



governmentattic.org

"Rummaging in the government's attic"

Description of document: Four (4) Immigration and Customs Enforcement (ICE)
Immigration User Fee Account Cost Studies, 2013-2016

Requested date: 13-February-2016

Released date: 09-June-2017

Posted date: 29-January-2018

Source of document: U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
Fax: (202) 732-0660
Email: ICE-FOIA@dhs.gov
[Online FOIA request form](#)

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



**U.S. Immigration
and Customs
Enforcement**

June 9, 2017

RE: ICE FOIA Case Number 2016-ICFO-20952

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated February 13, 2016. You have requested copies of the following records:

a copy of the four most recent annual ICE User Fee Study(ies)

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

A search of the ICE Office of Enforcement and Removal Operations (ERO) for records responsive to your request produced 110 pages that are responsive to your request. After review of those documents, I have determined that 0 pages will be released in their entirety. Portions of 110 pages will be withheld pursuant to Exemptions of the FOIA as described below.

ICE has applied FOIA Exemptions to protect from disclosure

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of DHS employees contained within the documents.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them

revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

ICE has applied FOIA Exemption 7(E) to protect from disclosure internal agency names contained within the document.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you are not satisfied with the response to this request, you have the right to appeal following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.¹

If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2016-ICFO-20952**. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park,

¹ 6 CFR § 5.11(d)(4).

U.S. Department of Homeland Security
500 12th St SW, Stop 5009
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

R. Keenan

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 110 page(s)



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

1

Fiscal Year 2012 Immigration User Fee Account Cost Study

Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)

April 19, 2013

FINAL



Table of Contents

Executive summary	3
1 Introduction and background	4
2 The Immigration Enforcement Lifecycle.....	4
3 ICE programs performing IUFA activities	7
3.1 Homeland Security Investigations – Office of Investigations (OI)	8
3.2 Homeland Security Investigations – Office of Intelligence (Intel)	8
3.3 Homeland Security Investigations – Office of International Affairs (OIA)	8
3.4 Enforcement and Removal Operations (ERO)	8
3.5 Office of Principal Legal Advisor (OPLA)	8
4 IUFA cost study methodology	8
5 IUFA cost study results.....	9
5.1 Investigate phase	9
5.2 Identify phase	11
5.3 Arrest phase.....	12
5.4 Detain phase.....	13
5.5 Non-Detain Phase.....	15
5.6 Process phase	16
5.7 Remove phase	17
5.8 Depreciation	18
6 IUFA cost by air and sea ports of entry	19
7 Conclusion	21
8 Appendix.....	23
8.1 Updates to methodology made in FY 2012	23
8.1.1 Aliens inadmissible under Section 1182(a) of the US Code	23
8.1.2 OI investigative hours	23
8.1.3 Legal proceedings	24
8.1.4 Detailed methodology changes	25
8.1.5 Comparison of cost study results using baseline and revised methodologies	27
8.2 User fee and cost study background.....	28



Executive summary

For fiscal year (FY) 2012, ICE identified a total of **\$161,712,968** in user fee-related costs to be reimbursed from the Immigration User Fee Account (IUFA). The following table shows the cost incurred by each phase of the Immigration Enforcement Lifecycle.

Table 1: ICE total cost, ICE total workload, IUFA workload, and IUFA cost by Immigration Enforcement Lifecycle phase

1.0 Investigate Office of International Affairs	\$181,223,252	513,021 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate Office of Intelligence	\$97,424,656	1,210 intelligence products	157 intelligence products	12.98%	\$12,641,050
1.0 Investigate Office of Investigations	\$1,270,313,141	12,409,315 investigative hours	436,813 investigative hours	3.52%	\$44,715,534
2.0 Identify	\$958,755,670	823,859 identifications	2,648 identifications	0.32%	\$3,081,577
3.0 Arrest	\$56,663,130	567,462 arrests	10,947 arrests	1.93%	\$1,141,021
4.0 Detain	\$2,270,414,472	13,710,791 detention days	391,011 detention days	2.85%	\$64,748,783
5.0 Non-Detain	\$113,986,355	93,548 non- detain book- outs	2,918 non- detain book- outs	3.12%	\$3,555,524
6.0 Process	\$470,034,190	1,068,828 events	48,350 events	4.52%	\$21,262,535
7.0 Remove	\$492,884,346	384,788 removals	5,561 removals	1.45%	\$7,123,221
Subtotal	\$5,911,699,216				\$158,269,246
Depreciation	\$128,630,466			2.68%	\$3,443,722
Total					\$161,712,968

¹ OIA does not have IUFA workload in the Investigate phase. However, OIA does have costs in other phases and does receive a reimbursement from IUFA.



1 Introduction and background

This report presents a summary of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Budget and Program Performance (OBPP) FY 2012 Immigration User Fee Account (IUFA) cost study.

The Immigration and Nationality Act (INA) imposes user fees for travelers arriving in the United States by a commercial vessel or commercial aircraft, one of which is the Immigration User Fee. Currently the Immigration User Fee is set at \$7 for passengers arriving via an air or sea port of entry (POE) when the trip originated abroad, and \$3 for passengers arriving at a sea port of entry when the trip originated in the United States, Mexico, or Canada. These fees are collected by the commercial entity providing the transportation and deposited into the Immigration User Fee Account (IUFA) to cover the costs of ICE and CBP activities. The INA requires recurring reviews to determine whether the user fees are in fact covering the full costs of IUFA-related activities. These reviews focus on two central tasks: (1) identifying all of the user fee activities that ICE performs related to aliens attempting or avoiding entry at an air and sea POE and (2) accurately quantifying the costs of user fee-related activities. ICE conducts these reviews at the end of each fiscal year, as well as smaller quarterly reviews.

Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) provide law enforcement support to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry, or avoiding air and sea ports of entry. At air and sea ports of entry, CBP inspectors conduct immigration inspections. If an alien passes inspection with bona fide documents, the alien is admitted into the United States. If an alien fails an inspection, CBP inspectors identify the alien and determine the alien's immigration status. CBP inspectors will then take one of three actions:

- 1) remove the alien through the expedited removal process;
- 2) remove the alien through the voluntary return process;
- 3) turn the alien over to ICE custody.

Each year, several thousand passengers are identified at air and sea ports of entry by CBP, turned over to ICE, and processed through the Immigration Enforcement Lifecycle. ICE is also permitted to request reimbursement for aliens who are determined to have avoided inspection at air or sea ports of entry and charged under Section 1182(a) of the US Code. In addition, if aliens enter the United States using false documents, they are investigated by ICE and, if caught, are processed through the Immigration Enforcement Lifecycle. Currently the user fee collections are split between ICE and CBP—ICE receives 17.37 percent and CBP receives 82.63 percent. More detail on the user fee, reimbursable workload, and the cost study is in Section 1.1 in the Appendix.

2 The Immigration Enforcement Lifecycle

ICE follows the principles of Managerial Cost Accounting and uses the ICE Managerial Cost Accounting (MCA) Model to determine full costs of IUFA-related activities in each phase of the Immigration Enforcement Lifecycle.² The ICE MCA comprehensively aligns all of ICE's expenses, including all obligation and expenditure transactions for all fund codes applicable to the fiscal year, to ICE's operational phases and processes. ICE identifies seven phases which define all activities and mission operations. The "Identify" through "Remove" phases are collectively referred to as the Immigration Enforcement Lifecycle, encompassing ICE's administrative immigration enforcement

² Refer to the MCA Concept of Operations (CONOPS) for further details on the ICE MCA model.



activities. The Investigate phase stands alone and encompasses ICE's criminal enforcement activities, though aliens are often identified and arrested as a result of a criminal investigation.

These phases are described below in Table 2.

Table 2: Immigration Enforcement Lifecycle phases and descriptions

1.0 Investigate	Investigating individuals suspected of violating immigration laws
2.0 Identify	Verifying the location and identity of inadmissible aliens
3.0 Arrest	Placing inadmissible aliens under arrest
4.0 Detain	Detaining inadmissible aliens while they await legal proceedings (if applicable) or removal
5.0 Non-Detain	Case management used to release inadmissible aliens while they await legal proceedings or removal
6.0 Process	ICE's legal representation of the United States during inadmissible aliens' legal proceedings
7.0 Remove	Removing inadmissible aliens from the United States

Following the principles of Managerial Cost Accounting, ICE identifies costs as direct, indirect, or general and administrative (G&A), and allocates them to activities and phases in the Immigration Enforcement Lifecycle. In FY 2012, ICE's total costs were \$5,911,699,216.

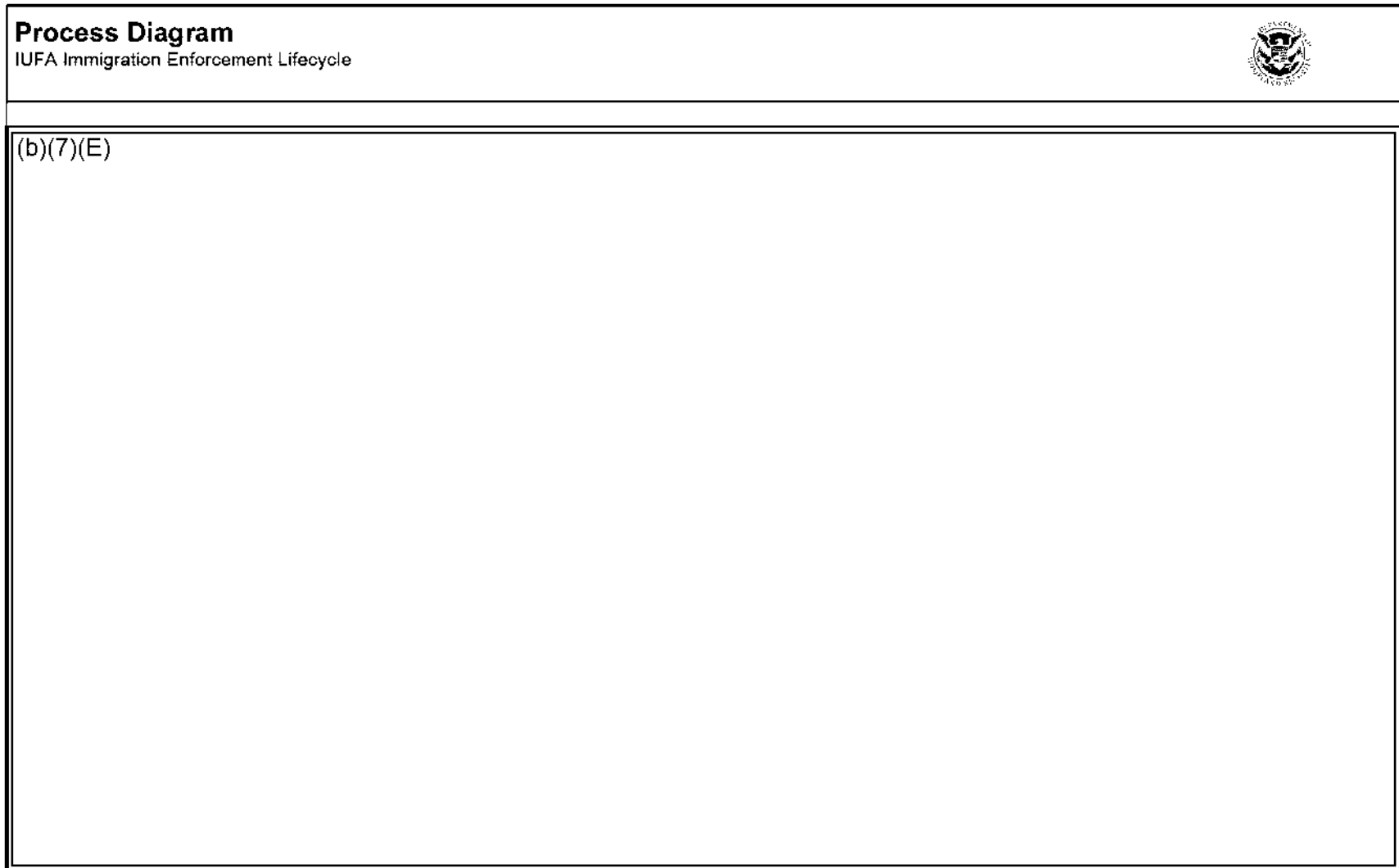
The costs of user fee-related activities represent a percentage of ICE's overall agency operational costs. First, ICE determines its total costs and workload, and then identifies the specific workload in each phase generated by IUFA aliens. IUFA aliens fall into two categories:

- Those who paid the Immigration User Fee and were inspected at air and sea ports of entry (referred to in this document as "ISP aliens")
- Those who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (referred to as "1182(a) aliens")

The cost study takes the IUFA-related workload in each phase as a percentage of total workload and applies those percentages to the total costs of each phase.



Figure 1: IUFA Immigration Enforcement Lifecycle process diagram





3 ICE programs performing IUFA activities

ICE claims reimbursement for workload related to two types of aliens: aliens identified at commercial air and sea ports of entry (POE) (“ISP aliens”) and aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code and are not from the Americas (“1182(a) aliens”).

There are five ICE directorates and programs that perform IUFA-related activities throughout the Investigate phase and the Immigration Enforcement Lifecycle: Homeland Security Investigations (HSI) Office of Investigations (OI), HSI Office of Intelligence (Intel), HSI Office of International Affairs (OIA), Enforcement and Removal Operations (ERO), and the Office of the Principal Legal Advisor (OPLA).

Table 3: Directorates and programs performing IUFA-related activities

HSI OI HSI Intel	1.0 Investigate	<ul style="list-style-type: none"> Investigating aliens identified at air and sea POE (ISP aliens) Creating intelligence reports disseminated to CBP, other ICE offices, and the National Targeting Center to support pre-inspection and inspection activities at air and sea POE
HSI OIA HSI Intel HSI OI ERO OPLA	2.0 Identify	<ul style="list-style-type: none"> Identifying aliens who are determined to have avoided inspection at an air or sea POE, are inadmissible under Section 1182(a) of the US Code, and are not from the Americas (1182(a) aliens)
HSI OI HSI OIA ERO	3.0 Arrest	<ul style="list-style-type: none"> Apprehending IUFA aliens Taking IUFA aliens into custody who were identified or arrested at air and sea POE
HSI OIA ERO OPLA	4.0 Detain	<ul style="list-style-type: none"> Detaining IUFA aliens, including bed space, food, health care
ERO	5.0 Non-Detain	<ul style="list-style-type: none"> Releasing IUFA aliens on bond or managing the Alternatives to Detention (ATD) program
HSI OIA ERO OPLA	6.0 Process	<ul style="list-style-type: none"> Representing and supporting the government’s immigration court case with respect to IUFA aliens
HSI OIA ERO OPLA	7.0 Remove	<ul style="list-style-type: none"> Removing IUFA aliens from the United States



Below is a detailed description of the IUFA activities each directorate or program supports.

3.1 Homeland Security Investigations – Office of Investigations (OI)

The Office of Investigations (OI) conducts investigations that protect the U.S. by deterring, interdicting, and investigating threats arising from the movement of people and goods into and out of the United States. OI may investigate and arrest suspected criminal aliens.

3.2 Homeland Security Investigations – Office of Intelligence (Intel)

The Office of Intelligence (Intel) works with OI, ERO, and CBP to collect and analyze intelligence, produce leads, and disseminate intelligence back to these organizations in the form of intelligence products. Intel is primarily involved in assisting OI, ERO, and CBP with collecting and analyzing information and intelligence regarding specific targets identified before and during the inspections process at air and sea POE.

3.3 Homeland Security Investigations – Office of International Affairs (OIA)

OIA is involved throughout the immigration enforcement lifecycle, assisting in investigations of suspected criminals overseas, making arrests, assisting with repatriation, and negotiating and obtaining travel documents from the inadmissible or removable aliens' country of citizenship.

3.4 Enforcement and Removal Operations (ERO)

Key elements of ERO's enforcement mission are to apprehend removable aliens, to detain these individuals when necessary, and to remove illegal aliens from the United States. If CBP turns an alien over to ICE custody, ICE picks up the alien from CBP, apprehends the alien, and then makes a detention determination. ICE can either book the alien into a detention facility or release the alien on a detention alternative program (i.e., ATD, bond).

ICE is responsible for providing aliens with detention services and care such as medical services, bed space, and case management. The responsibility begins when a detainee is brought into ICE custody and continues until an alien is released or removed from the United States. To remove an alien from the United States, ICE coordinates all travel documents, logistics, and transportation necessary to send the alien back to his or her country of citizenship.

3.5 Office of Principal Legal Advisor (OPLA)

OPLA is responsible for litigating all immigration violation cases that are put before an immigration judge. OPLA attorneys prepare cases, attend hearings, advise ERO and HSI, respond to appeals, and file motions. Attorney case preparation typically involves reviewing the Notice to Appear (NTA), acquiring any relevant criminal records, analyzing evidence, and preparing briefs and testimony for court hearings.

4 IUFA cost study methodology

ICE applies a consistent methodology for each phase of the IUFA Immigration Enforcement Lifecycle in order to determine what portion of the total phase cost is reimbursable from the IUFA. This section will describe the steps in the methodology.

Step 1: Calculate the total cost of the phase

(b)(7)(E)



Step 2: Calculate the total workload of the phase

(b)(7)(E)

Step 3: Calculate the IUFA workload of the phase

(b)(7)(E)

Step 4: Apply IUFA percentage of the total workload to the total cost of the phase

(b)(7)(E)

5 IUFA cost study results

This section will explain the IUFA cost study results for each phase in the Immigration Enforcement Lifecycle.

5.1 Investigate phase

Step 1: Calculate the total cost of the Investigate phase

The total cost of the Investigate phase is the (b)(7)(E)

(b)(7)(E)

Table 4: Total cost in Investigate phase

OIA	\$181,223,252
Intel	\$97,424,656
OI	\$1,270,313,141
Total	\$1,548,961,050

OI also makes criminal arrests and administrative apprehensions of aliens, and therefore has costs in the Arrest phase. However, because OI's entire workload is captured in the (b)(7)(E) hours posted—including hours spent making arrests—OI's MCA costs from (b)(7)(E)

(b)(7)(E) This allows ICE to accurately calculate the percentage of their total workload and total costs related to IUFA.

Step 2: Calculate the total workload of the Investigate phase

OI executes investigations within case categories that are tracked in the (b)(7)(E) module. OI's operational outputs are the investigations themselves and their workload is the number of hours spent investigating cases during the fiscal year.

Intel's operational outputs are intelligence products and their workload is the number of intelligence products produced during the fiscal year.



OIA also executes investigations within case categories that are tracked in (b)(7)(E). Their operational outputs are the investigations themselves and their workload is the number of hours spent supporting investigations.

Table 5: Total workload in Investigate phase

OIA	513,021 hours
Intel	1,210 products
OI	12,409,315 hours

Step 3: Calculate the IUFA workload of the Investigate phase

ICE identifies IUFA workload as the number of hours that OI spends investigating cases with a nexus to air and sea POE and the number of Intel intelligence products that contain information regarding specific targets identified before and during the inspections process at air and sea POE.

Prior to turning over an alien encountered at an air or sea POE to ICE, CBP completes a Search, Arrest, and Seizure (SAS) incident report within the (b)(7)(E). In the report, the CBP officer must (b)(7)(E) field with (b)(7)(E). ICE picks up the alien and initiates a case within (b)(7)(E). Personnel post hours worked to case categories in (b)(7) and (b)(7)(E) the SAS incident report to the appropriate case. OI runs a report to determine the number of hours spent in the fiscal year on each investigative case category where the conveyance type is (b)(7)(E).

Intel analysts produce intelligence reports and post hours worked in (b)(7). However, these hours are not linked to individual arrest records. In their reports, the analyst must (b)(7)(E) box with a check if the report is IUFA-related or leave it blank if the report is not IUFA-related. (b)(7)(E) from (b)(7).

OIA can also search for IUFA workload the same way that OI does. However, in previous years OIA's IUFA-related workload has been very small; for the purposes of this cost study it is assumed to be zero.

Table 6: IUFA workload in Investigate phase

OIA	0 hours (assumed)
Intel	157 products
OI	436,813 hours

Step 4: Apply IUFA percentage of the total workload to the total cost of the Investigate phase

(b)(7)(E)

(b)(7)(E)



Table 7: IUFA cost in Investigate phase

OIA	\$181,223,252	513,021 hours	0 hours (assumed)	0.00%	S-
Intel	\$97,424,656	1,210 products	157 products	12.98%	\$12,641,050
OI	\$1,270,313,141	12,409,315 hours	372,722 hours	3.52%	\$44,715,534
Total	\$1,548,961,050				\$57,356,584

5.2 Identify phase

Step 1: Calculate the total cost of the Identify phase

(b)(7)(E)

Table 8: Total cost in Identify phase

ERO	\$279,700,577
OIA	\$4,284,440
Intel	\$2,991,088
OI	\$656,279,642
OPLA	\$15,499,921
Total	\$958,755,670

Step 2: Calculate the total workload of the Identify phase

The total workload in the Identify phase is (b)(7)(E)

Table 9: Total workload in Identify phase

Identifications	823,859
-----------------	---------

Step 3: Calculate the IUFA workload of the Identify phase

ICE identifies I182(a) workload as the number of identifications of aliens charged under section I182(a) of the US Code who are not from the Americas. ICE does not claim reimbursement for ISP aliens because CBP makes the identification at air and sea POEs.

Table 10: IUFA workload in Identify phase

Identifications	2,648
-----------------	-------



Step 4: Apply IUFA percentage of the total workload to the total cost of the Identify phase

(b)(7)(E)

Table 11: IUFA cost in Identify phase

ERO	\$279,700,577				\$898,997
OIA	\$4,284,440				\$13,770
Intel	\$2,991,088				\$9,613
OI	\$656,279,642				\$2,109,376
OPLA	\$15,499,921				\$49,818
Total	\$958,755,670	823,859	2,648	0.32%	\$3,081,577
		identifications	identifications		

5.3 Arrest phase

Step 1: Calculate the total cost of the Arrest phase

(b)(7)(E)

Table 12: Total cost in Arrest phase

ERO	\$54,978,784
IA	\$1,684,345
Total	\$56,663,130

Recall that, in the MCA, OI also has Arrest phase costs, but these have been moved to the Investigate phase to more accurately calculate the percentage of their total costs related to IUFA.

Step 2: Calculate the total workload of the Arrest phase

The total workload for the Arrest phase is a combination of:

- Arrests made by non-ICE DHS programs (i.e., CBP and USCIS) and turned over to ICE
- ICE arrests in that fiscal year

ICE counts DHS arrests made by non-ICE programs and turned over to ICE by counting the number of detention book-ins these arrests generate. Even though another agency made the arrest, ICE incurs costs in the Arrest phase for transferring custody of the alien from the other program to an ICE processing or detention facility.



Table 13: Total workload in Arrest phase

Non-ICE arrests turned over to ICE in FY 2012	232,020
ICE arrests in FY 2012	310,615
Total	542,635

Step 3: Calculate the IUFA workload of the Arrest phase

ICE identifies ISP workload as the number of arrests made with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) workload as the number of arrests of aliens charged under section 1182(a) of the US Code who are not from the Americas.

The count of both ISP aliens and 1182(a) aliens includes non-ICE arrests turned over to ICE in FY 2012, prior ICE arrests booked in in FY 2012, and ICE arrests in FY 2012.

