GAO

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# FREEDOM OF INFORMATION ACT

## DHS Has Taken Steps to Enhance Its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness

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## DHS Has Taken Steps to Enhance Its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness

## Why GAO Did This Study

The Freedom of Information Act (FOIA) requires federal agencies to generally provide the public with access to government information. In December 2005, the President issued Executive Order 13392, to improve agencies' FOIA processing. The order required each agency to review its operations and develop plans for improvement.

Since its establishment, the Department of Homeland Security (DHS) has accounted for a major and increasing portion of pending FOIA requests governmentwide. While it has reported achieving a notable reduction since 2006, DHS still possesses the largest backlog of overdue requests in the government. GAO was asked to determine (1) what key steps DHS has taken to enhance its FOIA program, and (2) what opportunities exist to improve the efficiency and cost-effectiveness of FOIA operations across the department. To do this, GAO reviewed DHS's improvement plan; examined policies, procedures, and other documentation; and interviewed agency officials.

## What GAO Recommends

GAO is recommending that key practices used by certain DHS components and other agencies be implemented more consistently across the department. DHS concurred with GAO's assessment and recommendations.

## What GAO Found

DHS has taken steps to enhance its FOIA program. DHS developed an improvement plan that focused on eliminating its backlog of overdue requests, implementing enhanced training requirements, and deploying more advanced technology. Further, the DHS Privacy Office has initiated actions to ensure policy compliance and provide oversight of FOIA operations throughout the department's component agencies, including developing a departmentwide handbook, monitoring monthly data processing statistics, and instituting relevant training for employees. As a result, DHS has reported reducing its backlog by about 24 percent since implementing its plan.

However, opportunities exist for DHS to improve the efficiency and cost-effectiveness of FOIA processing across the department. Specifically, implementation of the following practices could facilitate the processing of information requests at a number of its major components:

- ***Internal monitoring and oversight.*** Establishing mechanisms for monitoring and oversight of processing efficiency may help reduce the backlog of open requests.
- ***Component-specific training.*** Component-specific training could enhance the efficiency of processing within component agencies.
- ***Online status-checking services.*** Providing requesters with online access to information concerning the status of their requests could contribute to better customer service and higher staff productivity.
- ***Electronic dissemination of records.*** Releasing records in an electronic format could provide cost savings and increase efficiency.
- ***Electronic redaction.*** By adopting electronic redaction more broadly, DHS may be able to reduce the staff time otherwise spent manually redacting records, while also improving the consistency of its responses to requests.

By implementing these practices—which are already being used by certain DHS components and other agencies—across major DHS components, the department could further reduce its backlog, increase efficiency, improve customer service, and respond to information requests in a more timely fashion.

**United States Government Accountability Office**

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**United States Government Accountability Office**
**Washington, DC 20548**

March 20, 2009

The Honorable Robert C. Byrd
Chairman
The Honorable George Voinovich
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable David E. Price
Chairman
The Honorable Harold Rogers
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

The Freedom of Information Act (FOIA)[1] establishes that federal agencies
must generally provide the public with access to government information,
thus enabling them to learn about government operations and decisions.
Specific requests by the public for information through the act have led to
the disclosure of waste, fraud, abuse, and wrongdoing in the government,
as well as the identification of unsafe consumer products, harmful drugs,
and serious health hazards.

In December 2005, the President issued Executive Order 13392, aimed at
improving agencies' disclosure of information consistent with FOIA.[2] The
focus of the order was to achieve measurable improvements in processing
(including reducing the backlog of overdue requests) and to reform
programs that did not produce appropriate results. Among other things,
this order required each agency to review its FOIA operations and develop
improvement plans; each agency was to submit a report to the Attorney
General and the Director of the Office of Management and Budget
summarizing the results of the agency's review and including a copy of its
plan. These plans were to include specific outcome-oriented goals and

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[1]5 U.S.C. § 552.

[2]Executive Order 13392, *Improving Agency Disclosure of Information* (Washington, D.C.,
Dec. 14, 2005).

timetables, by which the agency head was to evaluate the agency's success in implementing the plan. Agencies were also required to include a section in their fiscal year 2006 and 2007 annual reports reporting on progress in implementing their plans.

A major focus of the executive order was the reduction or elimination of "backlog": requests for records that have not been responded to within the statutory time limit—generally 20 working days.[3] (For clarity, we refer to this as "backlog of overdue requests" or "overdue requests" to distinguish them from "pending requests," which are all open requests, whether or not they have been responded to within the statutory time limit.) The Department of Homeland Security (DHS) accounts for a major portion of pending requests governmentwide and possesses the largest backlog of overdue requests in the government.

