Responsibilities.

4.1. The **HROs** are responsible for ensuring that their Directorates or Program Offices comply with this Directive, including issuing implementation guidance as appropriate.

4.2. The **CAE** serves as the ADA for ICE and is responsible for:

- 1) Providing acquisition and program management policy and guidance to ensure ICE acquisitions fulfill statutory, regulatory, and higher-level policy requirements;
- 2) Providing ICE Acquisition Governance and oversight (including annual reviews of ICE acquisitions) to ensure acquisition programs operate within their approved cost, schedule, performance baselines, and affordability as documented in the APB;
- 3) Ensuring ICE acquisition programs report timely and accurate execution status to ICE leadership and to DHS (e.g., the Investment Evaluation, Submission, and Tracking System (INVEST));
- 4) Acting as the senior official responsible for acquisition program managers' workforce matters and conducting duties in accordance with DHS Directive No. 064-04, Acquisition Professional Career Information (Oct. 30, 2008);
- 5) Designating the Acquisition PM⁸ for ICE Level 1-3 acquisition programs;
- 6) Serving as the Chair of the ICE ARB;
- 7) Identifying ICE acquisitions;
- 8) Managing and overseeing all ICE acquisition management functions and ensuring the technical approach, acquisition strategy, risk, financial management, and program execution are appropriate for acquisition programs within ICE; and
- 9) Notifying the ICE Director, the PARM ED, and the DHS ADA of any breach and the remediation plan in a timely manner.

⁷ Office of Mgmt. and Budget, OMB Circular No. A-11.

⁸ Program Offices/hiring managers coordinate with the CAE prior to making a selection to fill or replace acquisition program managers for ICE Level 1 – 3 acquisition programs.

4.3. The **CRE** manages, administers, and oversees their ICE's requirements policies and processes, in accordance JRIMS. The CRE authorities and responsibilities include, but are not limited to:

- 1) Developing and administering ICE policies and processes, in accordance with JRIMS, for the generation, analysis, and submission of capability requirements documentation;
- 2) Managing the development and review of requirements documentation;
- 3) Developing and maintaining requirements capacity and expertise within ICE; and
- 4) Representing ICE as the Joint Requirements Council (JRC) Principal or designating an executive to act as the JRC Principal on behalf of the CRE.

4.4. The **ARB** is responsible for ICE for acquisition management matters in terms of:

- 1) Reviewing the executable business strategy, resources, management, accountability, and alignment with ICE strategic initiatives;
- 2) Providing support to the CAE when establishing directions for acquisitions at ADEs, with decisions being documented in the ADM; and
- 3) Informing the CAE and CRE of any planned or upcoming capital asset or service acquisition investment.

4.5. The **BMC** is responsible for:

- 1) Providing advice to the CAE within the ICE acquisition and investment governance structure;
- 2) Reviewing acquisition priorities recommended by the ESCs;
- 3) Establishing ESCs operating parameters;
- 4) Reviewing and endorsing acquisition affordability;
- 5) Prioritizing projects, funding, and resource recommendations made by the ESCs prior to ADEs; and
- 6) Resolving issues escalated by the ESCs.

4.6. The **ESC** is responsible for:

- 1) Making recommendations to the CAE regarding all acquisition program decisions (e.g., IT, non-IT, and enterprise service contracts);

- 2) Making line of business investment decisions for all acquisition programs;
 - 3) Establishing CMBs to manage program requirements, recommending the appointment of program managers under their direction;
 - 4) Reviewing execution status of acquisition programs. ESC or EAD-level approval is required prior to advancing to BMC and ARB for ADE approvals;
 - 5) Ensuring programs are affordable in accordance with DHS and ICE policy;
 - 6) Escalating critical risks, cross-portfolio integration issues, or unresolved conflicts to the BMC and CAE for resolution;
 - 7) Reviewing program status against approved cost, schedule, and performance baselines; and
 - 8) Informing the CAE and CRE of any planned or upcoming capital asset or service acquisition investment.
- 4.7.** The **CFO** is responsible for ensuring the integration of acquisition management, budget (including the budget aspects of CPIC), and performance management. The CFO is a member of the BMC. The CFO is also required to promptly notify the CAE when a potential future acquisition is first identified to allow ample time for determination of the proper acquisition oversight approach and associated planning prior to contracting to acquire the said asset/service.
- 4.8.** The **CIO** is responsible for management and execution of all IT acquisition programs governed under this Directive. The CFO is required to promptly notify the CAE when a potential future acquisition is first identified to allow ample time for determination of the proper acquisition oversight approach and associated planning prior to contracting to acquire the said asset/service. The CIO responsibilities also include, but are not limited to:
- 1) Monitoring and evaluating the performance of IT acquisition programs;
 - 2) Evaluating the performance of those programs; and
 - 3) Advising whether to continue, modify, or terminate a program or project.
- 4.9.** The **HCA** ensures contracting procurement decisions are based on sound acquisition strategies that will deliver needed goods and services on schedule and at appropriate costs. The HCA is required to promptly notify the CAE when a potential future acquisition is first identified to allow ample time for determination of the proper acquisition oversight approach and associated planning prior to contracting to acquire the said asset/service.
- 4.10.** The **CMB** is responsible for:
- 1) Supporting mission area portfolio management responsibilities;