Table 14: IUFA workload in Arrest phase

Arrests	10,927
---------	--------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Arrest phase

(b)(7)(E)

Table 15: IUFA cost in Arrest phase

ERO	\$54,978,784				\$1,107,103
OIA	\$1,684,345				\$33,917
Total	\$56,663,130	542,635 arrests	10,927 arrests	2.01%	\$1,141,021

5.4 Detain phase

Step 1: Calculate the total cost of the Detain phase

(b)(7)(E)



Table 16: Total cost in Detain phase

ERO	\$2,247,982,307
OIA	\$695,371
OPLA	\$21,736,793
Total	\$2,270,414,472

Step 2: Calculate the total workload of the Detain phase

The total workload for the Detain phase is the number of days aliens spend in detention during that fiscal year. Aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 17: Total workload in Detain phase

Detention days	13,710,791
----------------	------------

Step 3: Calculate the IUFA workload of the Detain phase

ICE identifies ISP Detain phase workload as the number of days spent in detention for aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all aliens arrested at land ports of entry. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Detain phase workload as the number of days spent in detention for aliens charged under section 1182(a) of the US Code who are not from the Americas.

As above, aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 18: IUFA workload in Detain phase

Detention days	391,011
----------------	---------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Detain phase

(b)(7)(E)

Table 19: IUFA cost in Detain phase

ERO	\$2,247,982,307				\$64,109,051
OIA	\$695,371				\$19,830
OPLA	\$21,736,793				\$619,900
Total	\$2,270,414,472	13,710,791	391,011	2.85%	\$64,748,783



5.5 Non-Detain Phase

Step 1: Calculate the total cost of the Non-Detain phase

(b)(7)(E)

Table 20: Total cost in Non-Detain phase

ERO	\$113,986,355
-----	---------------

Step 2: Calculate the total workload of the Non-Detain phase

The total workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on an Order of Supervision (OSUP), or being released on their own recognizance (OREC).

Table 21: Total workload in Non-Detain phase

Number of aliens released to non-detain programs	95,548
--	--------

(b)(7)(E)

Step 3: Calculate the IUFA workload of the Non-Detain phase

As above, the IUFA workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on their own supervision (OSUP), or being released on their own recognizance (OREC).

ICE identifies ISP Non-Detain phase workload as the number of non-detain book-outs in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections – Land"). This excludes all aliens arrested at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Non-Detain phase workload as the number of non-detain book-outs for aliens charged under Section 1182(a) of the US Code who are not from the Americas.



Table 22: IUFA workload in Non-Detain phase

Number of aliens released to non-detain programs	2,918
--	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Non-Detain phase

(b)(7)(E)

Table 23: IUFA cost in Non-Detain phase

ERO	\$113,986,355	95,548	2,918	3.12%	\$3,555,524
-----	---------------	--------	-------	-------	-------------

5.6 Process phase

Step 1: Calculate the total cost of the Process phase

(b)(7)(E)

Table 24: Total cost in Process phase

ERO	\$288,556,343
OIA	\$936,423
OPLA	\$180,541,423
Total	\$470,034,190

Step 2: Calculate the total workload of the Process phase

The total workload for the Process phase is the number of events attended by aliens in FY 2012. Examples of events include a master hearing, merits hearing, bond hearing, or a motion to reopen—each alien with a proceeding could have many events. The average number of events per alien with a proceeding is 2.24.

Table 25: Total workload in Process phase

Number of events	1,068,828
------------------	-----------

Step 3: Calculate the IUFA workload of the Process phase

ICE identifies ISP Process phase workload as the number of events in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

ICE identifies 1182(a) Process phase workload as the number of events in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 26: IUFA workload in Process phase

Number of IUFA events	48,350
-----------------------	--------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Process phase

(b)(7)(E)

Table 27: IUFA cost in Process phase

ERO	\$288,556,343					\$13,053,176
IA	\$936,423					\$42,360
OPLA	\$180,541,423					\$8,166,998
Total	\$470,034,190	1,068,828 events	48,350 events	4.52%		\$21,262,535

5.7 Remove phase

The Remove phase consists of the activities related to conducting post-order custody review, coordinating travel documents, coordinating travel logistics, transporting the alien to his or her country of citizenship, and completing case management.

Step 1: Calculate the total cost of the Remove phase

(b)(7)(E)

Table 28: Total cost in Remove phase

ERO	\$475,253,482
IA	\$1,960,821
OPLA	\$15,670,042
Total	\$492,884,346

Step 2: Calculate the total workload of the Remove phase

The total workload for the Remove phase is the number of removals in FY 2012, including voluntary returns under safeguards. This number excludes types of removals, such as voluntary departures, that do not incur any costs for ICE.



Table 29: Total workload in Remove phase

Number of removals	384,788
--------------------	---------

Step 3: Calculate the IUFA workload of the Remove phase

ICE identifies ISP Remove phase workload as the number of removals in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections - Land"). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Remove phase workload as the number of removals in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 30: IUFA Remove phase workload

Number of removals	5,561
--------------------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Remove phase

(b)(7)(E)

Table 31: IUFA cost in Remove phase

ERO	\$475,253.482				\$6,868.417
IA	\$1,960.821				\$28.338
OPLA	\$15,670.042				\$226.465
Total	\$492,884,346	384,788	5,561	1.45%	\$7,123,221
		removals	removals		

5.8 Depreciation

In addition to operating expenditures associated with IUFA operations, ICE must also support the cost of capital assets critical to maintaining operations. To calculate depreciation, ICE determined what percent of the total IUFA cost represents ICE's total cost, then applied this percentage to the total Depreciation, Amortization, and Depletion cost for the fiscal year as reported by ICE in the FY 2012 DHS Consolidated Financial Statements.

Table 32: FY 2012 IUFA depreciation

\$5,911,699,216	\$158,269,246	2.68%	\$128,630,466	\$3,443,721
-----------------	---------------	-------	---------------	-------------



6 IUFA cost by air and sea ports of entry

In the 2012 “Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue”, the Government Accountability Office (GAO) report studied the federal user fees charged to air passengers and found that ICE had not reviewed its share of its air-related IUFA costs. ICE pledged to update its methodology to separate air and sea Immigration User Fee collections and costs. While ICE has produced user fee cost studies for the entire fee, including air and sea collections, this report is the first that includes air alone.

The FY12 cost study results show that costs at air ports of entry represented \$89,632,114, or 55.4 percent of total ICE IUFA costs. Costs from aliens who arrived at sea ports of entry comprised \$10,486,319, or 6.5 percent of total IUFA costs. Costs from I182(a) aliens, who avoided air and sea ports of entry, make up the rest of the user fee costs at \$61,594,534.

Because the (b)(7)(F) system used by HSI records the method of conveyance in its seizure and arrest data, the accompanying HSI case hours include specific air and sea hours, which are given below in Table 32 below.

However, intelligence products do not record whether the alien was apprehended at an air or sea port of entry. To attribute an air or sea port of entry to intelligence products, ICE takes the percentage of IUFA workload related to an air port of entry from all other phases and multiplies it by the number of intelligence products.

ICE’s identification and apprehension data marks the point of identification and apprehension as either ISA for air or ISS for sea. To obtain the specific air workload for the Arrest through Remove phases, workload related to aliens with the identifying or apprehending program ISA are counted as air workload, while workload related to aliens with the identifying or apprehending program ISS are counted as sea workload.

The total workload for each phase for air and sea are given below in Table 33.

Table 33: Air and sea ISP workload (excluding I182(a) aliens)

Investigate - OI	330,997 investigative hours	41,725 investigative hours	372,722 investigative hours
Arrest	7,719 arrests	602 arrests	8,321 arrests
Detain	158,849 detention days	18,564 detention days	177,413 detention days
Non-Detain	457 non-detain book-outs	94 non-detain book-outs	551 non-detain book outs
Process	24,530 events	2,204 events	26,734 events
Remove	3,206 removals	319 removals	3,525 removals
Total workload	525,776	63,510	589,286
% of total air and sea workload	89%	11%	100%
Applied to Investigate - Intel	140 intelligence products	17 intelligence products	157 intelligence products



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

The table below shows the air workload and costs for each phase:

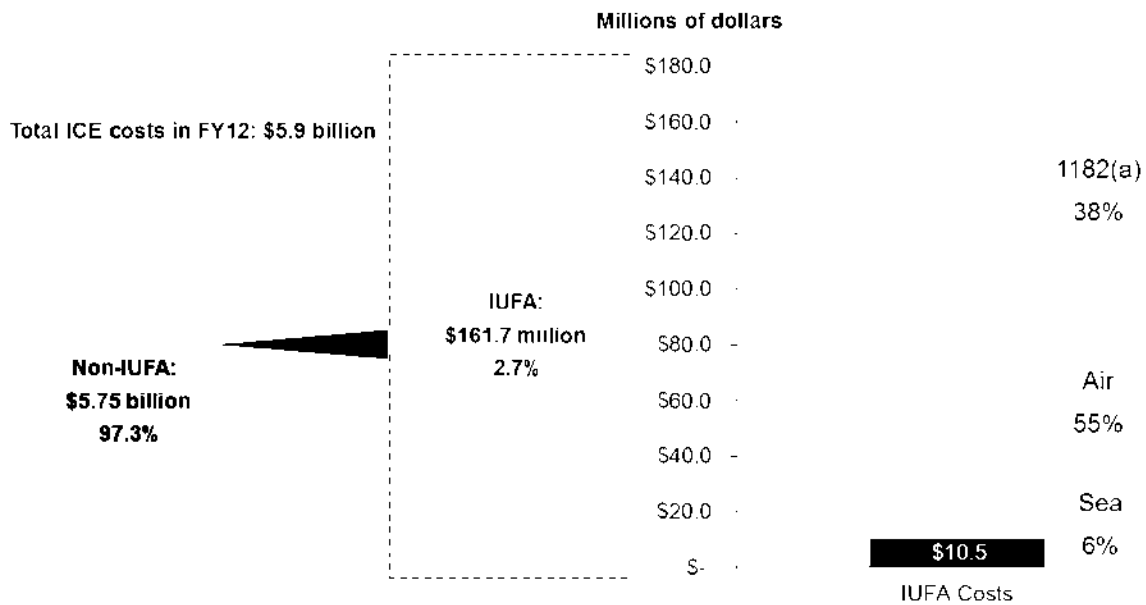
Table 34: IUFA air workload and costs by phase

1.0 Investigate – Office of International Affairs	\$181,223,252	513,021 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate – Office of Intelligence	\$97,424,656	1,210 intelligence products	140 intelligence products	11.59%	\$11,278,667
1.0 Investigate – Office of Investigations	\$1,270,313,141	12,409,315 investigative hours	330,997 investigative hours	2.67%	\$33,883,404
2.0 Identify	\$958,755,670	823,859 identifications	0 identifications	0.00%	\$-
3.0 Arrest	\$56,663,130	567,462 arrests	7,719 arrests	1.42%	\$806,034
4.0 Detain	\$2,270,414,472	13,710,791 detention days	158,849 detention days	1.16%	\$26,304,322
5.0 Non-Detain	\$113,986,355	93,548 non- detain book- outs	457 non-detain book-outs	0.49%	\$556,845
6.0 Process	\$470,034,190	1,068,828 events	24,530 events	4.24%	\$10,787,459
7.0 Remove	\$492,884,346	384,788 removals	3,206 removals	0.83%	\$4,106,643
Subtotal	\$5,911,699,216				\$87,723,374
Depreciation	\$128,630,466			1.48%	\$1,908,740
Total					\$89,632,114



(b)(7)(E)

Figure 2: ICE total and IUFA costs for FY 2012 by air and sea ports of entry



7 Conclusion

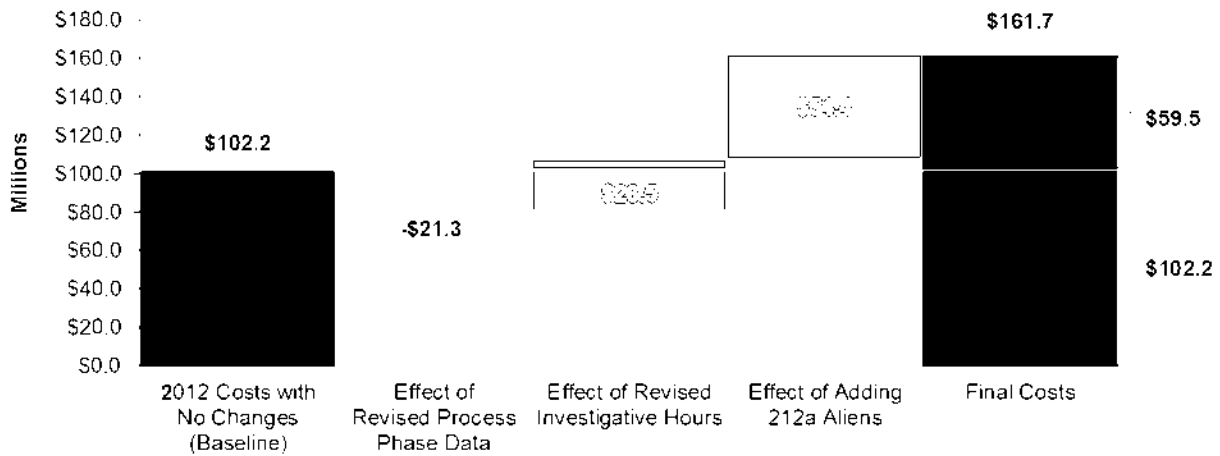
Three key factors had the biggest impact on ICE's total IUFA costs in FY12:

- ICE included aliens inadmissible under section 1182(a)
- ICE changed the way it counts OI's IUFA-related case hours for OI
- ICE improved its methodology for counting IUFA aliens' legal proceedings

These changes to the methodology are explained in greater detail in the Appendix, Section 8.I. Without any change in methodology—if ICE had used FY 2011 workload amounts for investigative hours and legal matters, and not counted 1182(a) aliens—IUFA costs would have been approximately \$102.2 million. Combined, the methodology changes added \$59.5 million to the total reimbursable costs.

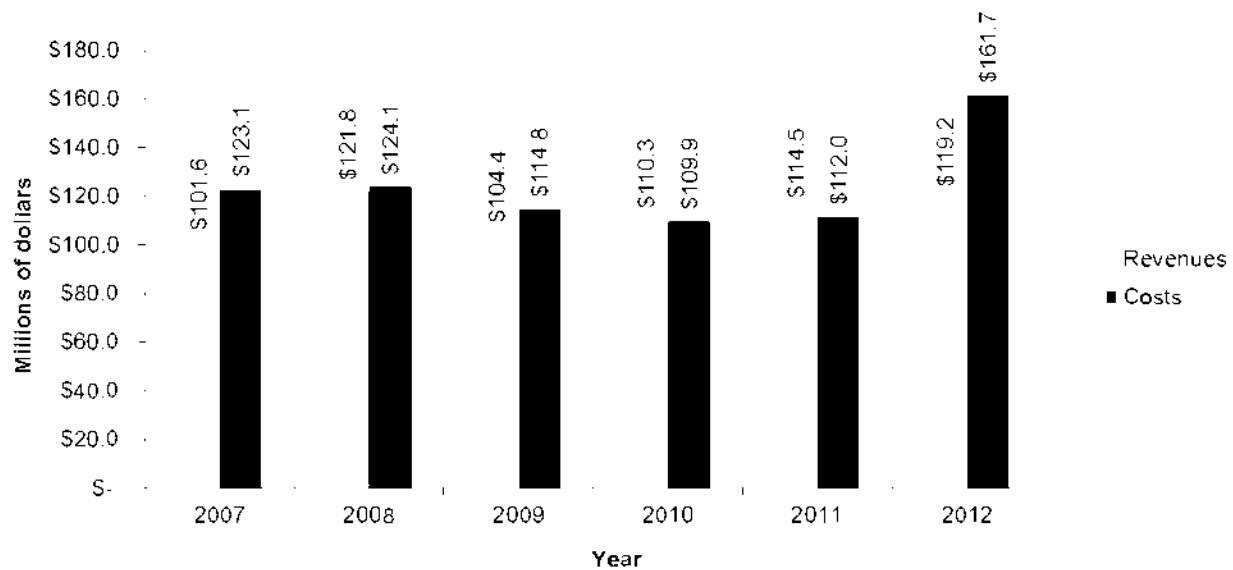


Figure 3: Impact of FY 2012 methodology changes on IUFA costs



The chart below shows the changes in identified costs year over year:

Figure 4: IUFA costs and revenues by fiscal year





8 Appendix

8.1 Updates to methodology made in FY 2012

The FY 2012 cost study made a number of improvements to the methods of capturing ICE operational data and IUFA-related operational data. When calculating the percent of ICE workload that is IUFA-related, the denominator is typically total ICE operational workload and the numerator is the same workload, restricted to only IUFA cases, which include both ISP and 1182(a) cases.

(b)(7)(E)

1182(a) cases are determined by finding aliens charged under section 1182(a) of the US Code who are not from the Americas. These aliens are assumed to have arrived in the US by avoiding inspection at commercial air and sea POE.

The sections below outline the major changes and the impact on IUFA costs for the fiscal year. Section 9.1.4 gives more detailed methodology changes by phase.

8.1.1 Aliens inadmissible under Section 1182(a) of the US Code

For the first time in this cost study, ICE included aliens who were not identified at air and sea ports of entry, but who were “inadmissible under section 1182(a) [of the Immigration and Nationality Act] who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry” as eligible for IUFA reimbursement. ICE counted these aliens by finding aliens with a charge code of 1182(a)(6)(A)(i) who were from countries outside of the Americas. Their workload was included in the Identify through Remove phases. All other aspects of the study being equal, the inclusion of these aliens raised IUFA costs by approximately \$54.3 million.

In support of this interpretation of the INA, ICE’s Office of the Principal Legal Advisor (OPLA) states:

(b)(5)

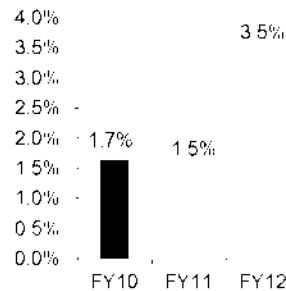
8.1.2 OI investigative hours

ICE also improved its calculation of OI’s IUFA investigative hours. In previous years, OI had only reported IUFA-related hours for arrests and seizures made in that fiscal year. For example, if an arrest was made on September 30, 2010 (in FY 2010), and investigative hours were posted to the case in October of 2010 (during FY 2011), neither the



arrest nor the case hours would be included in the data OI reported in support of the IUFA cost study for that year. For this cost study, OI searched for all arrests and seizures no matter when they were made, and for case hours charged in FY 2012. Because some investigations can span multiple fiscal years, this method allows ICE to count the full investigative workload related to IUFA during that fiscal year. All other aspects of the study being equal, the inclusion of these hours raised IUFA costs by approximately \$26.5 million.

Figure 5: IUFA Investigate phase workload as percent of total OI investigative hours



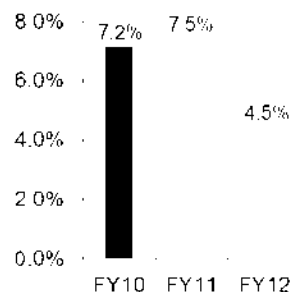
8.1.3 Legal proceedings

The third major improvement in the cost study methodology lowered IUFA costs in the Process phase. In previous years, ICE used data on Process phase workload from the Department of Justice's Executive Office for Immigration

(b)(7)(E)

For this cost study, ICE used data from the General Counsel Electronic Management System (GEMS), OPLA's system of record. Instead of counting proceedings or matters, ICE counted individual legal events. In the example above, if an alien has one master hearing, one merits hearing, one bond hearing, and one appeal, that counts as four separate events. This method of counting allows for a much more granular view of ICE's total processing workload and IUFA-related processing workload. Revising the counting method led to a \$21.3 million decrease in identified IUFA costs.

Figure 6: IUFA Process phase workload as percent of total events





8.1.4 Detailed methodology changes

Table 35: Changes in IUFA cost study methodology between FY 2011 to FY 2012

Investigate - OI

(b)(7)(E)

(b)(7)(E)

Investigate - Intel

(b)(7)(E)

(b)(7)(E)

Identify

(b)(7)(E)

(b)(7)(E)

Arrest

(b)(7)(E)

(b)(7)(E)



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

Detain

(b)(7)(E)

(b)(7)(E)

Non-Detain

(b)(7)(E)

(b)(7)(E)

Process

(b)(7)(E)

(b)(7)(E)

Remove

(b)(7)(E)

(b)(7)(E)



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

8.1.5 Comparison of cost study results using baseline and revised methodologies

Table 36: Comparison of IUFA calculations using baseline and revised methodologies

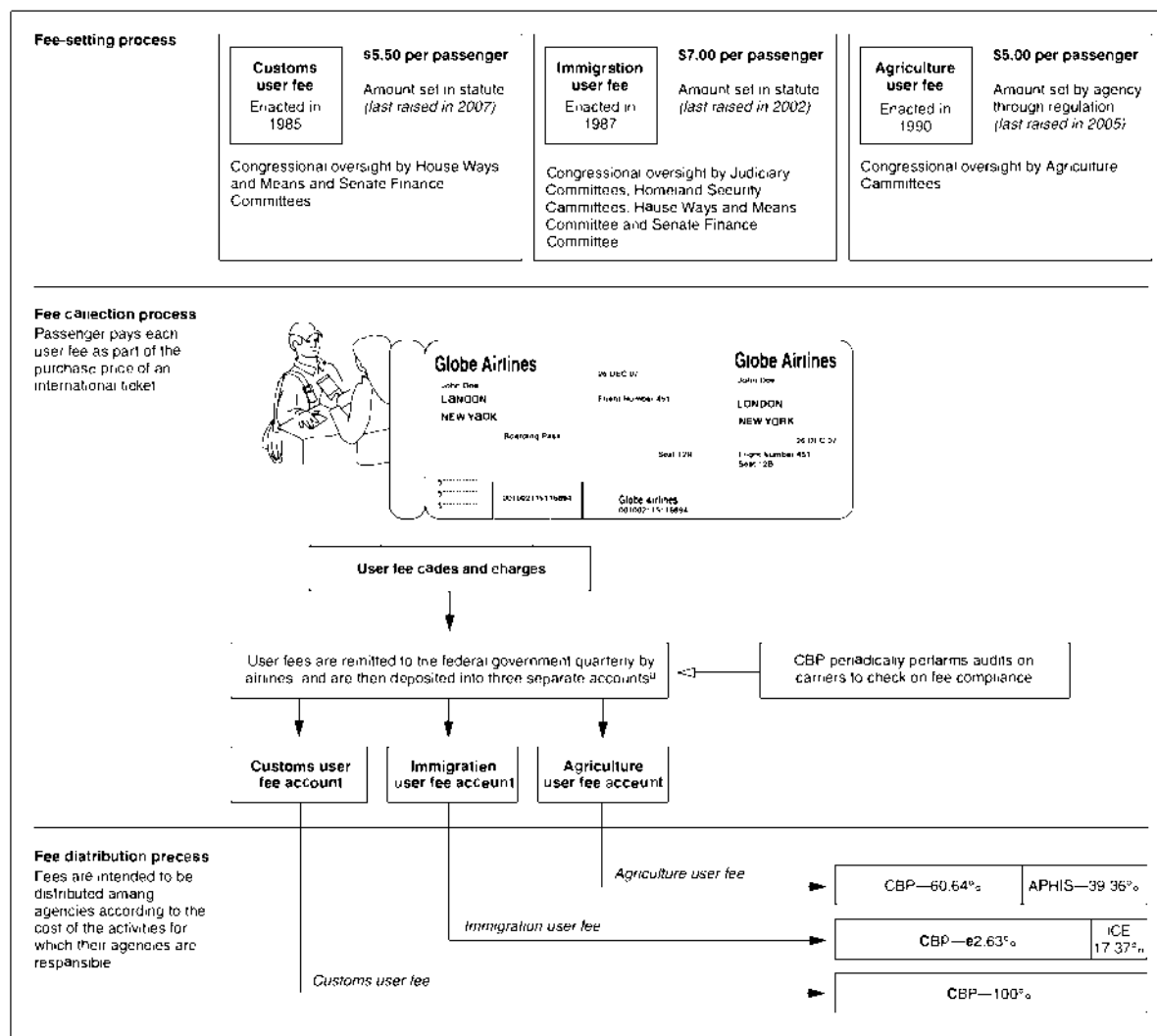
				IUFA workload	% IUFA	IUFA cost	IUFA workload	% IUFA	IUFA cost
1.0 Investigate - OIA	\$181,223,252	Investigative hours	513,021	0	0.00%	\$-	0	0.00%	\$-
1.0 Investigate - Intel	\$97,424,656	Intelligence products	1,210	157	12.98%	\$12,612,934	157	12.98%	\$12,641,050
1.0 Investigate - OI	\$1,270,313,142	Investigative hours	12,409,315	187,100	1.53%	\$19,399,861	436,813	3.52%	\$44,715,534
2.0 Identify	\$958,755,670	Identifications	823,859	0	0.00%	\$-	2,648	0.32%	\$3,081,577
3.0 Arrest	\$56,663,130	Arrests	567,462	8,341	1.47%	\$833,011	10,947	1.93%	\$1,093,097
4.0 Detain	\$2,270,414,473	Detention days	13,710,791	177,412	1.29%	\$29,382,899	391,011	2.85%	\$64,748,783
5.0 Non-Detain	\$113,986,356	Number of aliens released on ATD/Bond	93,548	551	0.59%	\$671,489	2,918	3.12%	\$3,555,524
6.0 Process	\$470,034,191	Events	1,068,828	74,100	6.93%	\$32,591,669	48,350	4.52%	\$21,262,535
7.0 Remove	\$492,884,346	Removals	384,788	3,525	0.92%	\$4,515,956	5,561	1.45%	\$7,123,221
Subtotal						\$100,007,821			\$158,221,323
Depreciation						\$2,176,033			\$3,442,679
Total IUFA cost						\$102,183,855			\$161,664,002



8.2 User fee and cost study background

Individuals arriving in the United States every year are subject to an inspection to ensure they are entering the country lawfully, and not transporting any illegal goods, harmful pets, or prohibited agricultural products. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272) authorizes the collections of User Fees for various services. According to GAO-07-1131 Federal User Fees Report, three user fees are issued and collected by the airlines and deposited into separate accounts. The amount of the user fees is set by legislation, and Congressional authority and oversight is provided by the Judiciary, House Ways and Means, and Senate Finance Committees.