In enacting the Consolidated Appropriations Act, 2008, the Committees on Appropriations directed us to evaluate the operations of DHS's FOIA program. As agreed, our specific objectives were to determine (1) what key steps DHS has taken to enhance its FOIA program, and (2) what opportunities, if any, exist to improve the efficiency and cost-effectiveness of FOIA operations across the department.

To determine the key steps DHS has taken to enhance its program, we reviewed the goals contained in the DHS FOIA improvement plan and progress made on these goals, as reported in DHS's annual reports. We also assessed actions taken to achieve these goals at seven major DHS component agencies—those with the largest number of pending cases at the end of fiscal year 2007. These components are U.S. Customs and Border Protection (CBP), the Federal Emergency Management Agency (FEMA), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), United States Citizenship and Immigration Services (USCIS), the United States Secret Service (USSS), and the United States Coast Guard.

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[3]This time may be extended by no more than 10 days in "unusual circumstances," such as when requests involve a voluminous amount of records or require consultation with another agency. The time limit refers to the period for the agency to make a determination whether to comply with the request. The requester is to be "immediately" notified of the determination, the rationale, and of appeal rights for adverse determinations. The recent OPEN Government Act of 2007 (Public Law 110-175) has addressed when the 20-day period commences and the circumstances under which the period can be suspended (or "tolled").

To determine what opportunities, if any, exist to improve the efficiency and cost-effectiveness of operations across the department, we analyzed documentation from DHS regarding program structure, procedures, and resources. We also reviewed similar documentation from the Department of Justice (DOJ) and the Department of State—two agencies with types of information similar to DHS—and compared their programs with those of DHS. A more detailed description of our objectives, scope, and methodology is provided in appendix I.

We conducted this performance audit from May 2008 to March 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Results in Brief

DHS has taken steps to enhance its FOIA program. Specifically, DHS has developed an improvement plan that included goals focused on eliminating its backlog of overdue requests, implementing enhanced training requirements, and deploying advanced technology. Further, the DHS Privacy Office has initiated several actions to ensure policy compliance and provide oversight of FOIA processing within departmental component agencies, such as developing a departmentwide handbook, monitoring monthly data processing statistics, and instituting pertinent training for employees. As a result, three components have reported significantly reducing their backlog of overdue requests. For example, USCIS has reduced its backlog from approximately 89,000 in September 2006 to about 70,000 in October 2008, a 21 percent reduction. Overall, the department has reported achieving a backlog reduction of about 24 percent since implementation of its improvement plan.

Nevertheless, opportunities exist for DHS to improve the efficiency and cost-effectiveness of FOIA operations across the department. Specifically, consistent implementation of the following practices across major departmental components could facilitate the department's processing of information requests:

- *Internal monitoring and oversight.* Establishing mechanisms for monitoring and oversight of processing efficiency may help components reduce their backlogs. Three of the seven major component agencies within DHS have reported implementing monitoring and oversight

mechanisms within their programs and have reduced their backlogs. The remaining four have not implemented such mechanisms, nor have they made comparable reductions in their backlogs. By more consistently establishing monitoring and oversight processes, DHS could reduce the risk of not being able to provide responses to requests within the statutory time limits.

- *Component-specific training.* Component-specific training—which goes beyond general training to address processing details that are unique within each of the components—could enhance the consistency and efficiency of processing within those components. Of the seven major components, five have begun implementing in-house component-specific training for their staff. Officials from one of these components stated that staff appeared more prepared to respond to requests, particularly regarding the application of exemptions. While the other DHS components provide some form of training to their staff, it is not tailored to their unique needs and circumstances. By developing and implementing specialized training programs for their staff, components may be able to increase the consistency and efficiency of their processing.

- *Online status-checking services.* Providing requesters with online access to information concerning the status of their requests can contribute to improved customer service and staff productivity. Two of the seven major components have deployed or are in the process of deploying an online status-check service, while five do not provide the service. Officials from the component that has deployed the service reported a reduction in the number of customer service calls, which has allowed staff to spend more time on other duties. By implementing this service more broadly, the department might be able to realize cost savings and customer service benefits.

- *Dissemination of records in an electronic format.* The format (paper or CD) in which a FOIA office releases records to requesters can affect operating expenditures and processing efficiency. Three of the seven major components have adopted electronic dissemination for larger requests and reported reducing operating costs as a result. By disseminating more records in an electronic form, DHS may be able to reduce the operational costs of processing requests.

- *Electronic redaction.* Currently, five of DHS's seven major components have broadly adopted electronic redaction processes and have reported gains in staff efficiency as a result. The other two major components continue to manually redact most records. By adopting electronic redaction more broadly, these components may be able to reduce the time

otherwise spent manually redacting records, while also improving the consistency of their products.

