



*State of New Jersey*

OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE

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**TO:** All Law Enforcement Chief Executives

**FROM:** Gurbir S. Grewal, Attorney General

**DATE:** April 30, 2019

**SUBJECT: Procedures for Law Enforcement Agencies to Request Approval to Enter Into, Modify, Renew or Extend an Agreement to Exercise Federal Immigration Authority Pursuant to Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. §1357(g)**

Attorney General Law Enforcement Directive No. 2018-6, commonly referred to as the “Immigrant Trust Directive,” requires any New Jersey law enforcement agency seeking to enter into, modify, renew, or extend an agreement to exercise civil federal immigration authority pursuant to Section 287(g) of the Immigration and Nationality Act to obtain the written approval of the Attorney General.<sup>1</sup> This Memorandum describes the process an agency must follow in order to seek the required approval under Section III.A.1 (page 6) of the Immigrant Trust Directive.

1. Requests for approval must be submitted to the Director of the Division of Criminal Justice (the Director) before the date the agency seeks approval to enter into, modify, renew, or extend a Section 287(g) Agreement.
  - a. For any request seeking approval prior to July 1, 2019, the request must be submitted at least 45 days before the proposed approval date; and
  - b. For any request seeking approval on or after July 1, 2019, the request must be submitted at least 90 days before the proposed approval date.

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<sup>1</sup> The Immigrant Trust Directive also permits an agency to enter into, modify, renew, or extend a 287(g) Agreement when the agreement is necessary to address threats to the public safety or welfare of New Jersey residents arising out of a declaration of a state or national emergency. *See* Section III.A.2 (page 6).



2. The agency's request shall include, at a minimum:
  - a. A draft of the proposed Memorandum of Agreement with Immigration and Customs Enforcement (ICE);
  - b. A statement of justification from the chief executive of the agency, which shall include:
    - i. An analysis of the costs and benefits to the agency and to the public of participation in the proposed 287(g) Agreement;
    - ii. An analysis of the impact that participation in the proposed 287(g) Agreement would have on law enforcement's relationship with immigrant communities, including the ability to secure the cooperation of victims and witnesses in law enforcement investigations and their appearance at judicial proceedings;
    - iii. An examination of whether any neighboring jurisdictions do not participate in 287(g) Agreements and, if they do not, a description of how those jurisdictions protect the safety of their communities without similar Agreements;
    - iv. A summary of the public's views on the proposed 287(g) Agreement, based on at least one public forum hosted by the agency, held at a location within the agency's jurisdiction; and
    - v. At least two years of annual reports prepared by the agency regarding assistance to federal civil immigration authorities, pursuant to Section VI.B.1 of the Immigrant Trust Directive, or if the agency has not yet prepared such reports, then the same or similar data maintained by the agency.
3. Upon receipt, the Director, or his or her designee, shall review the agency's request and the impact approval may have on the public safety goals outlined in the Immigrant Trust Directive. As part of that review, the Director shall consult with the county prosecutor of the county in which the agency is located. The Director shall issue a recommendation to the Attorney General as to whether the agency's request should be approved.

4. The Director shall deliver the agency's request, along with the Director's recommendation, to the Attorney General, who will make the final decision as to whether the agency's request should be approved.
5. The requesting agency's law enforcement chief executive shall be provided written notice of the Attorney General's final decision.

Any questions concerning the interpretation or implementation of this Memorandum should be addressed to the Director, or his or her designee. A copy of this Memorandum, along with any agency requests to enter into, modify, renew, or extend a Section 287(g) Agreement, shall be posted on a public website maintained by the Department of Law & Public Safety.



Gurbir S. Grewal  
Attorney General

ATTEST:



Veronica Allende  
Director, Division of Criminal Justice  
Dated: April 30, 2019