Figure 7: User fees for commercial passengers arriving in the United States through air or sea



Source: GAO-07-1131 Federal User Fee

The three user fees are:

- **Customs Air Passenger Inspection Fee:** Designed to prevent passengers from bringing illegal goods into the United States. These fees are collected and deposited into the Customs User Fee Account.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- **Agriculture Air Passenger User Fee:** Designed to seize prohibited materials and intercept foreign agricultural pests. These fees are collected and deposited into the Agriculture User Fee Account.
- **Immigration User Fee:** Designed to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry (POE). These fees are collected and deposited in the Immigration User Fee Account (IUFA) to cover the costs of Immigration Customs Enforcement (ICE) and Customs and Border Protection (CBP) activities at or related to air and sea POE inspections. The Immigration User Fee Account is administered by CBP and collections are split between CBP and ICE. According to a Memorandum of Understanding (MOU), the current split is 82.63% to CBP and 17.37% to ICE.

The Federal Immigration Laws and Regulations handbook under the Immigration and Nationality Act (INA) describes the ICE activities determined to be reimbursable out of the Immigration User Fee Account under Section 286 Subsection h (2)(A). The statute reads:

“The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and pre-inspection services for commercial aircraft or vessels and in—

- (i) providing overtime immigration inspection services for commercial aircraft or vessels;
- (ii) administration of debt recovery, including the establishment and operation of a national collections office;
- (iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;
- (iv) detection of fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;
- (v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and
- (vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.”

The INA further states that the money collected Immigration User Fee Account: “shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).”

ICE’s interpretation of the IUFA allows ICE to reimburse the cost of investigations, identifications, arrests, detention, processing, and removal of inadmissible aliens who arrived on commercial aircraft and vessels, and for aliens who are inadmissible under Section 1182(a) of the US Code who attempted illegal entry through avoidance of commercial air and sea ports-of-entry. ICE specifically requests reimbursement for:

- Resources that support investigations of aliens identified at an air or sea POE and Homeland Security Intelligence Reports supporting CBP inspection and pre-inspection activities.
- Resources that support identification of aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- Resources that support the arrest or transfer to an ICE detention facility of aliens identified at an air or sea POE or who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (e.g., IUFA aliens)
- Detention costs for IUFA aliens, including bed space, medical expenses, and transportation to legal proceedings and between facilities
- Legal proceeding costs incurred to represent the Government's case in immigration court with respect to IUFA aliens
- Removal costs for IUFA aliens, including costs of tickets, escorts, and removal administration

In addition to the requirement in the INA that IUFA-related expenses are estimated and the refund is adjusted on the basis of those estimates, OMB Circular A-25 requires that federal agencies collecting user fees determine that the user fee charges are sufficient to recover the full cost to the federal government of providing the service. According to the circular, full cost is determined or estimated from the best available records of the agency, and includes:

- Direct and indirect personnel costs
- Physical overhead, consulting, and other indirect costs
- Management and supervisory costs
- Enforcement, collection, research, and establishment of standards, and regulation costs

As a result of these requirements, ICE conducts an annual cost study to determine the full cost of resources expended due to investigating, identifying, apprehending, detaining, processing, and removing IUFA aliens. ICE also completes a quarterly update based on workload for that quarter and prior year costs.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

1

Fiscal Year 2013 Immigration User Fee Account Cost Study

Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)

March 13, 2014

FINAL



Table of Contents

Executive summary	3
1 Introduction and background	4
2 The Immigration Enforcement Lifecycle.....	4
3 ICE programs performing IUFA activities	7
3.1 Homeland Security Investigations – Office of Investigations (OI)	8
3.2 Homeland Security Investigations – Office of Intelligence (Intel)	8
3.3 Homeland Security Investigations – Office of International Affairs (OIA)	8
3.4 Enforcement and Removal Operations (ERO)	8
3.5 Office of Principal Legal Advisor (OPLA)	8
4 IUFA cost study methodology	8
5 IUFA cost study results.....	9
5.1 Investigate phase	9
5.2 Identify phase	11
5.3 Arrest phase.....	12
5.4 Detain phase.....	13
5.5 Non-Detain Phase.....	15
5.6 Process phase	16
5.7 Remove phase	17
5.8 Depreciation	18
6 IUFA cost by air and sea ports of entry	19
7 Conclusion	21
8 Appendix.....	22
8.1 Continued methodology in FY 2013	22
8.1.1 Aliens inadmissible under Section 1182(a) of the US Code	22
8.1.2 OI investigative hours.....	22
8.1.3 Legal proceedings	23
8.2 User fee and cost study background.....	24



Executive summary

For fiscal year (FY) 2013, ICE identified a total of **\$155,328,574** in user fee-related costs to be reimbursed from the Immigration User Fee Account (IUFA). The following table shows the cost incurred by each phase of the Immigration Enforcement Lifecycle.

Table 1: ICE total cost, ICE total workload, IUFA workload, and IUFA cost by Immigration Enforcement Lifecycle phase

1.0 Investigate Office of International Affairs	\$158,305,144	546,917 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate Office of Intelligence	\$77,444,340	2,382 intelligence products	207 intelligence products	8.69%	\$6,729,834
1.0 Investigate Office of Investigations	\$1,795,105,005	12,432,051 investigative hours	323,362 investigative hours	2.60%	\$46,691,310
2.0 Identify	\$270,181,522	763,114 identifications	1,962 identifications	0.26%	\$694,649
3.0 Arrest	\$40,591,970	246,825 arrests	6,785 arrests	2.75%	\$1,115,837
4.0 Detain	\$2,244,255,616	13,848,105 detention days	414,000 detention days	2.99%	\$67,093,788
5.0 Non-Detain	\$140,676,942	215,336 non- detain book- outs	3,441 non- detain book- outs	1.60%	\$2,247,972
6.0 Process	\$522,248,384	984,985 events	37,193 events	3.78%	\$19,720,034
7.0 Remove	\$482,094,821	364,563 removals	5,474 removals	1.50%	\$7,238,768
Subtotal	\$5,730,903,745				\$151,532,192
Depreciation	\$143,578,081			2.64%	\$3,796,382
Total					\$155,328,574

¹ OIA does not have IUFA workload in the Investigate phase. However, OIA does have costs in other phases and does receive a reimbursement from IUFA.



1 Introduction and background

This report presents a summary of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Budget and Program Performance (OBPP) FY 2013 Immigration User Fee Account (IUFA) cost study.

The Immigration and Nationality Act (INA) imposes user fees for travelers arriving in the United States by a commercial vessel or commercial aircraft, one of which is the Immigration User Fee. Currently the Immigration User Fee is set at \$7 for passengers arriving via an air or sea port of entry (POE) when the trip originated abroad, and \$3 for passengers arriving at a sea port of entry when the trip originated in the United States, Mexico, or Canada. These fees are collected by the commercial entity providing the transportation and deposited into the Immigration User Fee Account (IUFA) to cover the costs of ICE and CBP activities. The INA requires recurring reviews to determine whether the user fees are in fact covering the full costs of IUFA-related activities. These reviews focus on two central tasks: (1) identifying all of the user fee activities that ICE performs related to aliens attempting or avoiding entry at an air and sea POE and (2) accurately quantifying the costs of user fee-related activities. ICE conducts these reviews at the end of each fiscal year, as well as smaller quarterly reviews.

Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) provide law enforcement support to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry, or avoiding air and sea ports of entry. At air and sea ports of entry, CBP inspectors conduct immigration inspections. If an alien passes inspection with bona fide documents, the alien is admitted into the United States. If an alien fails an inspection, CBP inspectors identify the alien and determine the alien's immigration status. CBP inspectors will then take one of three actions:

- 1) remove the alien through the expedited removal process;
- 2) remove the alien through the voluntary return process;
- 3) turn the alien over to ICE custody.

Each year, several thousand passengers are identified at air and sea ports of entry by CBP, turned over to ICE, and processed through the Immigration Enforcement Lifecycle. ICE is also permitted to request reimbursement for aliens who are determined to have avoided inspection at air or sea ports of entry and charged under Section 1182(a) of the US Code. In addition, if aliens enter the United States using false documents, they are investigated by ICE and, if caught, are processed through the Immigration Enforcement Lifecycle. Currently the user fee collections are split between ICE and CBP—ICE receives 17.37 percent and CBP receives 82.63 percent. More detail on the user fee, reimbursable workload, and the cost study is in Section 1.1 in the Appendix.

2 The Immigration Enforcement Lifecycle

ICE follows the principles of Managerial Cost Accounting and uses the ICE Managerial Cost Accounting (MCA) Model to determine full costs of IUFA-related activities in each phase of the Immigration Enforcement Lifecycle.² The ICE MCA comprehensively aligns all of ICE's expenses, including all obligation and expenditure transactions for all fund codes applicable to the fiscal year, to ICE's operational phases and processes. ICE identifies seven phases which define all activities and mission operations. The "Identify" through "Remove" phases are collectively referred to as the Immigration Enforcement Lifecycle, encompassing ICE's administrative immigration enforcement

² Refer to the MCA Concept of Operations (CONOPS) for further details on the ICE MCA model.



activities. The Investigate phase stands alone and encompasses ICE's criminal enforcement activities, though aliens are often identified and arrested as a result of a criminal investigation.

These phases are described below in Table 2.

Table 2: Immigration Enforcement Lifecycle phases and descriptions

1.0 Investigate	Investigating individuals suspected of violating immigration laws
2.0 Identify	Verifying the location and identity of inadmissible aliens
3.0 Arrest	Placing inadmissible aliens under arrest
4.0 Detain	Detaining inadmissible aliens while they await legal proceedings (if applicable) or removal
5.0 Non-Detain	Case management used to release inadmissible aliens while they await legal proceedings or removal
6.0 Process	ICE's legal representation of the United States during inadmissible aliens' legal proceedings
7.0 Remove	Removing inadmissible aliens from the United States

Following the principles of Managerial Cost Accounting, ICE identifies costs as direct, indirect, or general and administrative (G&A), and allocates them to activities and phases in the Immigration Enforcement Lifecycle. In FY 2013, ICE's total costs were \$5,730,903,745.

The costs of user fee-related activities represent a percentage of ICE's overall agency operational costs. First, ICE determines its total costs and workload, and then identifies the specific workload in each phase generated by IUFA aliens. IUFA aliens fall into two categories:

- Those who paid the Immigration User Fee and were inspected at air and sea ports of entry (referred to in this document as "ISP aliens")
- Those who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (referred to as "1182(a) aliens")

The cost study takes the IUFA-related workload in each phase as a percentage of total workload and applies those percentages to the total costs of each phase.



Figure 1: IUFA Immigration Enforcement Lifecycle process diagram





3 ICE programs performing IUFA activities

ICE claims reimbursement for workload related to two types of aliens: aliens identified at commercial air and sea ports of entry (POE) ("ISP aliens") and aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code and are not from the Americas ("1182(a) aliens").

There are five ICE directorates and programs that perform IUFA-related activities throughout the Investigate phase and the Immigration Enforcement Lifecycle: Homeland Security Investigations (HSI) Office of Investigations (OI), HSI Office of Intelligence (Intel), HSI Office of International Affairs (OIA), Enforcement and Removal Operations (ERO), and the Office of the Principal Legal Advisor (OPLA).

Table 3: Directorates and programs performing IUFA-related activities

HSI OI HSI Intel	1.0 Investigate	<ul style="list-style-type: none">Investigating aliens identified at air and sea POE (ISP aliens)Creating intelligence reports disseminated to CBP, other ICE offices, and the National Targeting Center to support pre-inspection and inspection activities at air and sea POE
HSI OIA HSI Intel HSI OI ERO OPLA	2.0 Identify	<ul style="list-style-type: none">Identifying aliens who are determined to have avoided inspection at an air or sea POE, are inadmissible under Section 1182(a) of the US Code, and are not from the Americas (1182(a) aliens)
HSI OI HSI OIA ERO	3.0 Arrest	<ul style="list-style-type: none">Apprehending IUFA aliensTaking IUFA aliens into custody who were identified or arrested at air and sea POE
HSI OIA ERO OPLA	4.0 Detain	<ul style="list-style-type: none">Detaining IUFA aliens, including bed space, food, health care
ERO	5.0 Non-Detain	<ul style="list-style-type: none">Releasing IUFA aliens on bond or managing the Alternatives to Detention (ATD) program
HSI OIA ERO OPLA	6.0 Process	<ul style="list-style-type: none">Representing and supporting the government's immigration court case with respect to IUFA aliens
HSI OIA ERO OPLA	7.0 Remove	<ul style="list-style-type: none">Removing IUFA aliens from the United States



Below is a detailed description of the IUFA activities each directorate or program supports.

3.1 Homeland Security Investigations – Office of Investigations (OI)

The Office of Investigations (OI) conducts investigations that protect the U.S. by deterring, interdicting, and investigating threats arising from the movement of people and goods into and out of the United States. OI may investigate and arrest suspected criminal aliens.

3.2 Homeland Security Investigations – Office of Intelligence (Intel)

The Office of Intelligence (Intel) works with OI, ERO, and CBP to collect and analyze intelligence, produce leads, and disseminate intelligence back to these organizations in the form of intelligence products. Intel is primarily involved in assisting OI, ERO, and CBP with collecting and analyzing information and intelligence regarding specific targets identified before and during the inspections process at air and sea POE.

3.3 Homeland Security Investigations – Office of International Affairs (OIA)

OIA is involved throughout the immigration enforcement lifecycle, assisting in investigations of suspected criminals overseas, making arrests, assisting with repatriation, and negotiating and obtaining travel documents from the inadmissible or removable aliens' country of citizenship.

3.4 Enforcement and Removal Operations (ERO)

Key elements of ERO's enforcement mission are to apprehend removable aliens, to detain these individuals when necessary, and to remove illegal aliens from the United States. If CBP turns an alien over to ICE custody, ICE picks up the alien from CBP, apprehends the alien, and then makes a detention determination. ICE can either book the alien into a detention facility or release the alien on a detention alternative program (i.e., ATD, bond).

ICE is responsible for providing aliens with detention services and care such as medical services, bed space, and case management. The responsibility begins when a detainee is brought into ICE custody and continues until an alien is released or removed from the United States. To remove an alien from the United States, ICE coordinates all travel documents, logistics, and transportation necessary to send the alien back to his or her country of citizenship.

3.5 Office of Principal Legal Advisor (OPLA)

OPLA is responsible for litigating all immigration violation cases that are put before an immigration judge. OPLA attorneys prepare cases, attend hearings, advise ERO and HSI, respond to appeals, and file motions. Attorney case preparation typically involves reviewing the Notice to Appear (NTA), acquiring any relevant criminal records, analyzing evidence, and preparing briefs and testimony for court hearings.

4 IUFA cost study methodology

ICE applies a consistent methodology for each phase of the IUFA Immigration Enforcement Lifecycle in order to determine what portion of the total phase cost is reimbursable from the IUFA. This section will describe the steps in the methodology.

Step 1: Calculate the total cost of the phase

(b)(7)(E)



Step 2: Calculate the total workload of the phase

(b)(7)(E)

Step 3: Calculate the IUFA workload of the phase

(b)(7)(E)

Step 4: Apply IUFA percentage of the total workload to the total cost of the phase

(b)(7)(E)

5 IUFA cost study results

This section will explain the IUFA cost study results for each phase in the Immigration Enforcement Lifecycle.

5.1 Investigate phase

Step 1: Calculate the total cost of the Investigate phase

The total cost of the Investigate phase is the sum of all direct, indirect and G&A costs of Investigate activities conducted by OIA, Intel, and OI.

Table 4: Total cost in Investigate phase

OIA	\$158,305,144
Intel	\$77,444,340
OI	\$1,795,105,005
Total	\$2,030,854,489

OI also makes criminal arrests and administrative apprehensions of aliens, and therefore has costs in the Arrest phase. However, because OI's entire workload is captured in the (b)(7)(E) hours posted—including hours spent making arrests—OI's MCA costs from the Arrest phase have been moved to the Investigate phase and combined with their Investigate costs. This allows ICE to accurately calculate the percentage of their total workload and total costs related to IUFA.

Step 2: Calculate the total workload of the Investigate phase

OI executes investigations within case categories that are tracked in the (b)(7)(E) module. OI's operational outputs are the investigations themselves and their workload is the number of hours spent investigating cases during the fiscal year.

Intel's operational outputs are intelligence products and their workload is the number of intelligence products produced during the fiscal year.



OIA also executes investigations within case categories that are tracked in (b)(7)(E). Their operational outputs are the investigations themselves and their workload is the number of hours spent supporting investigations.

Table 5: Total workload in Investigate phase

OIA	546,917 hours
Intel	2,382 products
OI	12,432,051 hours

Step 3: Calculate the IUFA workload of the Investigate phase

ICE identifies IUFA workload as the number of hours that OI spends investigating cases with a nexus to air and sea POE and the number of Intel intelligence products that contain information regarding specific targets identified before and during the inspections process at air and sea POE.

Prior to turning over an alien encountered at an air or sea POE to ICE, CBP completes a Search, Arrest, and Seizure (SAS) incident report within the (b)(7)(E). In the report, the CBP officer must mark the "Conveyance Type" field with a "C" for commercial air or a "V" for commercial vessel. ICE picks up the alien and initiates a case within (b)(7)(E). Personnel post hours worked to case categories in TECS and (b)(7) links the SAS incident report to the appropriate case. OI runs a report to determine the number of hours spent in the fiscal year on each investigative case category where the conveyance type is marked "C" or "V".

Intel analysts produce intelligence reports and post hours worked in (b)(7). However, these hours are not linked to individual arrest records. In their reports, the analyst must mark an "IUFA" box with a check if the report is IUFA-related or leave it blank if the report is not IUFA-related. Intel then extracts intelligence reports marked as IUFA from (b)(7)(I).

OIA can also search for IUFA workload the same way that OI does. However, in previous years OIA's IUFA-related workload has been very small; for the purposes of this cost study it is assumed to be zero.

Table 6: IUFA workload in Investigate phase

OIA	0 hours (assumed)
Intel	207 products
OI	323,362 hours

Step 4: Apply IUFA percentage of the total workload to the total cost of the Investigate phase

(b)(7)(E)

³ The "Percent of Total Workload" column below is rounded to two decimal places, but the IUFA cost was calculated using the original un-rounded percentage.



Table 7: IUFA cost in Investigate phase

OIA	\$158,305,144	546,917 hours	0 hours (assumed)	0.00%	\$-
Intel	\$77,444,340	2,382 products	207 products	8.69%	\$6,729,834
OI	\$1,795,105,005	12,432,051 hours	323,362 hours	2.60%	\$46,691,310
Total	\$2,030,854,489				\$53,421,144

5.2 Identify phase

Step 1: Calculate the total cost of the Identify phase

(b)(7)(E)

Table 8: Total cost in Identify phase

ERO	\$249,186,876
OIA	\$2,283,442
Intel	\$2,288,633
OPLA	\$16,422,571
Total	\$270,181,522

Step 2: Calculate the total workload of the Identify phase

The total workload in the Identify phase is the number of identifications made in FY12.

Table 9: Total workload in Identify phase

Identifications	763,114
-----------------	---------

Step 3: Calculate the IUFA workload of the Identify phase

ICE identifies I182(a) workload as the number of identifications of aliens charged under section I182(a) of the US Code who are not from the Americas. ICE does not claim reimbursement for ISP aliens because CBP makes the identification at air and sea POEs.

Table 10: IUFA workload in Identify phase

Identifications	1,962
-----------------	-------



Step 4: Apply IUFA percentage of the total workload to the total cost of the Identify phase

(b)(7)(E)

Table 11: IUFA cost in Identify phase

ERO	\$249,186,876				\$640,671
OIA	\$2,283,442				\$5,871
Intel	\$2,288,633				\$5,884
OPIA	\$16,422,571				\$42,223
Total	\$270,181,522	763,114 identifications	1,962 identifications	0.26%	\$694,649

5.3 Arrest phase

Step 1: Calculate the total cost of the Arrest phase

(b)(7)(E)

Table 12: Total cost in Arrest phase

ERO	\$39,735,897
IA	\$856,074
Total	\$40,591,970

Recall that, in the MCA, OI also has Arrest phase costs, but these have been moved to the Investigate phase to more accurately calculate the percentage of their total costs related to IUFA.

Step 2: Calculate the total workload of the Arrest phase

The total workload for the Arrest phase is a combination of:

- Arrests made by non-ICE DHS programs (i.e., CBP and USCIS) and turned over to ICE
- ICE arrests in that fiscal year

ICE counts DHS arrests made by non-ICE programs and turned over to ICE by counting the number of detention book-ins these arrests generate. Even though another agency made the arrest, ICE incurs costs in the Arrest phase for transferring custody of the alien from the other program to an ICE processing or detention facility.



Table 13: Total workload in Arrest phase

Non-ICE arrests turned over to ICE in FY 2013	257,998
ICE arrests in FY 2013	246,825
Total	504,823

Step 3: Calculate the IUFA workload of the Arrest phase

ICE identifies ISP workload as the number of arrests made with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) workload as the number of arrests of aliens charged under section 1182(a) of the US Code who are not from the Americas.