To help improve the efficiency and cost-effectiveness of the department's FOIA program, we are recommending that the Secretary of Homeland Security take actions to ensure that these key practices are consistently adopted across the department's major components. In written comments on a draft of this report, DHS concurred with our assessment and recommendations and described actions underway to address the recommendations.

## Background

FOIA establishes a legal right of access to government records and information on the basis of the principles of openness and accountability in government. Before the act (originally enacted in 1966),[4] the government required individuals to demonstrate "a need to know" before granting the right to examine federal records. FOIA established a "right to know" standard, under which an organization or any member of the public could receive access to information held by federal agencies without demonstrating a need or reason. The "right to know" standard shifted the burden of proof from the individual to government agencies and required agencies to provide proper justification when denying requests for access to records.

FOIA provides the public with access to government information either through "affirmative agency disclosure"—publishing information in the *Federal Register* or on the Internet or making it available in reading rooms—or in response to public requests for disclosure. Public requests for records are the best known type of disclosure, and require agencies to promptly provide records in any readily producible form or format specified by the requester.

Not all information held by the government is subject to FOIA. The act prescribes nine specific categories of information that can be exempt from disclosure, including, but not limited to, trade secrets and certain confidential commercial or financial information, certain personnel and medical files, and certain law enforcement records.[5] When agencies deny

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[4]The act has been amended several times.

[5]There are also FOIA exclusions for specific, sensitive records held by law enforcement agencies.

all or part of a request, the act requires that agencies notify requesters of the reasons for the adverse determination and grants requesters the right to appeal the decision.

The Department of Justice (DOJ) is the primary source of FOIA oversight and policy guidance for agencies. Within the department, the Office of Information and Privacy (OIP) has lead responsibility for providing guidance and support to federal agencies on FOIA issues. OIP issues a guide addressing various aspects of the act and conducts a variety of related training programs for personnel across the government.

## Executive Order Led to Activities Aimed at Improving FOIA Operations

On December 14, 2005, the President issued Executive Order 13392, setting forth a policy of citizen-centered and results-oriented FOIA administration. The order directed agencies to provide requesters with courteous and appropriate service, as well as ways to learn about the FOIA process, the status of their requests, and the public availability of other agency records. The order also instructed agencies to process requests efficiently, achieve measurable process improvements (including a reduction in the backlog of overdue requests),[6] and reform programs that did not produce appropriate results. A major focus of the order was for agency plans to include specific actions to eliminate or reduce any backlog of overdue requests.

To carry out this policy, the order required, among other things, that agency heads designate Chief FOIA Officers to oversee their programs. The officers were directed to review their operations and develop improvement plans to ensure that administration of the act was in accordance with applicable law, as well as with the policy set forth in the order. By June 2006, agencies were to submit reports that included the results of their reviews and copies of their improvement plans.

In April 2006, OIP posted guidance to assist federal agencies in implementing the order's requirements for reviews and improvement

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[6]"Backlog requests" refer to FOIA requests to which an agency fails to respond within the statutory time limit. Backlog requests are distinct from the "pending cases" that are reported in the annual reports. The latter are FOIA cases that remain open at the end of the reporting period. In reports GAO issued before the President issued Executive Order 13392, GAO used the term "backlog" to refer to these pending cases.

plans.[7] The guidance suggested several potential areas that agencies might consider when conducting their reviews, such as enhanced training, centralization of administration, automation of request tracking, automation of electronic records dissemination, and improved records redaction.

In order to extend the backlog reduction efforts beyond the time frame of the executive order, in September 2007, OIP posted guidance to agencies on submitting backlog reduction goals for fiscal years 2008, 2009, and 2010.[8] Any agency that had a request or appeal pending beyond the statutory time limit at the end of fiscal year 2007 was to establish backlog reduction goals for fiscal years 2008, 2009, and 2010. In addition, in June 2008, OIP posted guidance requiring all agencies that had not made progress in reducing their backlogs over the previous 2 years to prepare backlog reduction plans.

On December 31, 2007, the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act) was enacted. This law amended FOIA by, among other things, addressing the time limits for agencies to act on requests, requiring agencies to designate chief FOIA officers, requiring that agencies assign a tracking number to each request requiring more than 10 days to process, and requiring agencies to establish a telephone line or Internet service that requesters could use to determine the status of their request.

## An Overview of the FOIA Process at Federal Agencies

Although the specific procedures for handling requests vary among agencies, the major phases in the process are similar across the government: receiving the request, logging and scoping the request, searching for and retrieving potentially responsive records, preparing records for release, performing a final review, and releasing records to the requester. Figure 1 depicts the process, from the receipt of a request through the release of records.