- 2) Maintaining a list of approved CMBs; and
- 3) Escalating issues to the respective ESC if a change impacts costs and/or schedule.

4.11. The **Business Owner** is responsible and accountable for:

- 1) Informing the CAE and CRE of any planned or upcoming capital asset or service acquisition investment; and
- 2) Adhering to acquisition policies and procedures to ensure the sound management, review, support, approval, and oversight of all types of assigned acquisition efforts to delivery these capabilities.

4.12. The **Acquisition PM** is responsible for:

- 1) Oversight of the acquisition program they are assigned to;
- 2) The effective, efficient delivery of the operational capability within the cost, schedule and performance approved by the ADA, including but not limited to, the essential planning, critical thinking, and documentation required for a program to be successful;
- 3) Prompt notification to the ESC at its next meeting and the CAE via a formal memo of a program breaching or when the Acquisition PM determines the program will incur a breach; and
- 4) Within 30 days of a breach notification, submission of a remediation plan to the CAE, explaining the circumstances of the breach and the proposed corrective action.

5. Procedures/Requirements. See the most current version of the ICE Acquisition Governance Guidebook, for procedures and requirements implementing this policy.

6. Recordkeeping. All relevant documents produced or provided in accordance with this Directive must be maintained in accordance with a National Archives and Records Administration (NARA) approved retention schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.

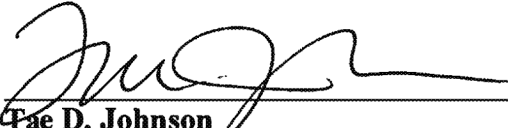
7. Authorities/References.

7.1. 41 U.S.C. § 131.

7.2. Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. No. 103-355, 108 Stat. 3243 (1994).

- 7.3. Federal Information Technology Acquisition Reform Act (FITARA), Title VIII, Subtitle D, National Defense Authorization Act for Fiscal Year 2015, 10 U.S.C. § 11319, Pub. L. No. 113-291, 128 Stat. 3438 (2014).
- 7.4. Clinger Cohen Act of 1996, Pub. L. No. 104-106, Div. D-E, 110 Stat. 186 (1996), as amended.
- 7.5. Office of Mgmt. and Budget, OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget (Aug. 2022).
- 7.6. DHS Directive No. 064-04, Acquisition Professional Career Information (Oct. 30, 2008).
- 7.7. DHS Acquisition Workforce Policy No. 064-04-001, Acquisition Certification Requirements for Program and Project Management (Rev. 1.0, Apr. 16, 2014).
- 7.8. DHS Directive No. 101-01, Planning, Programming, Budgeting, and Execution (Jul. 14, 2016).
- 7.9. DHS Directive No. 102-01, Acquisition Management (Rev. 3.1, Feb. 25, 2019).
- 7.10. DHS Instruction No. 102-01-001, Acquisition Management Instruction (Rev. 1.3, Jan. 21, 2021).
- 7.11. DHS Directive No. 107-01, Joint Requirements Integration and Management System (Mar. 8, 2016).
- 7.12. DHS Directive No. 142-02, Information Technology Integration and Management (Apr. 12, 2018).
- 7.13. Department of Homeland Security Acquisition Manual (Oct. 2009).
- 7.14. DHS Memorandum from the Chip Fulghum, Deputy USM/CFO, to Daniel H. Ragsdale, Deputy Director, ICE, *U.S. Immigration and Customs Enforcement Component Acquisition Executive Designation* (Oct. 28, 2016).
- 7.15. ICE Directive 2014.1, Acquisition Program Affordability (Apr. 9, 2019).
- 7.16. ICE Directive 2016.1, Operational Requirements Development and Governance (Aug. 24, 2020).
- 7.17. ICE System Lifecycle Management Handbook (Jun. 2007).
- 7.18. ICE Memorandum from C. Christopher Moran, Assistant Director/CAE, Office of Investment and Program Accountability, to HROs, *Immigration and Customs Acquisition Oversight List* (Jan. 13, 2022).

8. **Attachments.** ICE Acquisition Governance Guidebook.
9. **No Private Right.** This document provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does 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. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



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