The count of both ISP aliens and 1182(a) aliens includes non-ICE arrests turned over to ICE in FY 2013, prior ICE arrests booked in in FY 2013, and ICE arrests in FY 2013.

Table 14: IUFA workload in Arrest phase

Arrests	6,785
---------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Arrest phase

(b)(7)(E)

Table 15: IUFA cost in Arrest phase

ERO	\$39,735,897				\$1,092,305
OIA	\$856,074				\$23,533
Total	\$40,591,970	504,823 arrests	6,785 arrests	2.75%	\$1,115,837

5.4 Detain phase

Step 1: Calculate the total cost of the Detain phase

(b)(7)(E)



Table 16: Total cost in Detain phase

ERO	\$2,220,326,866
OIA	\$926,410
OPLA	\$23,002,340
Total	\$2,244,255,616

Step 2: Calculate the total workload of the Detain phase

The total workload for the Detain phase is the number of days aliens spend in detention during that fiscal year. Aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 17: Total workload in Detain phase

Detention days	13,848,105
----------------	------------

Step 3: Calculate the IUFA workload of the Detain phase

ICE identifies ISP Detain phase workload as the number of days spent in detention for aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all aliens arrested at land ports of entry. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Detain phase workload as the number of days spent in detention for aliens charged under section 1182(a) of the US Code who are not from the Americas.

As above, aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 18: IUFA workload in Detain phase

Detention days	414,000
----------------	---------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Detain phase

(b)(7)(E)

Table 19: IUFA cost in Detain phase

ERO	\$2,220,326,866				\$66,378,419
OIA	\$926,410				\$27,696
OPLA	\$23,002,340				\$687,673
Total	\$2,244,255,616	13,848,105	414,000	2.99%	\$67,093,788



5.5 Non-Detain Phase

Step 1: Calculate the total cost of the Non-Detain phase

(b)(7)(E)

Table 20: Total cost in Non-Detain phase

ERO	\$140,676.942
-----	---------------

Step 2: Calculate the total workload of the Non-Detain phase

The total workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on an Order of Supervision (OSUP), or being released on their own recognizance (OREC).

Table 21: Total workload in Non-Detain phase

Number of aliens released to non-detain programs	215,336
--	---------

The method of calculating workload used for IUFA produces more detailed data than the workload used in the MCA. The MCA estimates the number of days aliens spent on bond and in ATD by multiplying the number of cash and surety bonds in that fiscal year by the number of days in the fiscal year (365 for FY 2013). The MCA method cannot be used for IUFA because there is no link between the number of aliens on bond and in ATD and that alien's identifying or arresting program (which would identify ISP aliens), or that alien's charge (which would identify 1182(a) aliens). The method used for IUFA provides the additional detail to link the number of non-detain book-outs back to the method of arrest or the charge.

Step 3: Calculate the IUFA workload of the Non-Detain phase

As above, the IUFA workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on their own supervision (OSUP), or being released on their own recognizance (OREC).

ICE identifies ISP Non-Detain phase workload as the number of non-detain book-outs in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections – Land"). This excludes all aliens arrested at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Non-Detain phase workload as the number of non-detain book-outs for aliens charged under Section 1182(a) of the US Code who are not from the Americas.



Table 22: IUFA workload in Non-Detain phase

Number of aliens released to non-detain programs	3,441
--	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Non-Detain phase

(b)(7)(E)

Table 23: IUFA cost in Non-Detain phase

ERO	\$140,676,942	215,336	3,441	1.60%	\$2,247,972
-----	---------------	---------	-------	-------	-------------

5.6 Process phase

Step 1: Calculate the total cost of the Process phase

(b)(7)(E)

Table 24: Total cost in Process phase

ERO	\$344,727,481
OIA	\$1,484,531
OPLA	\$176,036,372
Total	\$522,248,384

Step 2: Calculate the total workload of the Process phase

The total workload for the Process phase is the number of events attended by aliens in FY 2013. Examples of events include a master hearing, merits hearing, bond hearing, or a motion to reopen—each alien with a proceeding could have many events. The average number of events per alien with a proceeding is 2.19.

Table 25: Total workload in Process phase

Number of events	984,985
------------------	---------

Step 3: Calculate the IUFA workload of the Process phase

ICE identifies ISP Process phase workload as the number of events in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

ICE identifies 1182(a) Process phase workload as the number of events in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 26: IUFA workload in Process phase

Number of IUFA events	37,193
-----------------------	--------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Process phase

(b)(7)(E)

Table 27: IUFA cost in Process phase

ERO	\$344,727,481				\$13,016,867
IA	\$1,484,531				\$56,056
OPLA	\$176,036,372				\$6,647,112
Total	\$522,248,384	984,985 events	37,193 events	3.78%	\$19,720,034

5.7 Remove phase

The Remove phase consists of the activities related to conducting post-order custody review, coordinating travel documents, coordinating travel logistics, transporting the alien to his or her country of citizenship, and completing case management.

Step 1: Calculate the total cost of the Remove phase

(b)(7)(E)

Table 28: Total cost in Remove phase

ERO	\$480,297,384
IA	\$1,797,438
Total	\$482,094,821

Step 2: Calculate the total workload of the Remove phase

The total workload for the Remove phase is the number of removals in FY 2013, including voluntary returns under safeguards. This number excludes types of removals, such as voluntary departures, that do not incur any costs for ICE.



Table 29: Total workload in Remove phase

Number of removals	364,563
--------------------	---------

Step 3: Calculate the IUFA workload of the Remove phase

ICE identifies ISP Remove phase workload as the number of removals in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections - Land"). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Remove phase workload as the number of removals in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 30: IUFA Remove phase workload

Number of removals	5,474
--------------------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Remove phase

(b)(7)(E)

Table 31: IUFA cost in Remove phase

ERO	\$480,297,384				\$7,211,779
IA	\$1,797,438				\$26,989
Total	\$482,094,821	364,563 removals	5,474 removals	1.50%	\$7,238,768

5.8 Depreciation

In addition to operating expenditures associated with IUFA operations, ICE must also support the cost of capital assets critical to maintaining operations. To calculate depreciation, ICE determined what percent of the total IUFA cost represents ICE's total cost, then applied this percentage to the total Depreciation, Amortization, and Depletion cost for the fiscal year as reported by ICE in the FY 2013 DHS Consolidated Financial Statements.

Table 32: FY 2013 IUFA depreciation

\$5,730,903,745	\$151,532,192	2.64%	\$143,578,081	\$3,796,382
-----------------	---------------	-------	---------------	-------------



6 IUFA cost by air and sea ports of entry

In 2012, ICE updated its methodology to separate air and sea Immigration User Fee collections and costs per the Government Accountability Office (GAO) "Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue", and continues to do so for FY 2013.

The FY 2013 cost study results show that costs at air ports of entry represented \$87,244,805, or 56 percent of total ICE IUFA costs. Costs from aliens who arrived at sea ports of entry comprised \$8,446,841, or 5 percent of total IUFA costs. Costs from I182(a) aliens, who avoided air and sea ports of entry, represented 33 percent of user fee costs at \$50,990,768.

Because the (b)(7)(E) system used by HSI records the method of conveyance in its seizure and arrest data, the accompanying HSI case hours include specific air and sea hours, which are given below in Table 32 below.

However, intelligence products do not record whether the alien was apprehended at an air or sea port of entry. To attribute an air or sea port of entry to intelligence products, ICE takes the percentage of IUFA workload related to an air port of entry from all other phases and multiplies it by the number of intelligence products.

ICE's identification and apprehension data marks the point of identification and apprehension as either ISA for air or ISS for sea. To obtain the specific air workload for the Arrest through Remove phases, workload related to aliens with the identifying or apprehending program ISA are counted as air workload, while workload related to aliens with the identifying or apprehending program ISS are counted as sea workload.

The total workload for each phase for air and sea are given below in Table 33.

Table 33: Air and sea ISP workload (excluding I182(a) aliens)

Investigate - OI	288,440 investigative hours	34,922 investigative hours	323,362 investigative hours
Arrest	3,930 arrests	169 arrests	4,099 arrests
Detain	142,134 detention days	9,169 detention days	151,303 detention days
Non-Detain	478 non-detain book-outs	45 non-detain book-outs	523 non-detain book outs
Process	22,659 events	1,732 events	24,391 events
Remove	2,627 removals	248 removals	2,875 removals
Total workload	460,268	46,285	506,553
% of total air and sea workload	91%	9%	100%
Applied to Investigate - Intel	188 intelligence products	19 intelligence products	207 intelligence products



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

The table below shows the air workload and costs for each phase:

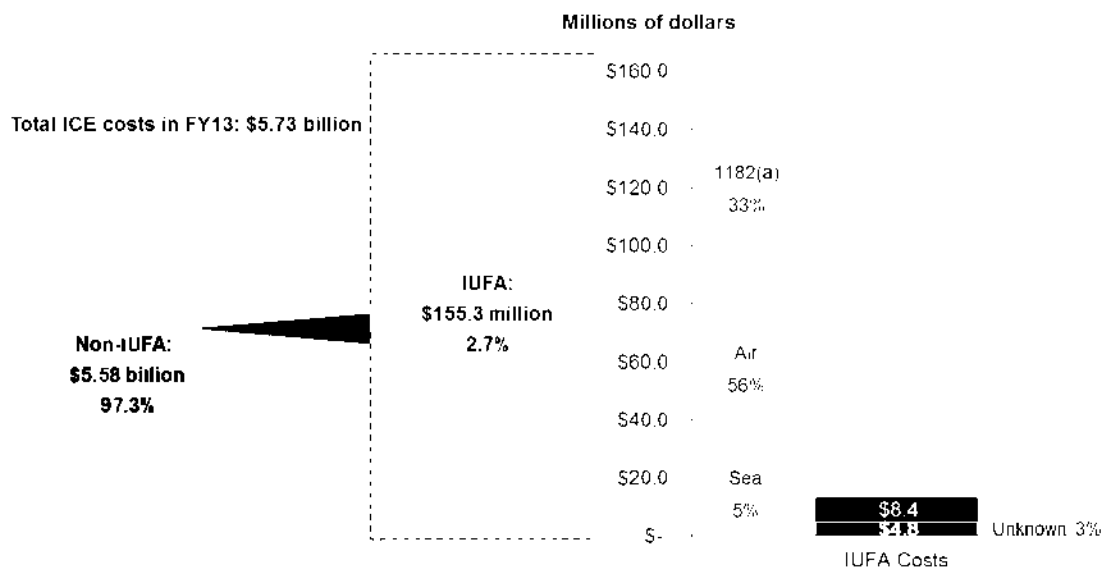
Table 34: IUFA air workload and costs by phase

1.0 Investigate – Office of International Affairs	\$158,305,144	546,917 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate – Office of Intelligence	\$77,444,340	2,382 intelligence products	188 intelligence products	7.89%	\$6,114,912
1.0 Investigate Office of Investigations	\$1,795,105,005	12,432,051 investigative hours	288,440 investigative hours	2.32%	\$41,648,807
2.0 Identify	\$270,181,522	763,114 identifications	0 identifications	0.00%	\$-
3.0 Arrest	\$40,591,970	246,825 arrests	3,930 arrests	1.59%	\$646,314
4.0 Detain	\$2,244,255,616	13,848,105 detention days	142,134 detention days	1.03%	\$23,034,562
5.0 Non-Detain	\$140,676,942	215,336 non- detain book- outs	478 non-detain book-outs	0.22%	\$312,273
6.0 Process	\$522,248,384	984,985 events	22,659 events	2.30%	\$12,014,017
7.0 Remove	\$482,094,821	364,563 removals	2,627 removals	0.72%	\$3,473,921
Subtotal	\$5,730,903,745				\$87,244,805
Depreciation	\$143,578,081			1.52%	\$2,182,387
Total					\$89,427,192



A depiction of how the total identified IUFA costs are divided into air and sea costs is below:

Figure 2: ICE total and IUFA costs for FY 2013 by air and sea ports of entry



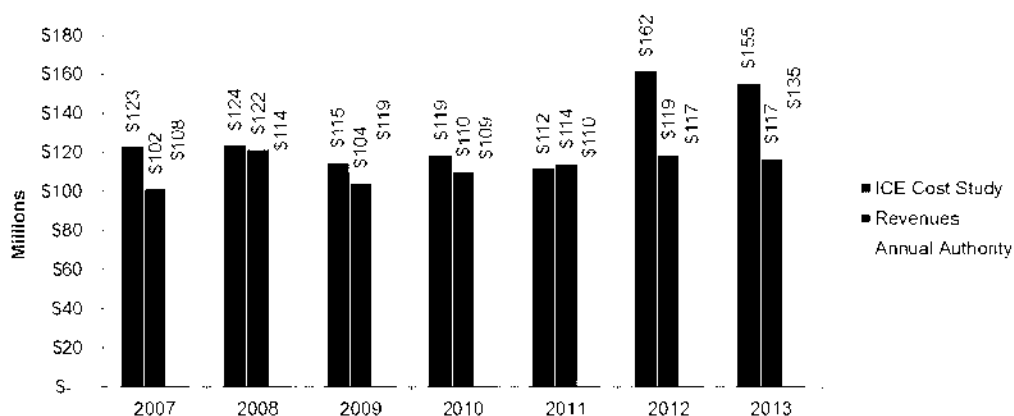
7 Conclusion

Two key factors had the biggest impact on ICE's total IUFA costs in FY13:

- ICE continued to include aliens inadmissible under section 1182(a)
- ICE continued its methodology for counting IUFA aliens' legal proceedings

The chart below shows the changes in identified costs year over year:

Figure 3: IUFA costs and revenues by fiscal year⁴



⁴ Total Revenues for FY 2013 were 123 million, but were adjusted due to a 5.1% Sequester cut.



8 Appendix

8.1 Continued methodology in FY 2013

The FY 2013 cost continued FY 2012 methods of capturing ICE operational data and IUFA-related operational data. When calculating the percent of ICE workload that is IUFA-related, the denominator is typically total ICE operational workload and the numerator is the same workload, restricted to only IUFA cases, which include both ISP and 1182(a) cases.

In general, ISP cases are determined by restricting the apprehension method code to “ISP”, or Inspections. To ensure no land inspections are included, we also exclude all cases where the “current program code” is “Inspections – Land” or “ISL”. The apprehension method code and current program code are found in arrest records.

1182(a) cases are determined by finding aliens charged under section 1182(a) of the US Code who are not from the Americas. These aliens are assumed to have arrived in the US by avoiding inspection at commercial air and sea POE.

The sections below outline the methodology for the fiscal year. Section 9.1.4 gives more detailed methodology by phase.

8.1.1 Aliens inadmissible under Section 1182(a) of the US Code

ICE continued to include aliens who were not identified at air and sea ports of entry, but who were “inadmissible under section 1182(a) [of the Immigration and Nationality Act] who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry” as eligible for IUFA reimbursement. ICE counted these aliens by finding aliens with a charge code of 1182(a)(6)(A)(i) who were from countries outside of the Americas. Their workload was included in the Identify through Remove phases.

In support of this interpretation of the INA, ICE’s Office of the Principal Legal Advisor (OPLA) states:

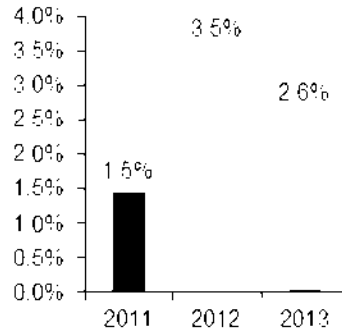
(b)(5)

8.1.2 OI investigative hours

For this cost study, OI searched for all arrests and seizures no matter when they were made, and for case hours charged in FY 2013. Because some investigations can span multiple fiscal years, this method allows ICE to count the full investigative workload related to IUFA during that fiscal year.



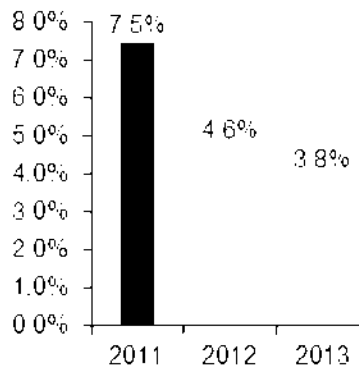
Figure 4: IUFA Investigate phase workload as percent of total OI investigative hours



8.1.3 Legal proceedings

For this cost study, ICE used data from the Office of Principal Legal Advisor Network (PLANet), OPLA's system of record. Instead of counting proceedings or matters, ICE counted individual legal events. For example, if an alien has one master hearing, one merits hearing, one bond hearing, and one appeal, that counts as four separate events. This method of counting allows for a much more granular view of ICE's total processing workload and IUFA-related processing workload.

Figure 5: IUFA Process phase workload as percent of total events

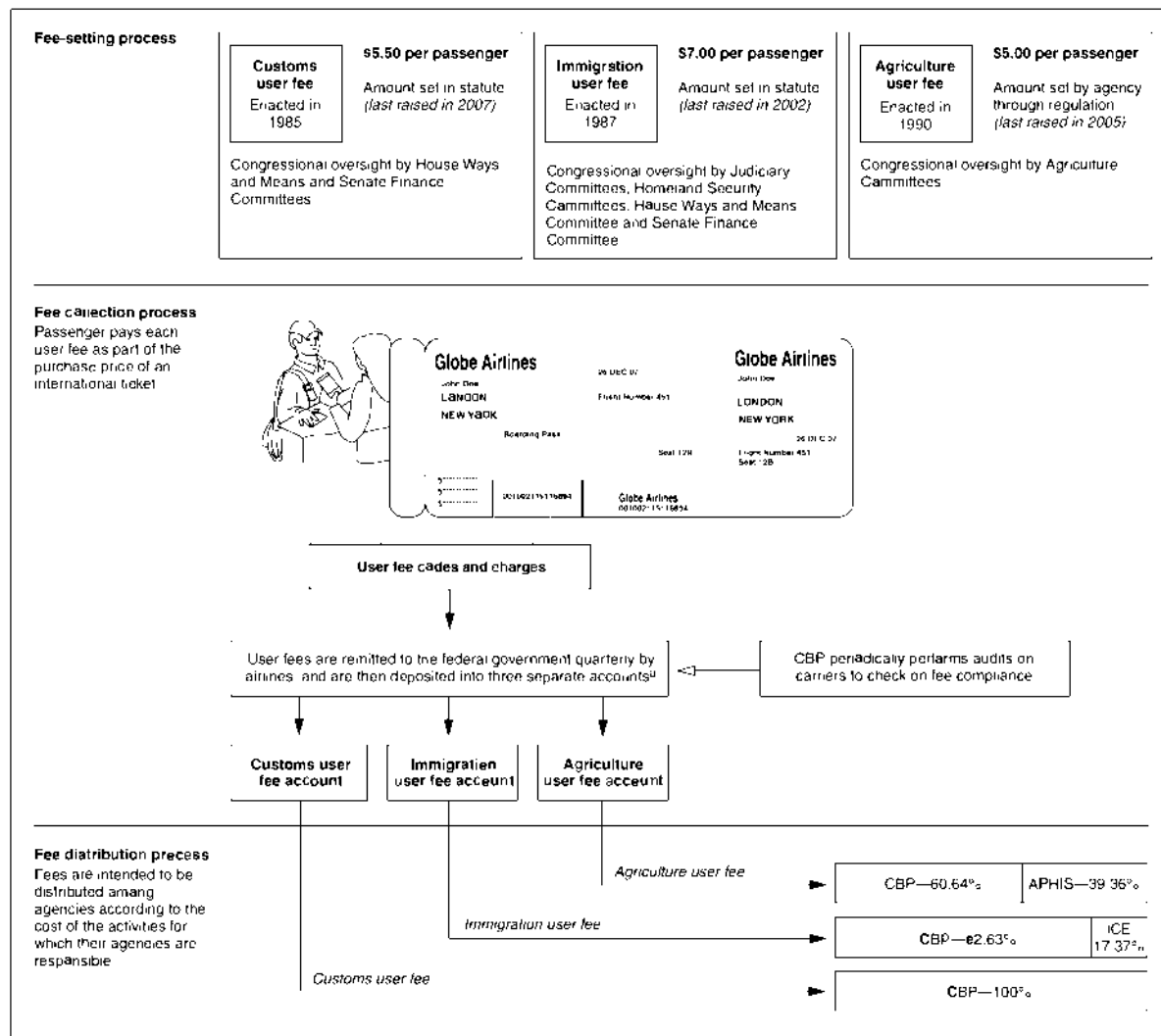




8.2 User fee and cost study background

Individuals arriving in the United States every year are subject to an inspection to ensure they are entering the country lawfully, and not transporting any illegal goods, harmful pets, or prohibited agricultural products. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272) authorizes the collections of User Fees for various services. According to GAO-07-1131 Federal User Fees Report, three user fees are issued and collected by the airlines and deposited into separate accounts. The amount of the user fees is set by legislation, and Congressional authority and oversight is provided by the Judiciary, House Ways and Means, and Senate Finance Committees.

Figure 6: User fees for commercial passengers arriving in the United States through air or sea



Source: GAO-07-1131 Federal User Fee

The three user fees are:

- **Customs Air Passenger Inspection Fee:** Designed to prevent passengers from bringing illegal goods into the United States. These fees are collected and deposited into the Customs User Fee Account.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- **Agriculture Air Passenger User Fee:** Designed to seize prohibited materials and intercept foreign agricultural pests. These fees are collected and deposited into the Agriculture User Fee Account.
- **Immigration User Fee:** Designed to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry (POE). These fees are collected and deposited in the Immigration User Fee Account (IUFA) to cover the costs of Immigration Customs Enforcement (ICE) and Customs and Border Protection (CBP) activities at or related to air and sea POE inspections. The Immigration User Fee Account is administered by CBP and collections are split between CBP and ICE. According to a Memorandum of Understanding (MOU), the current split is 82.63% to CBP and 17.37% to ICE.

The Federal Immigration Laws and Regulations handbook under the Immigration and Nationality Act (INA) describes the ICE activities determined to be reimbursable out of the Immigration User Fee Account under Section 286 Subsection h (2)(A). The statute reads:

“The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and pre-inspection services for commercial aircraft or vessels and in—

- (i) providing overtime immigration inspection services for commercial aircraft or vessels;
- (ii) administration of debt recovery, including the establishment and operation of a national collections office;
- (iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;
- (iv) detection of fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;
- (v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and
- (vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.”

The INA further states that the money collected Immigration User Fee Account: “shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).”