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[7]Department of Justice, Executive Order 13392 Implementation Guidance (posted Apr. 27, 2006). See http://www.usdoj.gov/oip/foiapost/2006foiapost6.htm.

[8]The template for the backlog reduction goals was amended in October 2007. Department of Justice, *Modified Templates to Use When Submitting Backlog Reduction Goals for Fiscal Years 2008, 2009, and 2010.* See http://www.usdoj.gov/oip/foiapost/2007foiapost18.htm.

**Figure 1: Overview of the Generic FOIA Process**
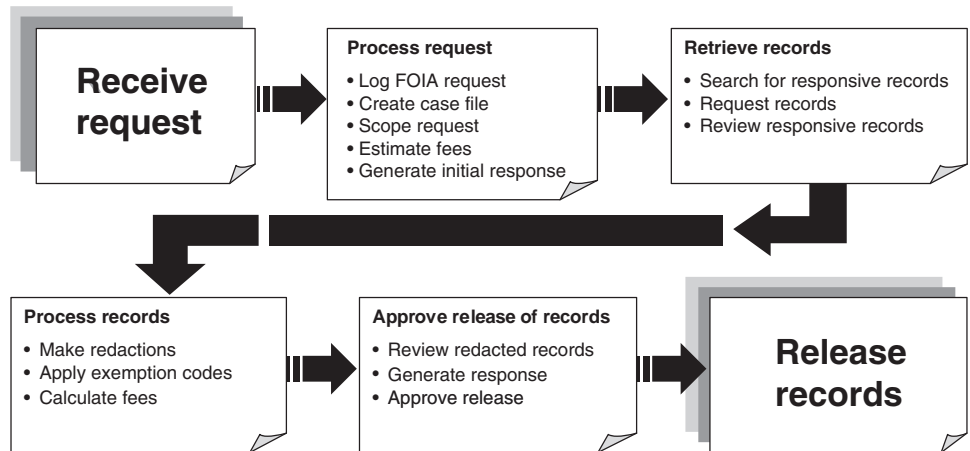


Source: GAO analysis of agency information.

The process begins when an agency receives (whether by mail, phone, fax, or over the Internet) a request for federal records. A staff member logs the request in the agency's tracking system, and then reviews the request to determine its scope, estimates fees, and provides an initial response to the requester. Next, the staff searches for responsive records, which may include searching for records at multiple locations and program offices. After they are located, the records are reviewed to confirm that they are within the scope of the request.

The staff then prepares records by removing any nonreleasable information based upon the statutory exemptions—a process known as redaction. Once records have been prepared, the staff calculates any applicable fees for research time and reproduction costs.[9] After redaction and fee calculation, the staff submits the records for a final review, possibly by the agency's general counsel. If records pass this final review, the agency generates a response letter summarizing actions regarding the request and releases the records to the requester.

Some requests are relatively simple to process, such as requests for specific pieces of information that the requester sends directly to the

[9]Fees may be waived when disclosure of the information requested is determined to be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

appropriate office. Other requests may require more extensive processing, depending on their complexity, the volume of information involved, whether the agency FOIA office is required to work with offices with relevant subject-matter expertise to find and obtain information, the requirement for a FOIA officer to review and redact information in the responsive material, the requirement to communicate with the requester about the scope of the request, and the requirement to communicate with the requester about the fees that will be charged for fulfilling the request (or whether fees will be waived).

The organizational structure of an agency's program can affect its processing procedures. While some agencies centralize processing in one main office, others receive and process requests at the division or field office level. The structure influences how and where requests are received by the agency, how an agency searches for responsive records, the availability of relevant subject matter experts, and how an agency monitors the status of requests.

## The DHS FOIA Program Is Largely Decentralized

Established in 2003, DHS is responsible for leading the effort to secure the United States by preventing and deterring terrorist attacks and protecting against, and responding to, threats and hazards to the nation. To accomplish its mission, DHS incorporated 22 separate federal agencies and organizations, including FEMA (formerly an independent agency) and the Immigration and Naturalization Service (formerly part of DOJ). Several of these agencies remained separate component agencies within DHS, while others were reorganized into new DHS components. The functions of the Immigration and Naturalization Service, for example, were divided among three DHS components: CBP, ICE, and USCIS.

FOIA processing is implemented separately within each of the major DHS component agencies. At the department level, the Privacy Office coordinates agencywide implementation by developing policy, performing oversight of component operations, providing training, and preparing the annual FOIA report. The Privacy Office also processes requests related to DHS headquarters operations. However, all other processing of requests is handled by agency components, which staff and operate their own offices. FOIA officers within these components are responsible for managing and implementing their respective operations, as well as defining their administrative structures.