ICE’s interpretation of the IUFA allows ICE to reimburse the cost of investigations, identifications, arrests, detention, processing, and removal of inadmissible aliens who arrived on commercial aircraft and vessels, and for aliens who are inadmissible under Section 1182(a) of the US Code who attempted illegal entry through avoidance of commercial air and sea ports-of-entry. ICE specifically requests reimbursement for:

- Resources that support investigations of aliens identified at an air or sea POE and Homeland Security Intelligence Reports supporting CBP inspection and pre-inspection activities.
- Resources that support identification of aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- Resources that support the arrest or transfer to an ICE detention facility of aliens identified at an air or sea POE or who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (e.g., IUFA aliens)
- Detention costs for IUFA aliens, including bed space, medical expenses, and transportation to legal proceedings and between facilities
- Legal proceeding costs incurred to represent the Government's case in immigration court with respect to IUFA aliens
- Removal costs for IUFA aliens, including costs of tickets, escorts, and removal administration

In addition to the requirement in the INA that IUFA-related expenses are estimated and the refund is adjusted on the basis of those estimates, OMB Circular A-25 requires that federal agencies collecting user fees determine that the user fee charges are sufficient to recover the full cost to the federal government of providing the service. According to the circular, full cost is determined or estimated from the best available records of the agency, and includes:

- Direct and indirect personnel costs
- Physical overhead, consulting, and other indirect costs
- Management and supervisory costs
- Enforcement, collection, research, and establishment of standards, and regulation costs

As a result of these requirements, ICE conducts an annual cost study to determine the full cost of resources expended due to investigating, identifying, apprehending, detaining, processing, and removing IUFA aliens. ICE also completes a quarterly update based on workload for that quarter and prior year costs.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

Fiscal Year 2014 Immigration User Fee Account Cost Study

Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)

January 27, 2014

FINAL



Table of Contents

Executive summary	3
1 Introduction and background	4
2 The Immigration Enforcement Lifecycle.....	4
3 ICE programs performing IUFA activities	7
3.1 Homeland Security Investigations – Office of Investigations (OI)	8
3.2 Homeland Security Investigations – Office of Intelligence (Intel)	8
3.3 Homeland Security Investigations – Office of International Affairs (OIA)	8
3.4 Enforcement and Removal Operations (ERO)	8
3.5 Office of Principal Legal Advisor (OPLA)	8
4 IUFA cost study methodology	8
5 IUFA cost study results.....	9
5.1 Investigate phase	9
5.2 Identify phase	11
5.3 Arrest phase.....	12
5.4 Detain phase.....	13
5.5 Non-Detain Phase.....	15
5.6 Process phase	16
5.7 Remove phase	17
5.8 Depreciation	18
6 IUFA cost by air and sea ports of entry	19
7 Conclusion	21
8 Appendix.....	23
8.1 Continued methodology in FY 2014	23
8.1.1 Aliens inadmissible under Section 1182(a) of the US Code	23
8.1.2 OI investigative hours.....	23
8.1.3 Legal proceedings	24
8.2 User fee and cost study background.....	25



Executive summary

For fiscal year (FY) 2014, ICE identified a total of **\$167,260,560** in user fee-related costs to be reimbursed from the Immigration User Fee Account (IUFA). The following table shows the cost incurred by each phase of the Immigration Enforcement Lifecycle.

Table 1: ICE total cost, ICE total workload, IUFA workload, and IUFA cost by Immigration Enforcement Lifecycle phase

1.0 Investigate Office of International Affairs ¹	\$145,202,334	505,073 Investigative Hours	0 investigative hours	0.00%	\$-
1.0 Investigate Office of Intelligence	\$82,347,951	497,429 Investigative Hours	34,226 intelligence products	6.88%	\$5,666,017
1.0 Investigate Office of Investigations	\$2,070,055,402	11,865,988 investigative hours	421,325 investigative hours	3.55%	\$73,501,346
2.0 Identify	\$285,801,160	652,445 identifications	1,573 identifications	0.24%	\$689,047
3.0 Arrest	\$36,716,292	498,495 arrests	6,838 arrests	1.37%	\$503,648
4.0 Detain	\$2,233,131,177	14,157,218 detention days	382,780 detention days	2.70%	\$60,378,950
5.0 Non-Detain	\$131,947,995	223,930 non- detain book- outs	3,755 non- detain book- outs	1.68%	\$2,212,588
6.0 Process	\$506,109,764	1,652,998 events	40,718 events	2.46%	\$12,467,060
7.0 Remove	\$511,163,788	312,914 removals	5,331 removals	1.70%	\$8,708,508
Subtotal	\$6,002,475,863				\$164,127,164
Depreciation	\$114,594,916			2.73%	\$3,133,397
Total					\$167,260,560

¹ OIA does not have IUFA workload in the Investigate phase. However, OIA does have costs in other phases and does receive a reimbursement from IUFA.



1 Introduction and background

This report presents a summary of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Budget and Program Performance (OBPP) FY 2014 Immigration User Fee Account (IUFA) cost study.

The Immigration and Nationality Act (INA) imposes user fees for travelers arriving in the United States by a commercial vessel or commercial aircraft, one of which is the Immigration User Fee. Currently the Immigration User Fee is set at \$7 for passengers arriving via an air or sea port of entry (POE) when the trip originated abroad, and \$3 for passengers arriving at a sea port of entry when the trip originated in the United States, Mexico, or Canada. These fees are collected by the commercial entity providing the transportation and deposited into the Immigration User Fee Account (IUFA) to cover the costs of ICE and CBP activities. The INA requires recurring reviews to determine whether the user fees are in fact covering the full costs of IUFA-related activities. These reviews focus on two central tasks: (1) identifying all of the user fee activities that ICE performs related to aliens attempting or avoiding entry at an air and sea POE and (2) accurately quantifying the costs of user fee-related activities. ICE conducts these reviews at the end of each fiscal year, as well as smaller quarterly reviews.

Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) provide law enforcement support to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry, or avoiding air and sea ports of entry. At air and sea ports of entry, CBP inspectors conduct immigration inspections. If an alien passes inspection with bona fide documents, the alien is admitted into the United States. If an alien fails an inspection, CBP inspectors identify the alien and determine the alien's immigration status. CBP inspectors will then take one of three actions:

- 1) remove the alien through the expedited removal process;
- 2) remove the alien through the voluntary return process;
- 3) turn the alien over to ICE custody.

Each year, several thousand passengers are identified at air and sea ports of entry by CBP, turned over to ICE, and processed through the Immigration Enforcement Lifecycle. ICE is also permitted to request reimbursement for aliens who are determined to have avoided inspection at air or sea ports of entry and charged under Section 1182(a) of the US Code. In addition, if aliens enter the United States using false documents, they are investigated by ICE and, if caught, are processed through the Immigration Enforcement Lifecycle. Currently the user fee collections are split between ICE and CBP—ICE receives 17.37 percent and CBP receives 82.63 percent. More detail on the user fee, reimbursable workload, and the cost study is in Section 1.1 in the Appendix.

2 The Immigration Enforcement Lifecycle

ICE follows the principles of Managerial Cost Accounting and uses the ICE Managerial Cost Accounting (MCA) Model to determine full costs of IUFA-related activities in each phase of the Immigration Enforcement Lifecycle.² The ICE MCA comprehensively aligns all of ICE's expenses, including all obligation and expenditure transactions for all fund codes applicable to the fiscal year, to ICE's operational phases and processes. ICE identifies seven phases which define all activities and mission operations. The "Identify" through "Remove" phases are collectively referred to as the Immigration Enforcement Lifecycle, encompassing ICE's administrative immigration enforcement

² Refer to the MCA Concept of Operations (CONOPS) for further details on the ICE MCA model.



activities. The Investigate phase stands alone and encompasses ICE's criminal enforcement activities, though aliens are often identified and arrested as a result of a criminal investigation.

These phases are described below in Table 2.

Table 2: Immigration Enforcement Lifecycle phases and descriptions

1.0 Investigate	Investigating individuals suspected of violating immigration laws
2.0 Identify	Verifying the location and identity of inadmissible aliens
3.0 Arrest	Placing inadmissible aliens under arrest
4.0 Detain	Detaining inadmissible aliens while they await legal proceedings (if applicable) or removal
5.0 Non-Detain	Case management used to release inadmissible aliens while they await legal proceedings or removal
6.0 Process	ICE's legal representation of the United States during inadmissible aliens' legal proceedings
7.0 Remove	Removing inadmissible aliens from the United States

Following the principles of Managerial Cost Accounting, ICE identifies costs as direct, indirect, or general and administrative (G&A), and allocates them to activities and phases in the Immigration Enforcement Lifecycle. In FY 2014, ICE's total costs were \$6,002,475,863.

The costs of user fee-related activities represent a percentage of ICE's overall agency operational costs. First, ICE determines its total costs and workload, and then identifies the specific workload in each phase generated by IUFA aliens. IUFA aliens fall into two categories:

- Those who paid the Immigration User Fee and were inspected at air and sea ports of entry (referred to in this document as "ISP aliens")
- Those who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (referred to as "1182(a) aliens")

The cost study takes the IUFA-related workload in each phase as a percentage of total workload and applies those percentages to the total costs of each phase.



Figure 1: IUFA Immigration Enforcement Lifecycle process diagram





3 ICE programs performing IUFA activities

ICE claims reimbursement for workload related to two types of aliens: aliens identified at commercial air and sea ports of entry (POE) (“ISP aliens”) and aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code and are not from the Americas (“1182(a) aliens”).

There are five ICE directorates and programs that perform IUFA-related activities throughout the Investigate phase and the Immigration Enforcement Lifecycle: Homeland Security Investigations (HSI) Office of Investigations (OI), HSI Office of Intelligence (Intel), HSI Office of International Affairs (OIA), Enforcement and Removal Operations (ERO), and the Office of the Principal Legal Advisor (OPLA).

Table 3: Directorates and programs performing IUFA-related activities

HSI OI HSI Intel	1.0 Investigate	<ul style="list-style-type: none"> Investigating aliens identified at air and sea POE (ISP aliens) Creating intelligence reports disseminated to CBP, other ICE offices, and the National Targeting Center to support pre-inspection and inspection activities at air and sea POE
HSI OIA HSI Intel HSI OI ERO OPLA	2.0 Identify	<ul style="list-style-type: none"> Identifying aliens who are determined to have avoided inspection at an air or sea POE, are inadmissible under Section 1182(a) of the US Code, and are not from the Americas (1182(a) aliens)
HSI OI HSI OIA ERO	3.0 Arrest	<ul style="list-style-type: none"> Apprehending IUFA aliens Taking IUFA aliens into custody who were identified or arrested at air and sea POE
HSI OIA ERO OPLA	4.0 Detain	<ul style="list-style-type: none"> Detaining IUFA aliens, including bed space, food, health care
ERO	5.0 Non-Detain	<ul style="list-style-type: none"> Releasing IUFA aliens on bond or managing the Alternatives to Detention (ATD) program
HSI OIA ERO OPLA	6.0 Process	<ul style="list-style-type: none"> Representing and supporting the government’s immigration court case with respect to IUFA aliens
HSI OIA ERO OPLA	7.0 Remove	<ul style="list-style-type: none"> Removing IUFA aliens from the United States



Below is a detailed description of the IUFA activities each directorate or program supports.

3.1 Homeland Security Investigations – Office of Investigations (OI)

The Office of Investigations (OI) conducts investigations that protect the U.S. by deterring, interdicting, and investigating threats arising from the movement of people and goods into and out of the United States. OI may investigate and arrest suspected criminal aliens.

3.2 Homeland Security Investigations – Office of Intelligence (Intel)

The Office of Intelligence (Intel) works with OI, ERO, and CBP to collect and analyze intelligence, produce leads, and disseminate intelligence back to these organizations in the form of intelligence products. Intel is primarily involved in assisting OI, ERO, and CBP with collecting and analyzing information and intelligence regarding specific targets identified before and during the inspections process at air and sea POE.

3.3 Homeland Security Investigations – Office of International Affairs (OIA)

OIA is involved throughout the immigration enforcement lifecycle, assisting in investigations of suspected criminals overseas, making arrests, assisting with repatriation, and negotiating and obtaining travel documents from the inadmissible or removable aliens' country of citizenship.

3.4 Enforcement and Removal Operations (ERO)

Key elements of ERO's enforcement mission are to apprehend removable aliens, to detain these individuals when necessary, and to remove illegal aliens from the United States. If CBP turns an alien over to ICE custody, ICE picks up the alien from CBP, apprehends the alien, and then makes a detention determination. ICE can either book the alien into a detention facility or release the alien on a detention alternative program (i.e., ATD, bond).

ICE is responsible for providing aliens with detention services and care such as medical services, bed space, and case management. The responsibility begins when a detainee is brought into ICE custody and continues until an alien is released or removed from the United States. To remove an alien from the United States, ICE coordinates all travel documents, logistics, and transportation necessary to send the alien back to his or her country of citizenship.

3.5 Office of Principal Legal Advisor (OPLA)

OPLA is responsible for litigating all immigration violation cases that are put before an immigration judge. OPLA attorneys prepare cases, attend hearings, advise ERO and HSI, respond to appeals, and file motions. Attorney case preparation typically involves reviewing the Notice to Appear (NTA), acquiring any relevant criminal records, analyzing evidence, and preparing briefs and testimony for court hearings.

4 IUFA cost study methodology

ICE applies a consistent methodology for each phase of the IUFA Immigration Enforcement Lifecycle in order to determine what portion of the total phase cost is reimbursable from the IUFA. This section will describe the steps in the methodology.

Step 1: Calculate the total cost of the phase

The first step in the IUFA process is to record the total cost of each phase in the Immigration Enforcement Lifecycle. The total phase cost is then broken down by program.



Step 2: Calculate the total workload of the phase

Determining a workload for each phase allows ICE to break down the total phase cost into measurable units. Each phase of the Immigration Enforcement Lifecycle has an associated workload that describes that phase's operational outputs, such as "detention days" for the Detain phase.

Step 3: Calculate the IUFA workload of the phase

The next step is to determine what portion of the total workload is related to IUFA activities, and is therefore reimbursable from the account. In the above example of the Detain phase, the IUFA portion would include detention days for aliens who were identified at air and sea POE, or who were charged under section 1182(a) of the US code and who are not from the Americas.

Step 4: Apply IUFA percentage of the total workload to the total cost of the phase

IUFA-related workload is divided by total workload, and the percentage is applied to the total phase cost. This result will yield the total IUFA phase cost that is reimbursable.

5 IUFA cost study results

This section will explain the IUFA cost study results for each phase in the Immigration Enforcement Lifecycle.

5.1 Investigate phase

Step 1: Calculate the total cost of the Investigate phase

The total cost of the Investigate phase is the sum of all direct, indirect and G&A costs of Investigate activities conducted by OIA, Intel, and OI.

Table 4: Total cost in Investigate phase

OIA	\$145,202,334
Intel	\$82,347,951
OI	\$2,070,055,402
Total	\$2,297,605,687

OI also makes criminal arrests and administrative apprehensions of aliens, and therefore has costs in the Arrest phase. However, because OI's entire workload is captured in the (b)(7)(E) hours posted—including hours spent making arrests—OI's MCA costs from the Arrest phase have been moved to the Investigate phase and combined with their Investigate costs. This allows ICE to accurately calculate the percentage of their total workload and total costs related to IUFA.

Step 2: Calculate the total workload of the Investigate phase

OI executes investigations within case categories that are tracked in the (b)(7)(E) module. OI's operational outputs are the investigations themselves and their workload is the number of hours spent investigating cases during the fiscal year.

Intel's operational outputs are intelligence products and their workload is the number of investigative hours during the fiscal year.



OIA also executes investigations within case categories that are tracked in (b)(7)(E). Their operational outputs are the investigations themselves and their workload is the number of hours spent supporting investigations.

Table 5: Total workload in Investigate phase

OIA	505,073 hours
Intel	497,429 hours
OI	11,865,988 hours

Step 3: Calculate the IUFA workload of the Investigate phase

ICE identifies IUFA workload as the number of hours that OI spends investigating cases with a nexus to air and sea POE and the number of Intel intelligence products that contain information regarding specific targets identified before and during the inspections process at air and sea POE.

Prior to turning over an alien encountered at an air or sea POE to ICE, CBP completes a Search, Arrest, and Seizure (SAS) incident report within the (b)(7)(E). In the report, the CBP officer must mark the "Conveyance Type" field with a "C" for commercial air or a "V" for commercial vessel. ICE picks up the alien and initiates a case within (b)(7)(F). Personnel post hours worked to case categories in (b)(7)(F) and (b)(7)(F) links the SAS incident report to the appropriate case. OI runs a report to determine the number of hours spent in the fiscal year on each investigative case category where the conveyance type is marked "C" or "V".

Intel analysts produce intelligence reports and post hours worked in (b)(7)(F). In their reports, the analyst must mark an "IUFA" box with a check if the report is IUFA-related or leave it blank if the report is not IUFA-related. Intel then extracts intelligence hours marked as IUFA from (b)(7)(F).

OIA can also search for IUFA workload the same way that OI does. However, in previous years OIA's IUFA-related workload has been very small; for the purposes of this cost study it is assumed to be zero.

Table 6: IUFA workload in Investigate phase

OIA	0 hours (assumed)
Intel	34,226 hours
OI	421,325 hours

Step 4: Apply IUFA percentage of the total workload to the total cost of the Investigate phase

IUFA-related workload is divided by total workload, and the percentage is applied to the total phase cost. This result yields the total IUFA phase cost that is reimbursable.³

³ The "Percent of Total Workload" column below is rounded to two decimal places, but the IUFA cost was calculated using the original un-rounded percentage.



Table 7: IUFA cost in Investigate phase

OIA	\$145,202,334	505,073 hours	0 hours (assumed)	0.00%	\$-
Intel	\$82,347,951	497,429 hours	34,226 hours	6.88%	\$5,666,017
OI	\$2,070,055,402	11,865,988 hours	421,325 hours	3.55%	\$73,501,346
Total	\$2,297,605,687				\$79,167,363

5.2 Identify phase

Step 1: Calculate the total cost of the Identify phase

(b)(7)(E)

Table 8: Total cost in Identify phase

ERO	\$264,476,463
OIA	\$836,153
Intel	\$2,449,441
OPLA	\$18,039,104
Total	\$285,801,160

Step 2: Calculate the total workload of the Identify phase

The total workload in the Identify phase is the number of identifications made in FY12.

Table 9: Total workload in Identify phase

Identifications	652,445
-----------------	---------

Step 3: Calculate the IUFA workload of the Identify phase

ICE identifies 1182(a) workload as the number of identifications of aliens charged under section 1182(a) of the US Code who are not from the Americas. ICE does not claim reimbursement for ISP aliens because CBP makes the identification at air and sea POEs.

Table 10: IUFA workload in Identify phase

Identifications	1,573
-----------------	-------



Step 4: Apply IUFA percentage of the total workload to the total cost of the Identify phase

(b)(7)(E)

Table 11: IUFA cost in Identify phase

ERO	\$264,476,463				\$637,635
OIA	\$836,153				\$2,016
Intel	\$2,449,441				\$5,905
OPIA	\$18,039,104				\$43,491
Total	\$285,801,160	652,445	1,573	0.24%	\$689,047
		identifications	identifications		

5.3 Arrest phase

Step 1: Calculate the total cost of the Arrest phase

(b)(7)(E)

Table 12: Total cost in Arrest phase

ERO	\$36,437,657
IA	\$278,634
Total	\$36,716,292

Recall that, in the MCA, OI also has Arrest phase costs, but these have been moved to the Investigate phase to more accurately calculate the percentage of their total costs related to IUFA.

Step 2: Calculate the total workload of the Arrest phase

The total workload for the Arrest phase is a combination of:

- Arrests made by non-ICE DHS programs (i.e., CBP and USCIS) and turned over to ICE
- ICE arrests in that fiscal year

ICE counts DHS arrests made by non-ICE programs and turned over to ICE by counting the number of detention book-ins these arrests generate. Even though another agency made the arrest, ICE incurs costs in the Arrest phase for transferring custody of the alien from the other program to an ICE processing or detention facility.



Table 13: Total workload in Arrest phase

Non-ICE arrests turned over to ICE	303,149
ICE Arrests	195,346
Total	498,495

Step 3: Calculate the IUFA workload of the Arrest phase

ICE identifies ISP workload as the number of arrests made with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) workload as the number of arrests of aliens charged under section 1182(a) of the US Code who are not from the Americas.

The count of both ISP aliens and 1182(a) aliens includes non-ICE arrests turned over to ICE in FY 2014, prior ICE arrests booked in in FY 2014, and ICE arrests in FY 2014.

Table 14: IUFA workload in Arrest phase

Arrests	6,838
---------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Arrest phase

(b)(7)(E)

Table 15: IUFA cost in Arrest phase

ERO	\$36,437,657				\$499,826
OIA	\$278,634				\$3,822
Total	\$36,716,292	498,495 arrests	6,838 arrests	1.37%	\$503,648

5.4 Detain phase

Step 1: Calculate the total cost of the Detain phase

(b)(7)(E)



Table 16: Total cost in Detain phase

ERO	\$2,209,839,235
OIA	\$762
OPLA	\$23,291,180
Total	\$2,233,131,177

Step 2: Calculate the total workload of the Detain phase

The total workload for the Detain phase is the number of days aliens spend in detention during that fiscal year. Aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 17: Total workload in Detain phase

Detention days	14,157,218
----------------	------------

Step 3: Calculate the IUFA workload of the Detain phase

ICE identifies ISP Detain phase workload as the number of days spent in detention for aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all aliens arrested at land ports of entry. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Detain phase workload as the number of days spent in detention for aliens charged under section 1182(a) of the US Code who are not from the Americas.

As above, aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 18: IUFA workload in Detain phase

Detention days	382,780
----------------	---------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Detain phase

(b)(7)(E)

Table 19: IUFA cost in Detain phase

ERO	\$2,209,839,235				\$59,749,187
OIA	\$762				\$21
OPLA	\$23,291,180				\$629,742
Total	\$2,233,131,177	14,157,218	382,780	2.70%	\$60,378,950



5.5 Non-Detain Phase

Step 1: Calculate the total cost of the Non-Detain phase

(b)(7)(E)

Table 20: Total cost in Non-Detain phase

ERO	\$131,947.995
-----	---------------

Step 2: Calculate the total workload of the Non-Detain phase

The total workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on an Order of Supervision (OSUP), or being released on their own recognizance (OREC).

Table 21: Total workload in Non-Detain phase

Number of aliens released to non-detain programs	223,930
--	---------

The method of calculating workload used for IUFA produces more detailed data than the workload used in the MCA. The MCA estimates the number of days aliens spent on bond and in ATD by multiplying the number of cash and surety bonds in that fiscal year by the number of days in the fiscal year (365 for FY 2014). The MCA method cannot be used for IUFA because there is no link between the number of aliens on bond and in ATD and that alien's identifying or arresting program (which would identify ISP aliens), or that alien's charge (which would identify 1182(a) aliens). The method used for IUFA provides the additional detail to link the number of non-detain book-outs back to the method of arrest or the charge.

Step 3: Calculate the IUFA workload of the Non-Detain phase

As above, the IUFA workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on their own supervision (OSUP), or being released on their own recognizance (OREC).

ICE identifies ISP Non-Detain phase workload as the number of non-detain book-outs in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections – Land"). This excludes all aliens arrested at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Non-Detain phase workload as the number of non-detain book-outs for aliens charged under Section 1182(a) of the US Code who are not from the Americas.



Table 22: IUFA workload in Non-Detain phase

Number of aliens released to non-detain programs	3,755
--	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Non-Detain phase

(b)(7)(E)

Table 23: IUFA cost in Non-Detain phase

ERO	\$131,947,995	223,930	3,755	1.68%	\$2,212,588
-----	---------------	---------	-------	-------	-------------

5.6 Process phase

Step 1: Calculate the total cost of the Process phase

(b)(7)(E)

Table 24: Total cost in Process phase

ERO	\$327,559,422
OIA	\$279,138
OPLA	\$178,271,204
Total	\$506,109,764

Step 2: Calculate the total workload of the Process phase

The total workload for the Process phase is the number of events attended by aliens in FY 2014. Examples of events include a master hearing, merits hearing, bond hearing, or a motion to reopen—each alien with a proceeding could have many events. The average number of events per alien with a proceeding is 2.19.

Table 25: Total workload in Process phase

Number of events	1,652,998
------------------	-----------

Step 3: Calculate the IUFA workload of the Process phase

ICE identifies ISP Process phase workload as the number of events in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

ICE identifies 1182(a) Process phase workload as the number of events in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 26: IUFA workload in Process phase

Number of IUFA events	40,718
-----------------------	--------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Process phase

(b)(7)(E)

Table 27: IUFA cost in Process phase

ERO	\$327,559,422					\$8,068,809
IA	\$279,138					\$6,876
OPLA	\$178,271,204					\$4,391,375
Total	\$506,109,764	1,652,998 events	40,718 events	2.46%		\$12,467,060

5.7 Remove phase

The Remove phase consists of the activities related to conducting post-order custody review, coordinating travel documents, coordinating travel logistics, transporting the alien to his or her country of citizenship, and completing case management.

Step 1: Calculate the total cost of the Remove phase

(b)(7)(E)

Table 28: Total cost in Remove phase

ERO	\$510,258,252
IA	\$279,390
Total	\$510,537,642

Step 2: Calculate the total workload of the Remove phase

The total workload for the Remove phase is the number of removals in FY 2014, including voluntary returns under safeguards. This number excludes types of removals, such as voluntary departures, that do not incur any costs for ICE.



Table 29: Total workload in Remove phase

Number of removals	312,914
--------------------	---------

Step 3: Calculate the IUFA workload of the Remove phase

ICE identifies ISP Remove phase workload as the number of removals in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Remove phase workload as the number of removals in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 30: IUFA Remove phase workload

Number of removals	5,331
--------------------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Remove phase

(b)(7)(E)

Table 31: IUFA cost in Remove phase

ERO	\$510,258,252				\$8,693,081
IA	\$279,390				\$4,760
Total	\$510,537,642	312,914	5,331	1.70%	\$8,697,841
		removals	removals		

5.8 Depreciation

In addition to operating expenditures associated with IUFA operations, ICE must also support the cost of capital assets critical to maintaining operations. To calculate depreciation, ICE determined what percent of the total IUFA cost represents ICE’s total cost, then applied this percentage to the total Depreciation, Amortization, and Depletion cost for the fiscal year as reported by ICE in the FY 2014 DHS Consolidated Financial Statements.

Table 32: FY 2014 IUFA depreciation

\$6,002,475,863	\$164,127,163	2.73%	\$114,594,916	\$3,133,397
-----------------	---------------	-------	---------------	-------------



6 IUFA cost by air and sea ports of entry

In 2012, ICE updated its methodology to separate air and sea Immigration User Fee collections and costs per the Government Accountability Office (GAO) "Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue", and continues to do so for FY 2014.

The FY 2014 cost study results show that costs at air ports of entry represented \$100,674,617, or 60 percent of total ICE IUFA costs. Costs from aliens who arrived at sea ports of entry comprised \$9,557,973, or 6 percent of total IUFA costs. Costs from I182(a) aliens, who avoided air and sea ports of entry, represented 28 percent of user fee costs at \$47,877,891.

Because the (b)(7)(F) system used by HSI records the method of conveyance in its seizure and arrest data, the accompanying HSI case hours include specific air and sea hours, which are given below in Table 32 below.

However, intelligence products do not record whether the alien was apprehended at an air or sea port of entry. To attribute an air or sea port of entry to intelligence products, ICE takes the percentage of IUFA workload related to an air port of entry from all other phases and multiplies it by the number of intelligence products.

ICE's identification and apprehension data marks the point of identification and apprehension as either ISA for air or ISS for sea. To obtain the specific air workload for the Arrest through Remove phases, workload related to aliens with the identifying or apprehending program ISA are counted as air workload, while workload related to aliens with the identifying or apprehending program ISS are counted as sea workload.

The total workload for each phase for air and sea are given below in Table 33.

Table 33: Air and sea ISP workload (excluding I182(a) aliens)

Investigate - OI	378,716 investigative hours	42,609 investigative hours	421,325 investigative hours
Arrest	3,889 arrests	142 arrests	4,031 arrests
Detain	126,865 detention days	6,666 detention days	133,531 detention days
Non-Detain	329 non-detain book-outs	45 non-detain book-outs	374 non-detain book outs
Process	14,360 events	682 events	15,042 events
Remove	2,511 removals	194 removals	2,705 removals
Total workload	526,670	50,338	577,008
% of total air and sea workload	91%	9%	100%
Applied to Investigate - Intel	31,240 investigative hours	2,985 investigative hours	34,226 investigative hours



Department of Homeland Security (DIIS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

The table below shows the air workload and costs for each phase:

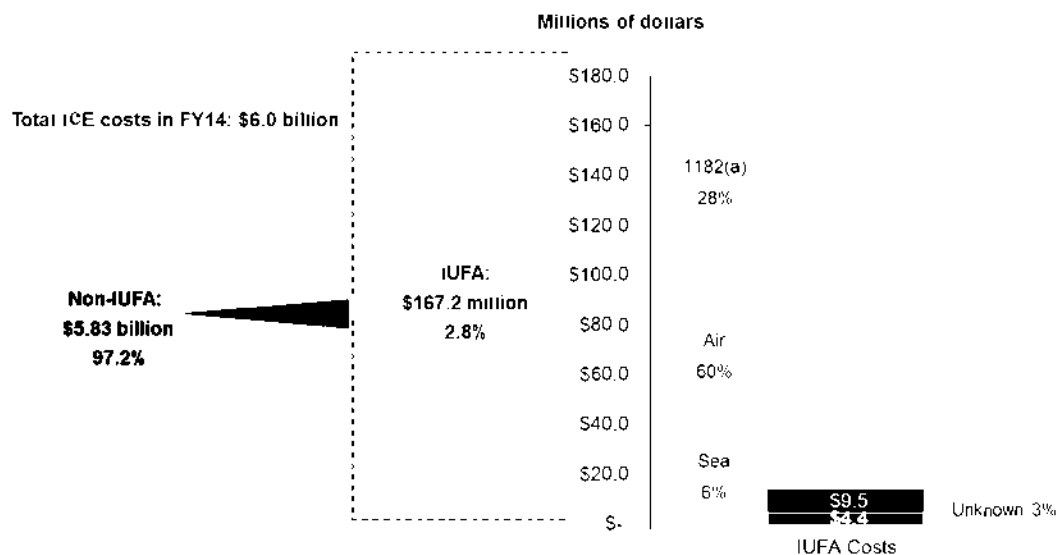
Table 34: IUFA air workload and costs by phase

1.0 Investigate – Office of International Affairs	\$145,202,334	505,073 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate – Office of Intelligence	\$82,347,951	497,429 investigative hours	31,240 investigative hours	6.28%	\$5,171,715
1.0 Investigate Office of Investigations	\$2,070,055,402	11,865,988 investigative hours	378,716 investigative hours	3.19%	\$66,068,085
2.0 Identify	\$285,801,160	652,445 identifications	0 identifications	0.00%	\$-
3.0 Arrest	\$36,716,292	498,495 arrests	3,889 arrests	.78%	\$286,442
4.0 Detain	\$2,233,131,177	14,157,218 detention days	126,865 detention days	0.90%	\$20,011,431
5.0 Non-Detain	\$131,947,995	223,930 non- detain book- outs	329 non-detain book-outs	0.15%	\$193,859
6.0 Process	\$506,109,764	1,652,998 events	14,360 events	0.87%	\$4,396,700
7.0 Remove	\$511,163,788	312,914 removals	2,511 removals	0.80%	\$4,101,869
Subtotal	\$6,002,475,863				\$100,230,100
Depreciation	\$114,594,916			1.52%	\$1,741,843
Total					\$101,971,943



A depiction of how the total identified IUFA costs are divided into air and sea costs is below:

Figure 2: ICE total and IUFA costs for FY 2014 by air and sea ports of entry



7 Conclusion

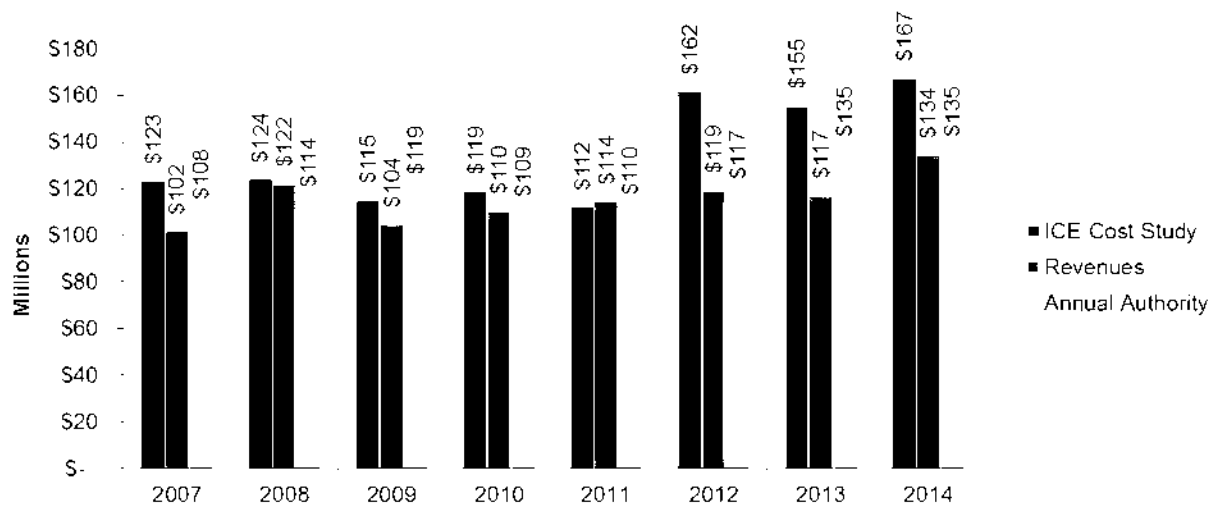
Four key factors had the biggest impact on ICE's total IUFA costs in FY14:

- ICE continued to include aliens inadmissible under section 1182(a)
- ICE continued its methodology for counting IUFA aliens' legal proceedings
- ICE Domestic Investigations saw a 30% increase in IUF related workload
- ICE updated its MCA costing methodology to keep costs in line with the PPA's base appropriation, leading to an increase in general and administrative (G&A) cost reimbursement

The chart below shows the changes in identified costs year over year:



Figure 3: IUFA costs and revenues by fiscal year⁴



⁴ Total Revenues for FY 2014 were 134 million



8 Appendix

8.1 Continued methodology in FY 2014

The FY 2014 cost continued FY 2013 methods of capturing ICE operational data and IUFA-related operational data. When calculating the percent of ICE workload that is IUFA-related, the denominator is typically total ICE operational workload and the numerator is the same workload, restricted to only IUFA cases, which include both ISP and 1182(a) cases.

In general, ISP cases are determined by restricting the apprehension method code to “ISP”, or Inspections. To ensure no land inspections are included, ICE also excludes all cases where the “current program code” is “Inspections – Land” or “ISL”. The apprehension method code and current program code are found in arrest records.

1182(a) cases are determined by finding aliens charged under section 1182(a) of the US Code who are not from the Americas. These aliens are assumed to have arrived in the US by avoiding inspection at commercial air and sea POE.

The sections below outline the methodology for the fiscal year. Section 9.1.4 gives more detailed methodology by phase.

8.1.1 Aliens inadmissible under Section 1182(a) of the US Code

ICE continued to include aliens who were not identified at air and sea ports of entry, but who were “inadmissible under section 1182(a) [of the Immigration and Nationality Act] who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry” as eligible for IUFA reimbursement. ICE counted these aliens by finding aliens with a charge code of 1182(a)(6)(A)(i) who were from countries outside of the Americas. Their workload was included in the Identify through Remove phases.

In support of this interpretation of the INA, ICE’s Office of the Principal Legal Advisor (OPLA) states:

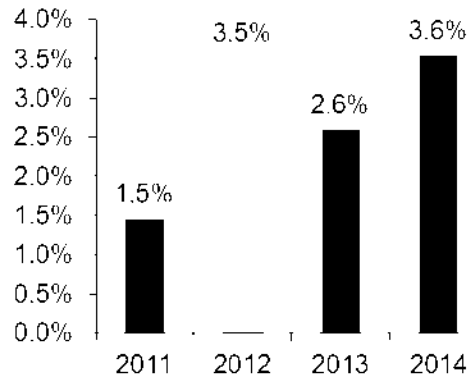
(b)(5)

8.1.2 OI investigative hours

For this cost study, OI searched for all arrests and seizures no matter when they were made, and for case hours charged in FY 2014. Because some investigations can span multiple fiscal years, this method allows ICE to count the full investigative workload related to IUFA during that fiscal year.



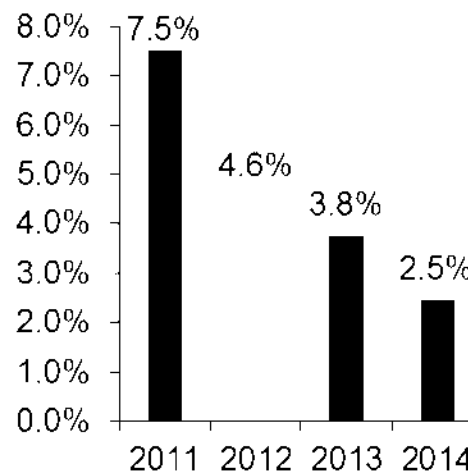
Figure 4: IUFA Investigate phase workload as percent of total OI investigative hours



8.1.3 Legal proceedings

For this cost study, ICE used data from the Office of Principal Legal Advisor Network (PLANet), OPLA's system of record. Instead of counting proceedings or matters, ICE counted individual legal events. For example, if an alien has one master hearing, one merits hearing, one bond hearing, and one appeal, that counts as four separate events. This method of counting allows for a much more granular view of ICE's total processing workload and IUFA-related processing workload.

Figure 5: IUFA Process phase workload as percent of total events

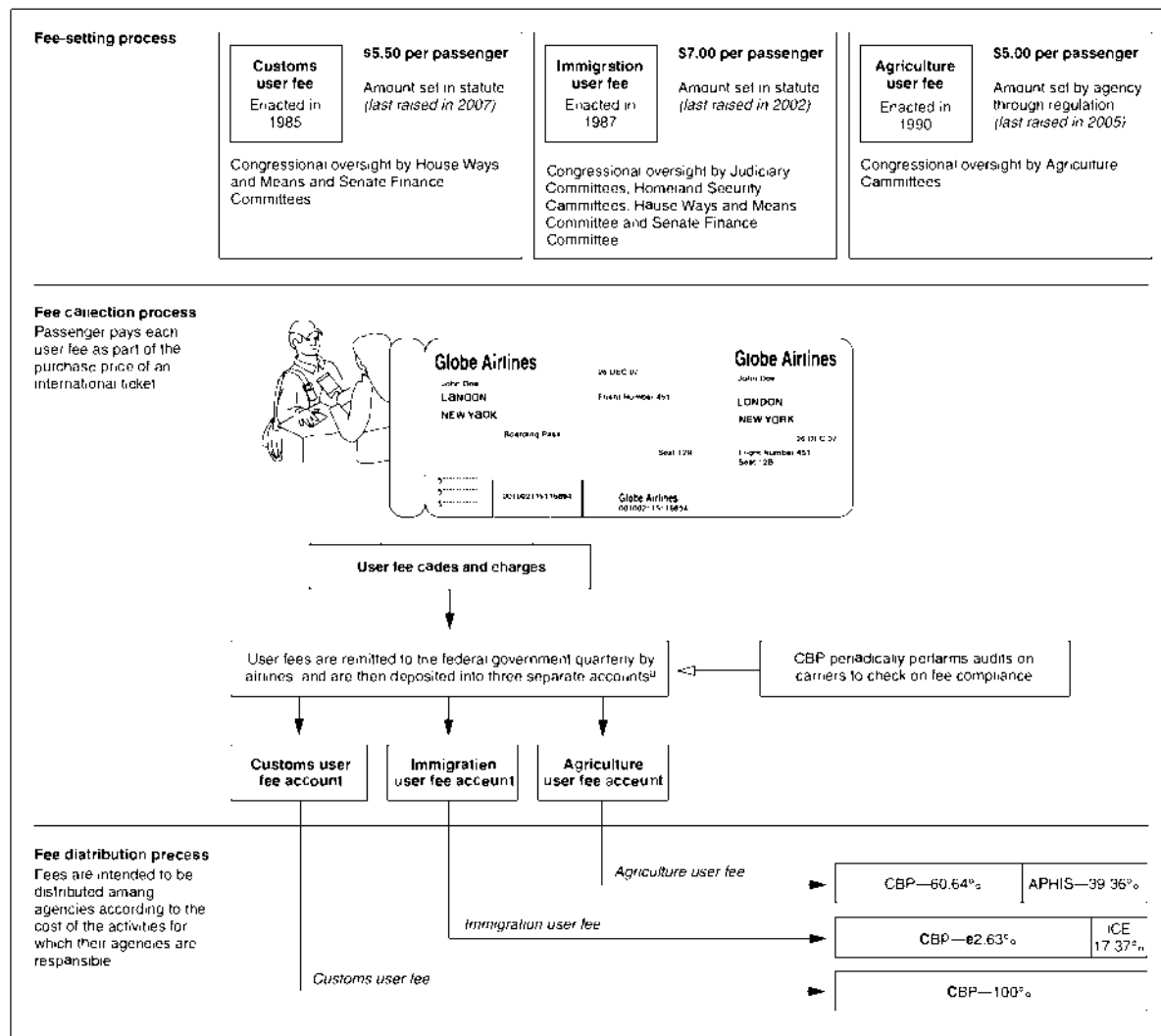




8.2 User fee and cost study background

Individuals arriving in the United States every year are subject to an inspection to ensure they are entering the country lawfully, and not transporting any illegal goods, harmful pets, or prohibited agricultural products. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272) authorizes the collections of User Fees for various services. According to GAO-07-1131 Federal User Fees Report, three user fees are issued and collected by the airlines and deposited into separate accounts. The amount of the user fees is set by legislation, and Congressional authority and oversight is provided by the Judiciary, House Ways and Means, and Senate Finance Committees.

Figure 6: User fees for commercial passengers arriving in the United States through air or sea



Source: GAO-07-1131 Federal User Fee

The three user fees are:

- **Customs Air Passenger Inspection Fee:** Designed to prevent passengers from bringing illegal goods into the United States. These fees are collected and deposited into the Customs User Fee Account.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- **Agriculture Air Passenger User Fee:** Designed to seize prohibited materials and intercept foreign agricultural pests. These fees are collected and deposited into the Agriculture User Fee Account.
- **Immigration User Fee:** Designed to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry (POE). These fees are collected and deposited in the Immigration User Fee Account (IUFA) to cover the costs of Immigration Customs Enforcement (ICE) and Customs and Border Protection (CBP) activities at or related to air and sea POE inspections. The Immigration User Fee Account is administered by CBP and collections are split between CBP and ICE. According to a Memorandum of Understanding (MOU), the current split is 82.63% to CBP and 17.37% to ICE.

The Federal Immigration Laws and Regulations handbook under the Immigration and Nationality Act (INA) describes the ICE activities determined to be reimbursable out of the Immigration User Fee Account under Section 286 Subsection h (2)(A). The statute reads:

“The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and pre-inspection services for commercial aircraft or vessels and in—

- (i) providing overtime immigration inspection services for commercial aircraft or vessels;
- (ii) administration of debt recovery, including the establishment and operation of a national collections office;
- (iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;
- (iv) detection of fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;
- (v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and
- (vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.”

The INA further states that the money collected Immigration User Fee Account: “shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).”

ICE’s interpretation of the IUFA allows ICE to reimburse the cost of investigations, identifications, arrests, detention, processing, and removal of inadmissible aliens who arrived on commercial aircraft and vessels, and for aliens who are inadmissible under Section 1182(a) of the US Code who attempted illegal entry through avoidance of commercial air and sea ports-of-entry. ICE specifically requests reimbursement for:

- Resources that support investigations of aliens identified at an air or sea POE and Homeland Security Intelligence Reports supporting CBP inspection and pre-inspection activities.
- Resources that support identification of aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- Resources that support the arrest or transfer to an ICE detention facility of aliens identified at an air or sea POE or who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (e.g., IUFA aliens)
- Detention costs for IUFA aliens, including bed space, medical expenses, and transportation to legal proceedings and between facilities
- Legal proceeding costs incurred to represent the Government's case in immigration court with respect to IUFA aliens
- Removal costs for IUFA aliens, including costs of tickets, escorts, and removal administration

In addition to the requirement in the INA that IUFA-related expenses are estimated and the refund is adjusted on the basis of those estimates, OMB Circular A-25 requires that federal agencies collecting user fees determine that the user fee charges are sufficient to recover the full cost to the federal government of providing the service. According to the circular, full cost is determined or estimated from the best available records of the agency, and includes:

- Direct and indirect personnel costs
- Physical overhead, consulting, and other indirect costs
- Management and supervisory costs
- Enforcement, collection, research, and establishment of standards, and regulation costs

As a result of these requirements, ICE conducts an annual cost study to determine the full cost of resources expended due to investigating, identifying, apprehending, detaining, processing, and removing IUFA aliens. ICE also completes a quarterly update based on workload for that quarter and prior year costs.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

Fiscal Year 2015 Immigration User Fee Account Cost Study

Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)

January 29, 2016

FINAL



Table of Contents

Executive summary	3
1 Introduction and background	4
2 The Immigration Enforcement Lifecycle.....	4
3 ICE programs performing IUFA activities	7
3.1 Homeland Security Investigations – Office of Investigations (OI).....	8
3.2 Homeland Security Investigations – Office of Intelligence (Intel)	8
3.3 Homeland Security Investigations – Office of International Affairs (OIA).....	8
3.4 Enforcement and Removal Operations (ERO).....	8
3.5 Office of Principal Legal Advisor (OPLA)	8
4 IUFA cost study methodology	8
5 IUFA cost study results.....	9
5.1 Investigate phase	9
5.2 Identify phase	11
5.3 Arrest phase.....	12
5.4 Detain phase	13
5.5 Non-Detain Phase	15
5.6 Process phase	16
5.7 Remove phase	17
5.8 Depreciation.....	18
6 IUFA cost by air and sea ports of entry	19
7 Conclusion	21
8 Appendix.....	23
8.1 Continued methodology in FY 2015.....	23
8.1.1 Aliens inadmissible under Section 1182(a) of the US Code.....	23
8.1.2 OI investigative hours.....	23
8.1.3 Legal proceedings	24
8.2 User fee and cost study background.....	25



Executive summary

For fiscal year (FY) 2015, ICE identified a total of **\$197,525,482** in user fee-related costs to be reimbursed from the Immigration User Fee Account (IUFA). The following table shows the cost incurred by each phase of the Immigration Enforcement Lifecycle.

Table 1: ICE total cost, ICE total workload, IUFA workload, and IUFA cost by Immigration Enforcement Lifecycle phase

1.0 Investigate – Office of International Affairs ¹	\$142,876,034	486,946 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate – Office of Intelligence	\$78,156,868	378,709 intelligence hours	53,406 intelligence hours	14.10%	\$11,021,776
1.0 Investigate – Office of Investigations	\$2,026,004,098	11,121,746 investigative hours	408,223 investigative hours	3.67%	\$74,364,355
2.0 Identify	\$288,117,964	409,574 identifications	904 identifications	0.22%	\$635,926
3.0 Arrest	\$37,715,918	346,686 arrests	6,175 arrests	1.78%	\$671,777
4.0 Detain	\$2,325,534,408	10,972,513 detention days	382,101 detention days	3.48%	\$80,983,183
5.0 Non-Detain	\$144,946,708	242,274 non- detain book- outs	2,559 non- detain book- outs	1.06%	\$1,530,988
6.0 Process	\$522,337,838	1,375,802 events	49,964 events	3.63%	\$18,969,335
7.0 Remove	\$461,254,190	228,942 removals	4,394 removals	1.92%	\$8,852,683
Subtotal	\$6,026,944,026				\$197,030,022
Depreciation	\$15,155,599			3.27%	\$495,460
Total					\$197,525,482

¹ OIA does not have IUFA workload in the Investigate phase. However, OIA does have costs in other phases and does receive a reimbursement from IUFA.