The scale and performance of FOIA processing vary across the department. The components with the largest reported number of pending

cases at the end of fiscal year 2007 included CBP, FEMA, ICE, TSA, USCIS, USSS, and the United States Coast Guard. These components are also among those to have received and processed the largest number of requests in fiscal year 2007.

# DHS Has Taken Several Key Steps to Enhance Its FOIA Program

In response to Executive Order 13392, DHS and its major components have taken steps to enhance the department's program. DHS developed an improvement plan that included goals focused on eliminating its backlog of overdue requests, implementing enhanced training requirements, and deploying advanced technology. In addition, the DHS Privacy Office initiated several actions to ensure policy compliance and provide oversight of individual components, such as developing a departmentwide handbook, completing file reviews at each component, monitoring monthly data processing statistics, and instituting training for affected employees. As a result, several of the components have reported decreasing their backlogs of overdue requests. Specifically, three components reported achieving large reductions in their backlogs.

## The DHS Improvement Plan Outlined Goals for Eliminating Backlog and Improving Training and Technology

In January 2007, DHS submitted an improvement plan that focused on eliminating the backlog of overdue requests, enhancing education and training, and implementing technological advancements. In order to formulate its plan and specific goals, DHS surveyed each component and office on specific issues relating to FOIA operations, such as staffing levels, electronic processing capabilities, training opportunities and requirements, and impediments other than staffing that contribute to backlogs.

To reduce its backlog, DHS established goals that included hiring additional personnel, implementing operational improvements at USCIS, meeting with an important requester group (the American Immigration Lawyers Association) to discuss file processing and customer service enhancements, and establishing a monitoring program under which all components submitted weekly and monthly data to the Chief FOIA Officer.

Goals related to education and training included establishing a renewed emphasis on the importance of FOIA and instituting semiannual FOIA officer meetings; they also required components and offices to provide all employees with information about their obligations and all professional staff who spend more than half of their time implementing the act to take annual training offered by DOJ's OIP.

Lastly, goals for technological improvements included identifying a Web-based case management software application with electronic tracking capabilities, setting a recommended departmentwide standard for processing software, requiring all component offices to have a Web site or a link to the departmental FOIA Web site from their component home page, and increasing proactive disclosure of documents on component and office Web sites to allow public access to records without submitting a formal request.

## The DHS Privacy Office Has Taken Steps to Improve Departmental Oversight of Its FOIA Operations

In response to the executive order and to elevate the importance of the act at the department level, the Chief FOIA Officer established a new position of Deputy Chief FOIA Officer within the DHS Privacy Office.[10] This position was established to, among other things, assure program oversight over all of the components.

The Privacy Office initiated several actions to ensure policy compliance and provide oversight to individual components. For example, the office developed a handbook for use departmentwide. The document, which is undergoing internal review, establishes policies and procedures that each component must follow. In addition, the Deputy Chief FOIA Officer and the Associate Director of Disclosure Policy and FOIA Program Development visited each component for an informal file review. They reviewed select cases at each component in order to ensure compliance with department policies and identify any processing problems. If a problem was detected, they revisited those components to help develop a plan of action to remedy the problem.

In an effort to reduce backlog, the DHS improvement plan required all components to submit monthly data reports. These reports included the number of open cases, time ranges of the open cases, the date of the oldest request, the number of staff, and the number of requests received and processed that month. After receiving the reports, the Deputy Chief FOIA Officer was to notify each component via e-mail regarding their progress against backlog goals set in response to DOJ guidance.

Lastly, to ensure compliance with department policies, the Privacy Office has set requirements for training. The DHS improvement plan stated that

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[10]The Chief Privacy Officer for DHS serves as the Chief FOIA Officer for the department and has agencywide policy responsibility for efficient and appropriate FOIA compliance.

education and training would ensure a consistent interpretation of common aspects of the administrative process. Accordingly, it required that all components make available "FOIA 101" training for employees with FOIA-related duties. The training includes an overview of the history of the act, DHS's FOIA organization chart, information on the life cycle of a request, staff responsibilities, and information on exemptions. In addition, all staff that spent more than 50 percent of their work time on FOIA were required to take annual training offered by DOJ's OIP or an equivalent.

## Several DHS Components Have Reported Reductions in Their Backlogs of Overdue Requests as a Result of Departmental Improvement Efforts

Following the emphasis on backlog reduction in Executive Order 13392 and DHS's improvement plan, three of the seven major components have reported progress in decreasing their backlogs of overdue requests. As of October 17, 2008, the overall departmental backlog has been reduced about 24 percent since September 2006. Factors contributing to this reduction include enhanced oversight by the Privacy Office and program modifications instituted by individual components, such as centralizing operations, hiring additional personnel, and technology improvements. Table 1 shows the reported overall DHS reduction in overdue requests and the changes in overdue requests experienced by each of its major components.