1 Introduction and background

This report presents a summary of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Office of Budget and Program Performance (OBPP) FY 2015 Immigration User Fee Account (IUFA) cost study.

The Immigration and Nationality Act (INA) imposes user fees for travelers arriving in the United States by a commercial vessel or commercial aircraft, one of which is the Immigration User Fee. Currently the Immigration User Fee is set at \$7 for passengers arriving via an air or sea port of entry (POE) when the trip originated abroad, and \$3 for passengers arriving at a sea port of entry when the trip originated in the United States, Mexico, or Canada. These fees are collected by the commercial entity providing the transportation and deposited into the Immigration User Fee Account (IUFA) to cover the costs of ICE and CBP activities. The INA requires recurring reviews to determine whether the user fees are in fact covering the full costs of IUFA-related activities. These reviews focus on two central tasks: (1) identifying all of the user fee activities that ICE performs related to aliens attempting or avoiding entry at an air and sea POE and (2) accurately quantifying the costs of user fee-related activities. ICE conducts these reviews at the end of each fiscal year, as well as smaller quarterly reviews.

Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) provide law enforcement support to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry, or avoiding air and sea ports of entry. At air and sea ports of entry, CBP inspectors conduct immigration inspections. If an alien passes inspection with bona fide documents, the alien is admitted into the United States. If an alien fails an inspection, CBP inspectors identify the alien and determine the alien's immigration status. CBP inspectors will then take one of three actions:

- 1) remove the alien through the expedited removal process;
- 2) remove the alien through the voluntary return process;
- 3) turn the alien over to ICE custody.

Each year, several thousand passengers are identified at air and sea ports of entry by CBP, turned over to ICE, and processed through the Immigration Enforcement Lifecycle. ICE is also permitted to request reimbursement for aliens who are determined to have avoided inspection at air or sea ports of entry and charged under Section 1182(a) of the US Code. In addition, if aliens enter the United States using false documents, they are investigated by ICE and, if caught, are processed through the Immigration Enforcement Lifecycle. Currently the user fee collections are split between ICE and CBP—ICE receives 17.37 percent and CBP receives 82.63 percent. More detail on the user fee, reimbursable workload, and the cost study is in Section 1.1 in the Appendix.

2 The Immigration Enforcement Lifecycle

ICE follows the principles of Managerial Cost Accounting and uses the ICE Managerial Cost Accounting (MCA) Model to determine full costs of IUFA-related activities in each phase of the Immigration Enforcement Lifecycle.² The ICE MCA comprehensively aligns all of ICE's expenses, including all obligation and expenditure transactions for all fund codes applicable to the fiscal year, to ICE's operational phases and processes. ICE identifies seven phases which define all activities and mission operations. The "Identify" through "Remove" phases are collectively referred to as the Immigration Enforcement Lifecycle, encompassing ICE's administrative immigration enforcement

² Refer to the MCA Concept of Operations (CONOPS) for further details on the ICE MCA model.



activities. The Investigate phase stands alone and encompasses ICE's criminal enforcement activities, though aliens are often identified and arrested as a result of a criminal investigation.

These phases are described below in Table 2.

Table 2: Immigration Enforcement Lifecycle phases and descriptions

1.0 Investigate	Investigating individuals suspected of violating immigration laws
2.0 Identify	Verifying the location and identity of inadmissible aliens
3.0 Arrest	Placing inadmissible aliens under arrest
4.0 Detain	Detaining inadmissible aliens while they await legal proceedings (if applicable) or removal
5.0 Non-Detain	Case management used to release inadmissible aliens while they await legal proceedings or removal
6.0 Process	ICE's legal representation of the United States during inadmissible aliens' legal proceedings
7.0 Remove	Removing inadmissible aliens from the United States

Following the principles of Managerial Cost Accounting, ICE identifies costs as direct, indirect, or general and administrative (G&A), and allocates them to activities and phases in the Immigration Enforcement Lifecycle. In FY 2015, ICE's total costs were \$6,026,944,026.

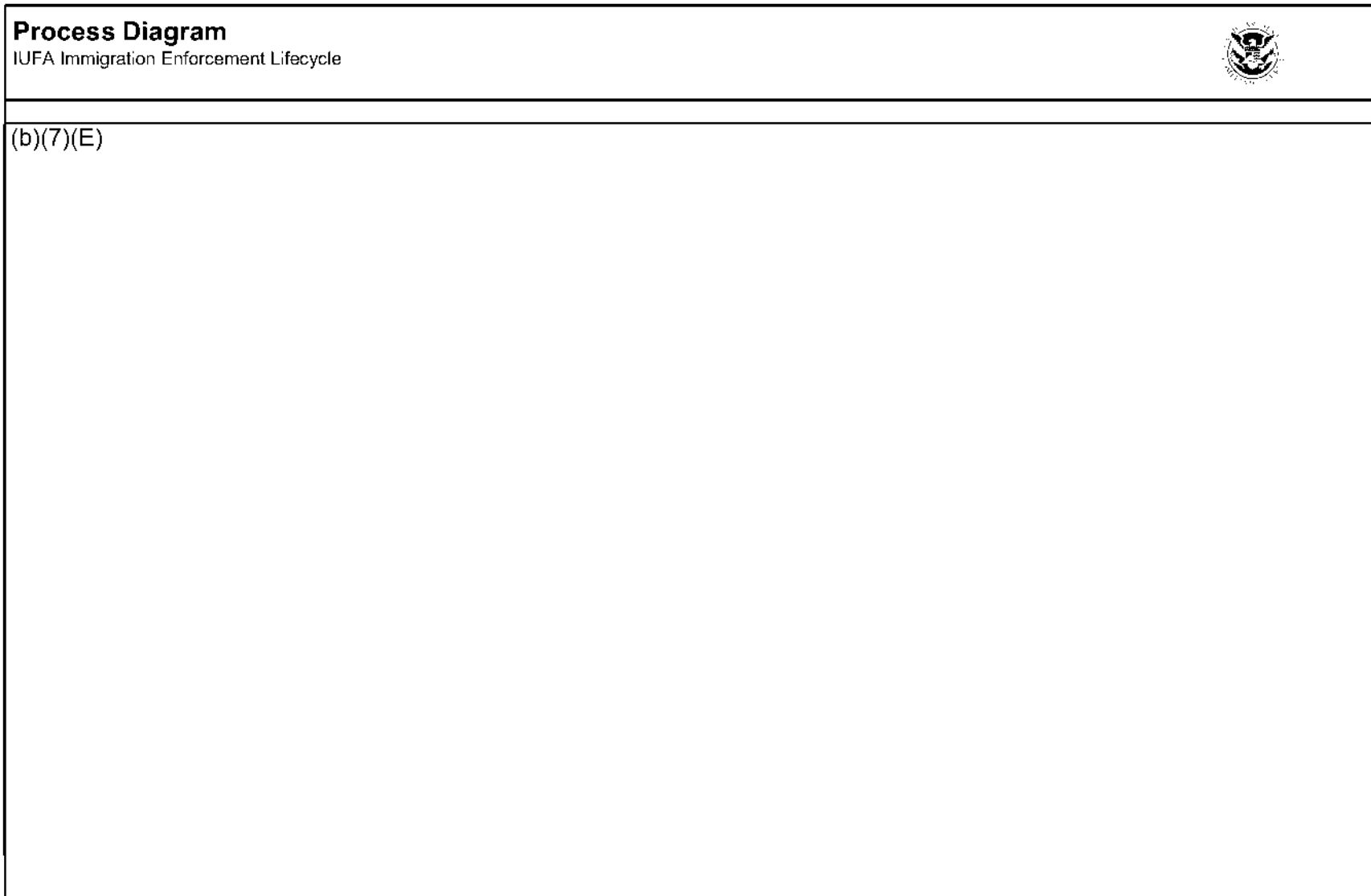
The costs of user fee-related activities represent a percentage of ICE's overall agency operational costs. First, ICE determines its total costs and workload, and then identifies the specific workload in each phase generated by IUFA aliens. IUFA aliens fall into two categories:

- Those who paid the Immigration User Fee and were inspected at air and sea ports of entry (referred to in this document as "ISP aliens")
- Those who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (referred to as "1182(a) aliens")

The cost study takes the IUFA-related workload in each phase as a percentage of total workload and applies those percentages to the total costs of each phase.



Figure 1: IUFA Immigration Enforcement Lifecycle process diagram





3 ICE programs performing IUFA activities

ICE claims reimbursement for workload related to two types of aliens: aliens identified at commercial air and sea ports of entry (POE) (“ISP aliens”) and aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code and are not from the Americas (“1182(a) aliens”).

There are five ICE directorates and programs that perform IUFA-related activities throughout the Investigate phase and the Immigration Enforcement Lifecycle: Homeland Security Investigations (HSI) Office of Investigations (OI), HSI Office of Intelligence (Intel), HSI Office of International Affairs (OIA), Enforcement and Removal Operations (ERO), and the Office of the Principal Legal Advisor (OPLA).

Table 3: Directorates and programs performing IUFA-related activities

HSI OI HSI Intel	1.0 Investigate	<ul style="list-style-type: none"> Investigating aliens identified at air and sea POE (ISP aliens) Hours spent creating intelligence reports disseminated to CBP, other ICE offices, and the National Targeting Center to support pre-inspection and inspection activities at air and sea POE
HSI OIA HSI Intel HSI OI ERO OPLA	2.0 Identify	<ul style="list-style-type: none"> Identifying aliens who are determined to have avoided inspection at an air or sea POE, are inadmissible under Section 1182(a) of the US Code, and are not from the Americas (1182(a) aliens)
HSI OI HSI OIA ERO	3.0 Arrest	<ul style="list-style-type: none"> Apprehending IUFA aliens Taking IUFA aliens into custody who were identified or arrested at air and sea POE
HSI OIA ERO OPLA	4.0 Detain	<ul style="list-style-type: none"> Detaining IUFA aliens, including bed space, food, health care
ERO	5.0 Non-Detain	<ul style="list-style-type: none"> Releasing IUFA aliens on bond or managing the Alternatives to Detention (ATD) program
HSI OIA ERO OPLA	6.0 Process	<ul style="list-style-type: none"> Representing and supporting the government’s immigration court case with respect to IUFA aliens
HSI OIA ERO OPLA	7.0 Remove	<ul style="list-style-type: none"> Removing IUFA aliens from the United States



Below is a detailed description of the IUFA activities each directorate or program supports.

3.1 Homeland Security Investigations – Office of Investigations (OI)

The Office of Investigations (OI) conducts investigations that protect the U.S. by deterring, interdicting, and investigating threats arising from the movement of people and goods into and out of the United States. OI may investigate and arrest suspected criminal aliens.

3.2 Homeland Security Investigations – Office of Intelligence (Intel)

The Office of Intelligence (Intel) works with OI, ERO, and CBP to collect and analyze intelligence, produce leads, and disseminate intelligence back to these organizations in the form of investigative hours contributing to intelligence products. Intel is primarily involved in assisting OI, ERO, and CBP with collecting and analyzing information and intelligence regarding specific targets identified before and during the inspections process at air and sea POE.

3.3 Homeland Security Investigations – Office of International Affairs (OIA)

OIA is involved throughout the immigration enforcement lifecycle, assisting in investigations of suspected criminals overseas, making arrests, assisting with repatriation, and negotiating and obtaining travel documents from the inadmissible or removable aliens' country of citizenship.

3.4 Enforcement and Removal Operations (ERO)

Key elements of ERO's enforcement mission are to apprehend removable aliens, to detain these individuals when necessary, and to remove illegal aliens from the United States. If CBP turns an alien over to ICE custody, ICE picks up the alien from CBP, apprehends the alien, and then makes a detention determination. ICE can either book the alien into a detention facility or release the alien on a detention alternative program (i.e., ATD, bond).

ICE is responsible for providing aliens with detention services and care such as medical services, bed space, and case management. The responsibility begins when a detainee is brought into ICE custody and continues until an alien is released or removed from the United States. To remove an alien from the United States, ICE coordinates all travel documents, logistics, and transportation necessary to send the alien back to his or her country of citizenship.

3.5 Office of Principal Legal Advisor (OPLA)

OPLA is responsible for litigating all immigration violation cases that are put before an immigration judge. OPLA attorneys prepare cases, attend hearings, advise ERO and HSI, respond to appeals, and file motions. Attorney case preparation typically involves reviewing the Notice to Appear (NTA), acquiring any relevant criminal records, analyzing evidence, and preparing briefs and testimony for court hearings.

4 IUFA cost study methodology

ICE applies a consistent methodology for each phase of the IUFA Immigration Enforcement Lifecycle in order to determine what portion of the total phase cost is reimbursable from the IUFA. This section will describe the steps in the methodology.

Step 1: Calculate the total cost of the phase

(b)(7)(E)



Step 2: Calculate the total workload of the phase

(b)(7)(E)

Step 3: Calculate the IUFA workload of the phase

(b)(7)(E)

Step 4: Apply IUFA percentage of the total workload to the total cost of the phase

(b)(7)(E)

5 IUFA cost study results

This section will explain the IUFA cost study results for each phase in the Immigration Enforcement Lifecycle.

5.1 Investigate phase

Step 1: Calculate the total cost of the Investigate phase

(b)(7)(E)

Table 4: Total cost in Investigate phase

OIA	\$142,876,034
Intel	\$78,156,868
OI	\$2,026,004,098
Total	\$2,247,036,999

OI also makes criminal arrests and administrative apprehensions of aliens, and therefore has costs in the Arrest phase. However, because OI's entire workload is captured in the (b)(7)(E) hours posted—including hours spent making arrests—OI's MCA costs from the Arrest phase have been moved to the Investigate phase and combined with their Investigate costs. This allows ICE to accurately calculate the percentage of their total workload and total costs related to IUFA.

Step 2: Calculate the total workload of the Investigate phase

OI executes investigations within case categories that are tracked in the (b)(7)(E) module. OI's operational outputs are the investigations themselves and their workload is the number of hours spent investigating cases during the fiscal year.

Intel's operational outputs are intelligence products and their workload is the number of investigative hours during the fiscal year.



OIA also executes investigations within case categories that are tracked in (b)(7)(E). Their operational outputs are the investigations themselves and their workload is the number of hours spent supporting investigations.

Table 5: Total workload in Investigate phase

OIA	486,946 investigative hours
Intel	378,709 intelligence hours
OI	11,121,746 investigative hours

Step 3: Calculate the IUFA workload of the Investigate phase

ICE identifies IUFA workload as the number of hours that OI spends investigating cases with a nexus to air and sea POE and the number of Intel intelligence products that contain information regarding specific targets identified before and during the inspections process at air and sea POE.

Prior to turning over an alien encountered at an air or sea POE to ICE, CBP completes a Search, Arrest, and Seizure (SAS) incident report within the (b)(7)(E). In the report, the CBP officer must mark the "Conveyance Type" field with a "C" for commercial air or a "V" for commercial vessel. ICE picks up the alien and initiates a case within (b)(7)(F). Personnel post hours worked to case categories in (b)(7)(F) and (b)(7)(F) links the SAS incident report to the appropriate case. OI runs a report to determine the number of hours spent in the fiscal year on each investigative case category where the conveyance type is marked "C" or "V".

Intel analysts produce intelligence reports and post hours worked in (b)(7)(F). In their reports, the analyst must mark an "IUFA" box with a check if the report is IUFA-related or leave it blank if the report is not IUFA-related. Intel then extracts intelligence hours marked as IUFA from (b)(7)(F).

OIA can also search for IUFA workload the same way that OI does. However, in previous years OIA's IUFA-related workload has been very small; for the purposes of this cost study it is assumed to be zero.

Table 6: IUFA workload in Investigate phase

OIA	0 hours (assumed)
Intel	53,406 intelligence hours
OI	408,223 investigative hours

Step 4: Apply IUFA percentage of the total workload to the total cost of the Investigate phase

IUFA-related workload is divided by total workload, and the percentage is applied to the total phase cost. This result yields the total IUFA phase cost that is reimbursable.³

(b)(7)(E)



Table 7: IUFA cost in Investigate phase

OIA	\$142,876,034	486,946 investigative hours	0 hours (assumed)	0.00%	\$-
Intel	\$78,156,868	378,709 intelligence hours	53,406 intelligence hours	14.10%	\$11,021,776
OI	\$2,026,004,098	11,121,746 investigative hours	408,223 investigative hours	3.67%	\$74,364,355
Total	\$2,247,036,999				\$85,386,131

5.2 Identify phase

Step 1: Calculate the total cost of the Identify phase

(b)(7)(E)

Table 8: Total cost in Identify phase

ERO	\$266,186,916
OIA	\$771,144
Intel	\$2,468,434
OPLA	\$18,691,470
Total	\$288,117,964

Step 2: Calculate the total workload of the Identify phase

The total workload in the Identify phase is the number of identifications made in FY15.

Table 9: Total workload in Identify phase

Identifications	409,574
-----------------	---------

Step 3: Calculate the IUFA workload of the Identify phase

ICE identifies 1182(a) workload as the number of identifications of aliens charged under section 1182(a) of the US Code who are not from the Americas. ICE does not claim reimbursement for ISP aliens because CBP makes the identification at air and sea POEs.



Table 10: IUFA workload in Identify phase

Identifications	904
-----------------	-----

Step 4: Apply IUFA percentage of the total workload to the total cost of the Identify phase

(b)(7)(E)

Table 11: IUFA cost in Identify phase

ERO	\$266,186,916				\$587,520
OIA	\$771,144				\$1,702
Intel	\$2,468,434				\$5,448
OPLA	\$18,691,470				\$41,255
Total	\$288,117,964	409,574	904	0.22%	\$635,926
		identifications	identifications		

5.3 Arrest phase

Step 1: Calculate the total cost of the Arrest phase

(b)(7)(E)

Table 12: Total cost in Arrest phase

ERO	\$37,459,050
IA	\$256,868
Total	\$37,715,918

Recall that, in the MCA, OI also has Arrest phase costs, but these have been moved to the Investigate phase to more accurately calculate the percentage of their total costs related to IUFA.

Step 2: Calculate the total workload of the Arrest phase

The total workload for the Arrest phase is a combination of:

- Arrests made by non-ICE DHS programs (i.e., CBP and USCIS) and turned over to ICE
- ICE arrests in that fiscal year

ICE counts DHS arrests made by non-ICE programs and turned over to ICE by counting the number of detention book-ins these arrests generate. Even though another agency made the arrest, ICE incurs costs in the Arrest phase for transferring custody of the alien from the other program to an ICE processing or detention facility.



Table 13: Total workload in Arrest phase

Non-ICE arrests turned over to ICE	225,986
ICE Arrests	120,700
Total	346,686

Step 3: Calculate the IUFA workload of the Arrest phase

ICE identifies ISP workload as the number of arrests made with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) workload as the number of arrests of aliens charged under section 1182(a) of the US Code who are not from the Americas.

The count of both ISP aliens and 1182(a) aliens includes non-ICE arrests turned over to ICE in FY 2015, prior ICE arrests booked in in FY 2015, and ICE arrests in FY 2015.

Table 14: IUFA workload in Arrest phase

Arrests	6,175
---------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Arrest phase

(b)(7)(E)

Table 15: IUFA cost in Arrest phase

ERO	\$37,459,050				\$667,202
OIA	\$256,868				\$4,575
Total	\$37,715,918	346,686 arrests	6,175 arrests	1.78%	\$671,777

5.4 Detain phase

Step 1: Calculate the total cost of the Detain phase

(b)(7)(E)



Table 16: Total cost in Detain phase

ERO	\$2,301,265,560
OIA	\$0
OPLA	\$24,268,848
Total	\$2,325,534,408

Step 2: Calculate the total workload of the Detain phase

The total workload for the Detain phase is the number of days aliens spend in detention during that fiscal year. Aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 17: Total workload in Detain phase

Detention days	10,972,513
----------------	------------

Step 3: Calculate the IUFA workload of the Detain phase

ICE identifies ISP Detain phase workload as the number of days spent in detention for aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all aliens arrested at land ports of entry. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Detain phase workload as the number of days spent in detention for aliens charged under section 1182(a) of the US Code who are not from the Americas.

As above, aliens booked into detention and booked out the same day are given one detention day. If an alien is booked into detention in one fiscal year and booked out in the next, only the days that occurred in that fiscal year are counted.

Table 18: IUFA workload in Detain phase

Detention days	382,101
----------------	---------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Detain phase

IUFA-related workload is divided by total workload, and the percentage is applied to the total phase cost. This result will yield the total IUFA phase cost that is reimbursable.

Table 19: IUFA cost in Detain phase

ERO	\$2,301,265,560				\$80,138,057
OPLA	\$24,268,848				\$845,126
Total	\$2,325,534,408	10,972,513	382,101	3.48%	\$80,983,183



5.5 Non-Detain Phase

Step 1: Calculate the total cost of the Non-Detain phase

(b)(7)(E)

Table 20: Total cost in Non-Detain phase

ERO

\$144,946,708

Step 2: Calculate the total workload of the Non-Detain phase

The total workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on an Order of Supervision (OSUP), or being released on their own recognizance (OREC).

Table 21: Total workload in Non-Detain phase

Number of aliens
released to non-
detain programs

242,274

The method of calculating workload used for IUFA produces more detailed data than the workload used in the MCA. The MCA estimates the number of days aliens spent on bond and in ATD by multiplying the number of cash and surety bonds in that fiscal year by the number of days in the fiscal year (365 for FY 2015). The MCA method cannot be used for IUFA because there is no link between the number of aliens on bond and in ATD and that alien's identifying or arresting program (which would identify ISP aliens), or that alien's charge (which would identify 1182(a) aliens). The method used for IUFA provides the additional detail to link the number of non-detain book-outs back to the method of arrest or the charge.

Step 3: Calculate the IUFA workload of the Non-Detain phase

As above, the IUFA workload for the Non-Detain phase is the number of aliens who were booked out during the fiscal year with a release reason code that indicates a non-detain program. Non-detain programs include Alternatives to Detention (ATD), bond, being released on their own supervision (OSUP), or being released on their own recognizance (DREC).

ICE identifies ISP Non-Detain phase workload as the number of non-detain book-outs in that fiscal year attributed to aliens with an "apprehension method code" of "ISP" (for "Inspections") where the "current program code", or arresting program, is not "ISL" (for "Inspections – Land"). This excludes all aliens arrested at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Non-Detain phase workload as the number of non-detain book-outs for aliens charged under Section 1182(a) of the US Code who are not from the Americas.



Table 22: IUFA workload in Non-Detain phase

Number of aliens released to non-detain programs	2,559
--	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Non-Detain phase

(b)(7)(E)

Table 23: IUFA cost in Non-Detain phase

ERO	\$144,946,708	242,274 non-detain book-outs	2,559 non-detain book-outs	1.06%	\$1,530,988
-----	---------------	------------------------------	----------------------------	-------	-------------

5.6 Process phase

Step 1: Calculate the total cost of the Process phase

(b)(7)(E)

Table 24: Total cost in Process phase

ERO	\$336,514,194
OIA	\$256,868
OPLA	\$185,566,776
Total	\$522,337,838

Step 2: Calculate the total workload of the Process phase

The total workload for the Process phase is the number of events attended by aliens in FY 2015. Examples of events include a master hearing, merits hearing, bond hearing, or a motion to reopen—each alien with a proceeding could have many events. The average number of events per alien with a proceeding is 2.99.