**Table 1: Reported Changes in Overdue Requests at DHS and Its Major Components**

| DHS component | Number of overdue requests as of | | Fall/rise | |
| --- | --- | --- | --- | --- |
| | September 15, 2006 | October 17, 2008 | Number | Percentage |
| DHS total | 99,211 | 75,163 | -24,048 | -24.2% |
| ICE | 7,346 | 16 | -7,330 | -99.8 |
| USCIS | 89,124 | 70,175 | -18,949 | -21.3 |
| USSS | 730 | 560 | -170 | -23.3 |
| Coast Guard[a] | 906 | 1,152 | +246 | +27.2 |
| FEMA | 236 | 619 | +383 | +162.3 |
| CBP | 524 | 2,198 | +1,674 | +319.5 |
| TSA | 45 | 321 | +276 | +613.3 |
| All other components | 300 | 122 | -178 | -59.3 |

Source: GAO analysis of self-reported agency data.

[a]Coast Guard was unable to report its number of overdue requests for September 2006; monthly numbers used are from August 2006 and represent headquarters' overdue cases only.

USCIS has reported a substantial reduction in its backlog. Despite having one of the highest backlogs within the department and the federal government, it has reduced its backlog by 18,949 requests (about 21 percent) since September 2006. Component officials attributed the reduction to the centralization of their FOIA program, hiring of additional staff, and the elimination of 23,179 requests whose requesters did not have continued interest in obtaining the information. In October 2007, USCIS completed a transition from 50 decentralized FOIA offices to a single centralized office. The centralization enabled them to maximize their resources and focus on reducing their backlog of overdue requests. The component has also hired 10 additional staff since the centralization. In addition, in July 2008, USCIS awarded a backlog reduction contract intended to eliminate its backlog within 15 to 18 months from the award of the contract. The contract is to provide 74 staff that will be tasked to process the oldest requests until the entire backlog is exhausted.

Likewise, ICE has also reported a considerable reduction in its backlog of overdue requests. According to agency officials, an almost 100 percent reduction has been achieved since September 2006, reducing the number of overdue requests by about 7,300. The component took a variety of actions, including centralizing its program and implementing a new electronic tracking system. The FOIA Officer stated that centralization of the program allowed for greater consistency in processing procedures and the use of technology. In addition, ICE was able to eliminate approximately 1,200 overdue requests by determining that the requesters were no longer interested in them.

As part of its operational improvements in FOIA processing, DHS officials reported that they had improved the way the department handles requests relating to Alien-File (A-File) records,[11] which are processed by USCIS and ICE. Both components experienced a large reduction of their backlogs by streamlining the approach used for processing these requests. Previously, a major hurdle these components faced was the sharing of the existing 55 million hardcopy A-Files. Because the A-Files contain both benefit and enforcement documents, an individual file may be in the possession of either component at any given time. When either one of the components received a request for the contents of a file, that component had to locate

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[11]For more information on A-Files, see GAO, *Immigration Benefits: Additional Efforts Needed to Help Ensure Alien Files Are Located when Needed*, GAO-07-85 (Washington, D.C.: Oct. 27, 2006).

the file and determine whether it should have responsibility for processing the request. After November 2006, the ownership of all A-Files was transferred to USCIS. In order to facilitate faster processing, ICE provided USCIS with a processing guide containing the policies, procedures, and background information necessary to enable USCIS to process A-File requests on behalf of ICE. This process eliminated the need to refer records to ICE for review and determination of releasability, which could result in unnecessary delays.

USSS reported a 23 percent reduction in its backlog of overdue requests since September 2006, reducing the number of overdue requests by 170. Officials stated that this reduction was mainly due to the addition of staff supporting the FOIA mission and the creation of a task force, consisting of employees from each directorate, to focus on closing overdue requests over a 3-month span.

# Opportunities Exist for DHS to Further Improve FOIA Processing within Its Components

DHS components and other federal agencies have identified key practices they have adopted to improve the efficiency and cost-effectiveness of their request-processing operations. These key practices include internal monitoring and oversight to help reduce component backlogs, specialized training within components, providing requesters with online access to information concerning the status of their requests, releasing records in an electronic format, and the use of electronic redaction.

## Internal Monitoring and Oversight Could Help Reduce DHS Components' Backlogs

Based on actions taken at DOJ, as well as within several DHS components, implementing an internal monitoring and oversight process can help agencies better track their processing efficiency and thus reduce their backlogs of requests. These organizations have found that the ability to monitor the status of incoming requests can greatly enhance their ability to meet the statutory time limit to respond to them because it can help reduce the amount of time needed to determine the location of responsive records and retrieve them for processing. Close monitoring helps ensure that requests and their associated records do not languish unattended at any given step in the process.

DOJ's Executive Office for Immigration Review has reported that it implemented an oversight and monitoring process for its FOIA program. It operates a centralized program, where all requests are received at the main office. Responsive records may be located at any one of the 54 immigration courts throughout the United States. According to DOJ officials, in order to facilitate a timely and efficient response from the

immigration courts, at the end of each day, the main office automatically generates and sends a report to any immigration court that has been identified as possessing responsive records for an outstanding request. The officials stated that by closely monitoring those courts that were slow in sending responsive records, it has been able to obtain records in a more timely manner.

Likewise, within DHS, three of the seven major DHS components have reported implementing mechanisms for monitoring the processing of information requests. For example, USCIS operates a centralized FOIA program from the National Records Center in Lee's Summit, Missouri. All requests are received at the center and imported into an electronic tracking system. The system allows staff to track the status and whereabouts of each request from receipt until it has been closed. In addition, the component uses bar codes to associate records with a physical location. As a result, files can be rapidly located at the center or at any other location. The chief program official stated that the use of the bar codes greatly sped up the process of locating responsive records for processing. In these cases, staff can identify the location of records using the bar code and contact the appropriate office to obtain copies for processing. In addition, USCIS has staff dedicated to the continual monitoring of outstanding records. Each month, USCIS sends reports to its field sites and other components that have outstanding records in order to expedite the process. According to program officials, these monitoring and oversight mechanisms have contributed to the reduction of the backlog of overdue requests.

ICE officials also reported that they have implemented monitoring and oversight mechanisms. The component operates a centralized program, where all of the requests are received at the main office. After a request is received, staff input it into a tracking system, and then it is assigned to the appropriate office for processing. The tracking system allows staff to obtain key information about the request, such as the responsible office, the date by which the records need to be received at the main office, and if applicable, the number of days by which the request is overdue. In addition, the program director generates a weekly report that identifies any requests that have not been responded to within the allotted time and sends messages to notify program offices of their overdue responses. In order to facilitate timely and efficient retrieval of records, program offices have the ability to provide their responses via e-mail to the main office. The program director stated that this monitoring process and the ability of program offices to send responsive records by e-mail have greatly

improved the timeliness of responses to information requests and reduced the backlog of overdue requests.

In technical comments on a draft of this report, USSS stated that it has a system for tracking due dates for incoming requests and also has the ability to generate reports to monitor overdue requests to ensure timely responses.

In contrast to these examples, the other major components have not yet implemented comparable monitoring and oversight mechanisms. For example, although CBP, FEMA, and TSA operate centralized FOIA programs where all requests are received or tracked at one location, none currently has a mechanism for obtaining responsive records from field offices expeditiously.

Lastly, because the Coast Guard operates its program in a decentralized fashion—each of its 1,300 units is able to directly receive and respond to requests—it has limited ability to monitor the status of individual requests or whether responsive records have been located and retrieved. The Chief of the Office of Information Management estimated that between two-thirds and three-fourths of all requests are received and answered in field offices. The Coast Guard currently does not have an oversight mechanism to monitor the timeliness of processing at its individual units.

Given the success of using monitoring and oversight processes at DOJ and two DHS components, the department may be able to improve responsiveness to requests and reduce backlogs at other major components by establishing mechanisms to efficiently monitor and oversee internal processing of information requests within those components.

## Component-Specific Training Could Help Enhance the Efficiency of FOIA Processing

Based on actions taken at DOJ, as well as within several DHS components, component-specific training—which goes beyond general training to address processing details that are unique within each of the components—can help ensure consistent administration of the FOIA process within each component. The department improvement plan acknowledges that specialized training is essential for processing professionals. Further, DOJ's OIP highlighted the need for enhanced training in its guidance on activities required by Executive Order 13392. The guidance states that the issuance of Executive Order 13392 is a good occasion for agencies to, among other things, consider whether they are conducting their own training sessions with sufficient regularity.

While certain basic aspects of FOIA implementation are the same throughout a large department such as DHS, other aspects of the process can vary in significant ways across the department's components. For example, each component possesses different types of records; some agencies may have primarily first-party records (such as USCIS's A-Files), while others may have more records relating to investigations (such as the Coast Guard's Marine Investigations). Further, component agencies are likely to utilize specific exemptions that directly relate to the records they possess. For example, some may frequently use an exemption that focuses on an agency's internal personnel rules and practices, while others may more often use an exemption for information compiled for law enforcement purposes.