Table 25: Total workload in Process phase

Number of events	1,375.802
------------------	-----------

Step 3: Calculate the IUFA workload of the Process phase

ICE identifies ISP Process phase workload as the number of events in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Process phase workload as the number of events in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 26: IUFA workload in Process phase

Number of IUFA events	49,964
-----------------------	--------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Process phase

(b)(7)(E)

Table 27: IUFA cost in Process phase

ERO	\$336,514,194				\$12,220,923
IA	\$256,868				\$9,328
OPLA	\$185,566,776				\$6,739,083
Total	\$522,337,838	1,375,802 events	49,964 events	3.63%	\$18,969,335

5.7 Remove phase

The Remove phase consists of the activities related to conducting post-order custody review, coordinating travel documents, coordinating travel logistics, transporting the alien to his or her country of citizenship, and completing case management.

Step 1: Calculate the total cost of the Remove phase

(b)(7)(E)

Table 28: Total cost in Remove phase

ERO	\$460,361,886
IA	\$256,868
OPLA	\$635,436
Total	\$461,254,190



Step 2: Calculate the total workload of the Remove phase

The total workload for the Remove phase is the number of removals in FY 2015, including voluntary returns under safeguards. This number excludes types of removals, such as voluntary departures, that do not incur any costs for ICE.

Table 29: Total workload in Remove phase

Number of removals	228,942
--------------------	---------

Step 3: Calculate the IUFA workload of the Remove phase

ICE identifies ISP Remove phase workload as the number of removals in that fiscal year attributed to aliens with an “apprehension method code” of “ISP” (for “Inspections”) where the “current program code”, or arresting program, is not “ISL” (for “Inspections – Land”). This excludes all arrests made at land ports of entry, which are not related to the Immigration User Fee. When a current program code is not available in the arrest data, the current program code from the initial identification of the alien is used.

ICE identifies 1182(a) Remove phase workload as the number of removals in that fiscal year attributed to aliens charged under section 1182(a) of the US Code who are not from the Americas.

Table 30: IUFA Remove phase workload

Number of removals	4,394
--------------------	-------

Step 4: Apply IUFA percentage of the total workload to the total cost of the Remove phase

(b)(7)(E)

Table 31: IUFA cost in Remove phase

ERO	\$460,361,886				\$8,835,557
IA	\$256,868				\$4,930
OPLA	\$635,436				\$12,196
Total	\$461,254,190	228,942 removals	4,394 removals	1.92%	\$8,852,683

5.8 Depreciation

In addition to operating expenditures associated with IUFA operations, ICE must also support the cost of capital assets critical to maintaining operations. To calculate depreciation, ICE determined what percent of the total IUFA cost represents ICE’s total cost, then applied this percentage to the total Depreciation, Amortization, and Depletion cost for the fiscal year as reported by ICE in the FY 2015 DHS Consolidated Financial Statements.



Table 32: FY 2015 IUFA depreciation

\$6,026,944,026	\$197,030,022	3.27%	\$15,155,599	\$495,460
-----------------	---------------	-------	--------------	-----------

6 IUFA cost by air and sea ports of entry

In 2012, ICE updated its methodology to separate air and sea Immigration User Fee collections and costs per the Government Accountability Office (GAO) "Annual Report: Opportunities to Reduce Duplication, Overlap and Fragmentation, Achieve Savings, and Enhance Revenue", and continues to do so for FY 2015.

The FY 2015 cost study results show that costs at air ports of entry represented \$131,038,346, or 63 percent of total ICE IUFA costs. Costs from aliens who arrived at sea ports of entry comprised \$11,576,768, or 6 percent of total IUFA costs. Costs from 1182(a) aliens, who avoided air and sea ports of entry, represented 25 percent of user fee costs at \$51,036,037.

Because the (b)(7)(F) system used by HSI records the method of conveyance in its seizure and arrest data, the accompanying HSI case hours include specific air and sea hours, which are given below in Table 33 below.

However, intelligence products and hours do not record whether the alien was apprehended at an air or sea port of entry. To attribute an air or sea port of entry to intelligence products and hours, ICE takes the percentage of IUFA workload related to an air port of entry from all other phases and multiplies it by the number of intelligence hours.

ICE's identification and apprehension data marks the point of identification and apprehension as either ISA for air or ISS for sea. To obtain the specific air workload for the Arrest through Remove phases, workload related to aliens with the identifying or apprehending program ISA are counted as air workload, while workload related to aliens with the identifying or apprehending program ISS are counted as sea workload.

The total workload for each phase for air and sea are given below in Table 33.

Table 33: Air and sea ISP workload (excluding 1182(a) aliens)

Investigate - OI	365,812 investigative hours	42,411 investigative hours	408,223 investigative hours
Arrest	5,030 arrests	222 arrests	5,252 arrests
Detain	164,551 detention days	8,309 detention days	172,860 detention days
Non-Detain	314 non-detain book-outs	51 non-detain book-outs	365 non-detain book
Process	33,261 events	1,944 events	35,205 events
Remove	3,016 removals	179 removals	3,195 removals
Total workload	571,984	53,116	625,100
% of total air and sea workload	92%	8%	100%
Applied to Investigate - Intel	48,868 intelligence hours	4,538 intelligence hours	53,406 intelligence hours



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

The table below shows the air workload and costs for each phase:

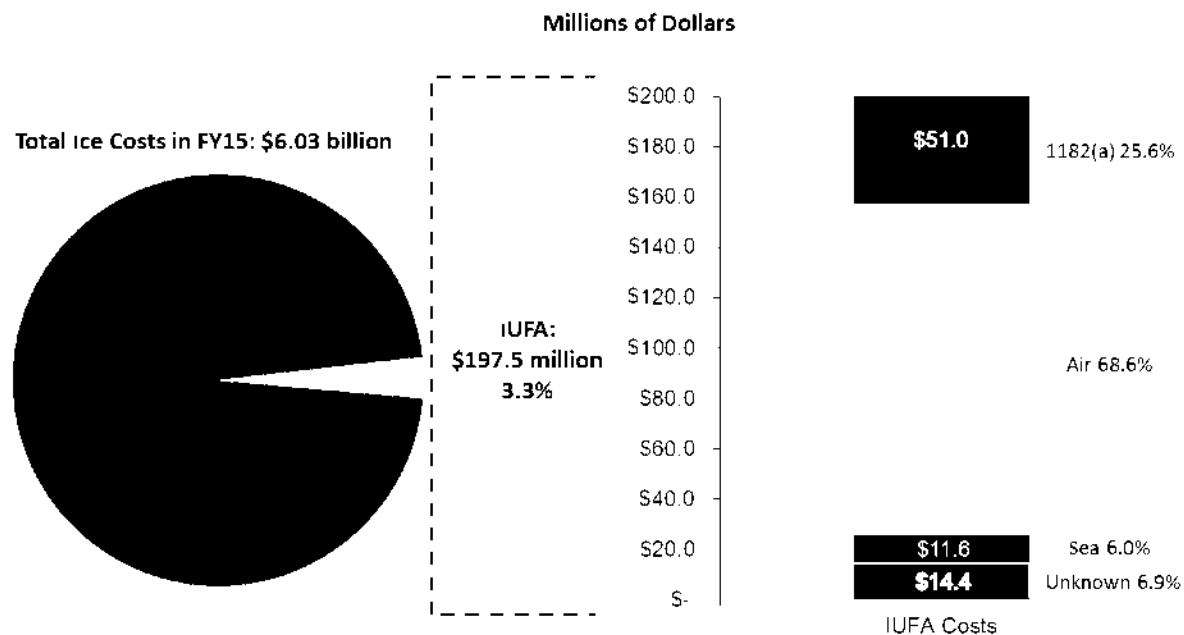
Table 34: IUFA air workload and costs by phase

1.0 Investigate – Office of International Affairs	\$142,876,034	486,946 investigative hours	0 investigative hours	0.00%	\$-
1.0 Investigate – Office of Intelligence	\$78,156,868	378,709 intelligence hours	48,868 intelligence hours	12.90%	\$10,085,233
1.0 Investigate Office of Investigations	\$2,026,004,098	11,121,746 investigative hours	365,812 investigative hours	3.29%	\$66,638,513
2.0 Identify	\$288,117,964	409,574 identifications	0 identifications	0.00%	\$-
3.0 Arrest	\$37,715,918	346,686 arrests	5,030 arrests	1.45%	\$547,213
4.0 Detain	\$2,325,534,408	10,972,513 detention days	164,551 detention days	1.50%	\$34,875,239
5.0 Non-Detain	\$144,946,708	242,274 non- detain book- outs	314 non- detain book- outs	0.13%	\$187,859
6.0 Process	\$522,337,838	1,375,802 events	33,261 events	2.42%	\$12,627,892
7.0 Remove	\$461,254,190	228,942 removals	3,016 removals	1.32%	\$6,076,398
Subtotal	\$6,026,944,026				\$131,038,346
Depreciation	\$15,155,599			1.52%	\$230,365
Total					\$131,268,711



A depiction of how the total identified IUFA costs are divided into air and sea costs is below:

Figure 2: ICE total and IUFA costs for FY 2015 by air and sea ports of entry



Source: FY 2015 IUFA Cost Study

7 Conclusion

Four key factors had the biggest impact on ICE's total IUFA costs in FY15:

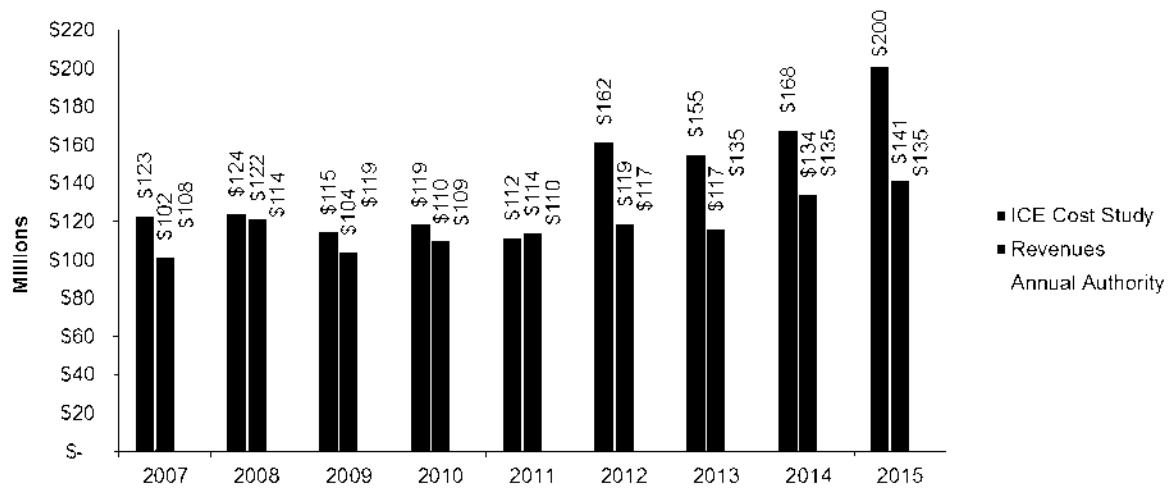
- ICE continued to include aliens inadmissible under section 1182(a)
- ICE continued its methodology for counting IUFA aliens' legal proceedings
- ICE Intelligence saw a 56% increase in IUF related workload from FY'14 to FY'15
- ICE Detention saw a decrease in overall detention days (-22%) while IUF workload remained consistent resulting in an increase in IUF reimbursement for Detain phase programs
- Legal Proceedings (Process phase) operational data almost double from FY2014 workload, increasing User Fee guidance ~\$1.7m for the primary contributing program, OPLA
- ICE updated its MCA costing methodology to keep costs in line with the PPA's base appropriation, leading to an increase in general and administrative (G&A) cost reimbursement

The chart below shows the changes in identified costs year over year:



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

Figure 3: IUFA costs and revenues by fiscal year⁴



⁴ Total Revenues for FY 2015 were 141 million



8 Appendix

8.1 Continued methodology in FY 2015

The FY 2015 cost continued FY 2014 methods of capturing ICE operational data and IUFA-related operational data. When calculating the percent of ICE workload that is IUFA-related, the denominator is typically total ICE operational workload and the numerator is the same workload, restricted to only IUFA cases, which include both ISP and 1182(a) cases.

In general, ISP cases are determined by restricting the apprehension method code to “ISP”, or Inspections. To ensure no land inspections are included, ICE also excludes all cases where the “current program code” is “Inspections – Land” or “ISL”. The apprehension method code and current program code are found in arrest records.

1182(a) cases are determined by finding aliens charged under section 1182(a) of the US Code who are not from the Americas. These aliens are assumed to have arrived in the US by avoiding inspection at commercial air and sea POE.

The sections below outline the methodology for the fiscal year. Section 9.1.4 gives more detailed methodology by phase.

8.1.1 Aliens inadmissible under Section 1182(a) of the US Code

ICE continued to include aliens who were not identified at air and sea ports of entry, but who were “inadmissible under section 1182(a) [of the Immigration and Nationality Act] who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry” as eligible for IUFA reimbursement. ICE counted these aliens by finding aliens with a charge code of 1182(a)(6)(A)(i) who were from countries outside of the Americas. Their workload was included in the Identify through Remove phases.

In support of this interpretation of the INA, ICE’s Office of the Principal Legal Advisor (OPLA) states:

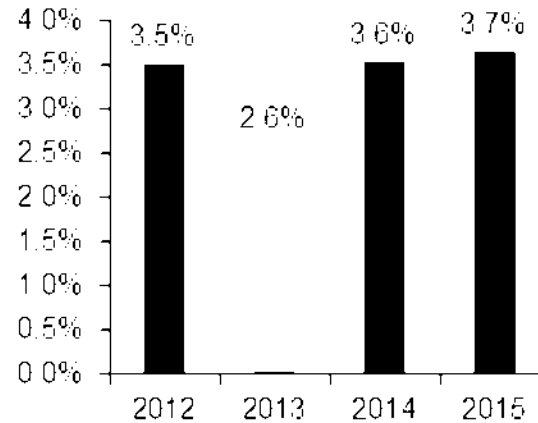
(b)(5)

8.1.2 OI investigative hours

For this cost study, OI searched for all arrests and seizures no matter when they were made, and for case hours charged in FY 2015. Because some investigations can span multiple fiscal years, this method allows ICE to count the full investigative workload related to IUFA during that fiscal year.



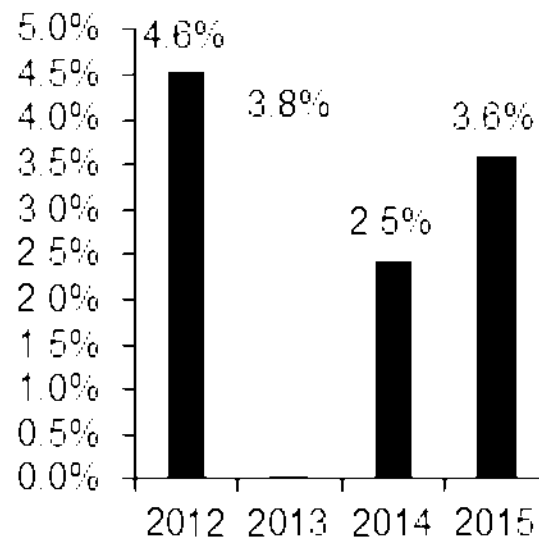
Figure 4: IUFA Investigate phase workload as percent of total OI investigative hours



8.1.3 Legal proceedings

For this cost study, ICE used data from the Office of Principal Legal Advisor Network (PLANet), OPLA's system of record. Instead of counting proceedings or matters, ICE counted individual legal events. For example, if an alien has one master hearing, one merits hearing, one bond hearing, and one appeal, that counts as four separate events. This method of counting allows for a much more granular view of ICE's total processing workload and IUFA-related processing workload.

Figure 5: IUFA Process phase workload as percent of total events

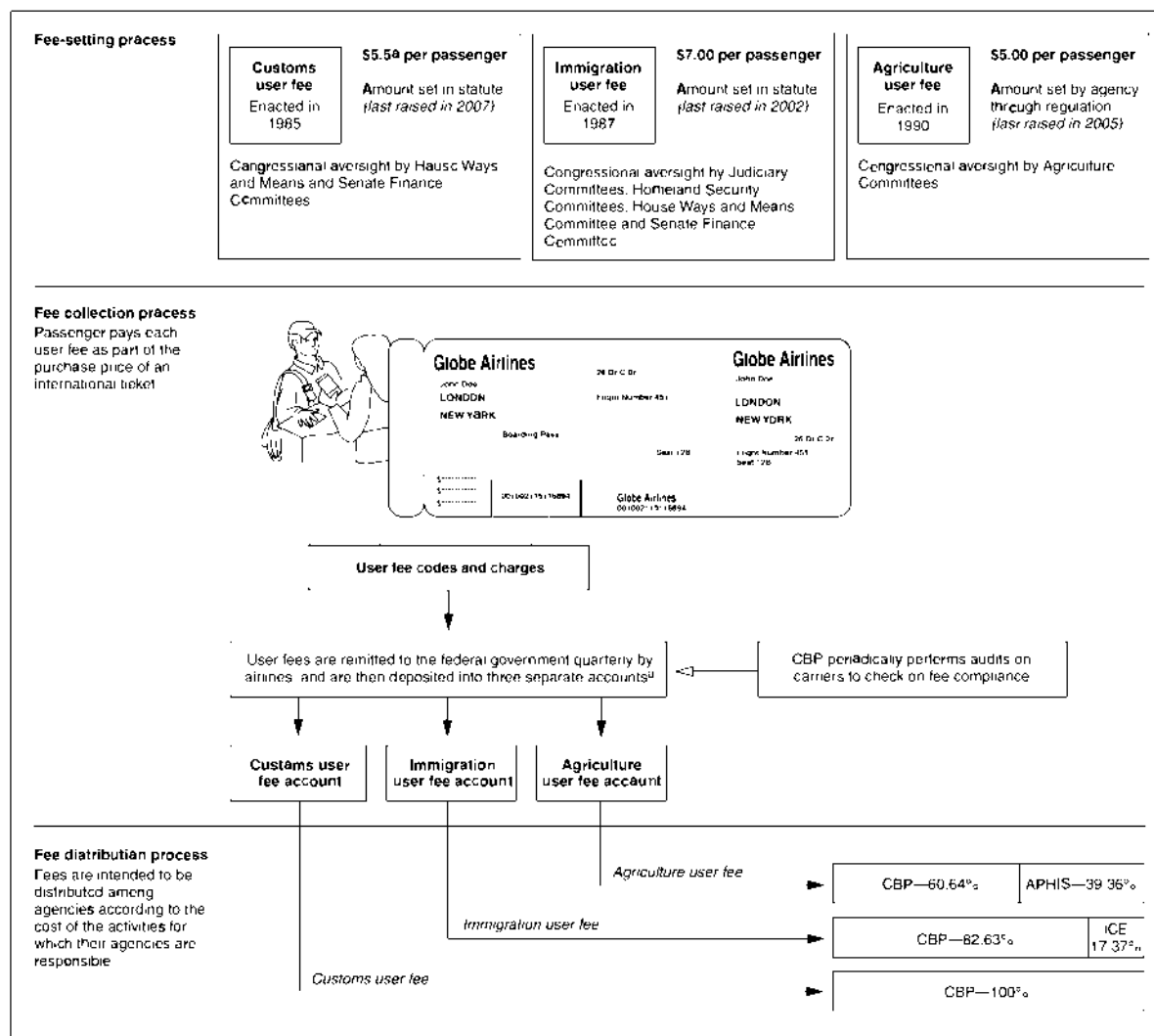




8.2 User fee and cost study background

Individuals arriving in the United States every year are subject to an inspection to ensure they are entering the country lawfully, and not transporting any illegal goods, harmful pets, or prohibited agricultural products. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (P.L. 99-272) authorizes the collections of User Fees for various services. According to GAO-07-1131 Federal User Fees Report, three user fees are issued and collected by the airlines and deposited into separate accounts. The amount of the user fees is set by legislation, and Congressional authority and oversight is provided by the Judiciary, House Ways and Means, and Senate Finance Committees.

Figure 6: User fees for commercial passengers arriving in the United States through air or sea



Source: GAO-07-1131 Federal User Fee

The three user fees are:

- **Customs Air Passenger Inspection Fee:** Designed to prevent passengers from bringing illegal goods into the United States. These fees are collected and deposited into the Customs User Fee Account.



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- **Agriculture Air Passenger User Fee:** Designed to seize prohibited materials and intercept foreign agricultural pests. These fees are collected and deposited into the Agriculture User Fee Account.
- **Immigration User Fee:** Designed to detect and remove illegal aliens attempting to enter the United States through air and sea ports of entry (POE). These fees are collected and deposited in the Immigration User Fee Account (IUFA) to cover the costs of Immigration Customs Enforcement (ICE) and Customs and Border Protection (CBP) activities at or related to air and sea POE inspections. The Immigration User Fee Account is administered by CBP and collections are split between CBP and ICE. According to a Memorandum of Understanding (MOU), the current split is 82.63% to CBP and 17.37% to ICE.

The Federal Immigration Laws and Regulations handbook under the Immigration and Nationality Act (INA) describes the ICE activities determined to be reimbursable out of the Immigration User Fee Account under Section 286 Subsection h (2)(A). The statute reads:

“The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and pre-inspection services for commercial aircraft or vessels and in—

- (i) providing overtime immigration inspection services for commercial aircraft or vessels;
- (ii) administration of debt recovery, including the establishment and operation of a national collections office;
- (iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;
- (iv) detection of fraudulent documents used by passengers traveling to the United States, including training of, and technical assistance to, commercial airline personnel regarding such detection;
- (v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry; and
- (vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.”

The INA further states that the money collected Immigration User Fee Account: “shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).”

ICE’s interpretation of the IUFA allows ICE to reimburse the cost of investigations, identifications, arrests, detention, processing, and removal of inadmissible aliens who arrived on commercial aircraft and vessels, and for aliens who are inadmissible under Section 1182(a) of the US Code who attempted illegal entry through avoidance of commercial air and sea ports-of-entry. ICE specifically requests reimbursement for:

- Resources that support investigations of aliens identified at an air or sea POE and Homeland Security Intelligence Reports supporting CBP inspection and pre-inspection activities.
- Resources that support identification of aliens who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code



Department of Homeland Security (DHS)
Immigration and Customs Enforcement (ICE)
Office of Budget and Program Performance (OBPP)

- Resources that support the arrest or transfer to an ICE detention facility of aliens identified at an air or sea POE or who are determined to have avoided inspection at an air or sea POE and are inadmissible under Section 1182(a) of the US Code (e.g., IUFA aliens)
- Detention costs for IUFA aliens, including bed space, medical expenses, and transportation to legal proceedings and between facilities
- Legal proceeding costs incurred to represent the Government's case in immigration court with respect to IUFA aliens
- Removal costs for IUFA aliens, including costs of tickets, escorts, and removal administration

In addition to the requirement in the INA that IUFA-related expenses are estimated and the refund is adjusted on the basis of those estimates, OMB Circular A-25 requires that federal agencies collecting user fees determine that the user fee charges are sufficient to recover the full cost to the federal government of providing the service. According to the circular, full cost is determined or estimated from the best available records of the agency, and includes:

- Direct and indirect personnel costs
- Physical overhead, consulting, and other indirect costs
- Management and supervisory costs
- Enforcement, collection, research, and establishment of standards, and regulation costs

As a result of these requirements, ICE conducts an annual cost study to determine the full cost of resources expended due to investigating, identifying, apprehending, detaining, processing, and removing IUFA aliens. ICE also completes a quarterly update based on workload for that quarter and prior year costs.