Two component agencies within DOJ reported utilizing component-specific training for their staff to enhance the efficiency of their processing information requests. Specifically, according to agency officials, the Federal Bureau of Investigation (FBI) provides its new staff with entry-level, basic, and advanced training programs. The entry-level staff undergo a 6-week training regimen that includes an overview of the type of records at the FBI, how to scope requests and search for records, and how to use the bureau's tracking system. After the staff complete the entry-level training, they are required to take one of two additional training classes, depending on their job responsibilities. Advanced training is also available on litigation support and prepublication review. FBI officials stated that, in their opinion, the training program was responsible for the retention of qualified staff because the progression and challenges presented by the various levels of training allowed staff to develop their FOIA expertise.

Likewise, DOJ's Executive Office for United States Attorneys offers a specialized training conference for FOIA staff at each of the U.S. Attorney offices. The training conference includes explanations of FOIA exemptions and how they are used, a discussion of the intake process, examples of forms used in the process, and a discussion of the FOIA contacts' role. In addition, officials stated that the Executive Office records its training conference and makes it available online for staff to view. Each new field office employee is required to take the training.

Five components within DHS have similarly implemented in-house, component-specific FOIA training for their staff:

- USCIS provides newly hired staff with a mandatory training program that includes guidance tailored to its program. In a report written in response to the Executive Order, the USCIS's Ombudsman recognized that frequent

and useful training for new and existing staff had been lacking and recommended that a training program be developed and implemented for all staff to ensure effective compliance. In response to the recommendation, USCIS developed a mandatory in-house training program that includes hands-on modules for processing and approving information requests. The new program included a focus on rules regarding exemptions as applied to USCIS, analysis of typical case studies, and procedures for handling documents from other components, such as ICE. The Chief of the USCIS FOIA Program stated that staff who had participated in the new training program appeared more prepared to respond to requests, particularly regarding the application of exemptions.

- The Coast Guard provides an annual specialized training seminar to all FOIA Coordinators and personnel who process requests. The training includes a description of records, good record management practices, overview of exemptions, multiunit responses, and search standards.

- ICE hosts a specialized "virtual-university" training module, which includes information on how to process a request, what files are covered by FOIA, and what may be withheld from disclosure under an exemption.

- TSA offers a specialized online training module, which describes typical types of requested records and how to process a request.

- CBP provides an 8-hour training class several times a year where staff are introduced to the procedures involved in responding to a request in a timely manner, how to create a case file, how to conduct an adequate search for records that are responsive to the request, and how to employ the nine exemptions for CBP records. Additionally, they also provide tailored training sessions to offices that handle certain specialized records.

In contrast, two major DHS components do not make specialized, component-specific training available to their staff. USSS and FEMA provide only on-the-job training or "generic" training offered by outside contractors. For example, USSS provides on-the-job training and shadowing and mentoring programs for its staff, who are required to attend outside training, such as the DOJ OIP training, American Society of Access Professionals conferences, and classes at the United States Department of Agriculture Graduate School.

While generic training offered by outside professionals is valuable, component-specific training can better ensure compliance with component-specific policies and procedures and greater consistency in the application of exemptions. Also, offering this specialized training to new

staff ensures that they are knowledgeable about policies and component-specific practices before they begin processing requests, which can yield faster processing times and more accurate and consistent processing. USSS and FEMA may have opportunities to enhance the consistency and accuracy of their processing by developing and implementing specialized training programs for their staff.

## Providing Request Status Information Online Could Enhance Staff Productivity and Customer Service at DHS Components

Based on experience at a major DHS component, providing requesters with online access to information concerning the status of their requests can contribute to improved customer service and staff productivity. According to officials at USCIS, not only does an online status-check service provide requesters with instant access to information, it also reduces the need to divert staff resources away from request processing to respond to telephone status inquiries.

Actions at USCIS have shown that productivity and efficiency can be enhanced by implementing an online status-check service. According to component officials, since it was initiated in May 2008, the USCIS service has contributed to improved staff productivity and provided requesters with faster access to status information. The system allows requesters to access status information by entering their unique tracking number into a form on USCIS's FOIA Web site. The Web site then returns real-time status information extracted from the component's tracking system.

Agency officials reported that the service has improved the efficiency of their program. Since deploying the service in May 2008, USCIS reported experiencing a reduction of customer service phone calls received in the following 3 months. As reflected in table 3 below, the monthly call volume for the months following implementation (May through October) was less than during the 4 months prior to implementation (January through April). USCIS officials estimated that 60 percent of all FOIA-related customer service phone calls are status inquiries.

**Table 2: USCIS Monthly Customer Service Call Volume**

| Month (2008) | January | February | March | April | May | June | July | August | September | October |
|---|---|---|---|---|---|---|---|---|---|---|
| Number of customer service calls received | 2,857 | 2,636 | 2,619 | 2,803 | 2,677 | 2,554 | 2,449 | 2,301 | 2,318 | 2,473 |

Source: Self-reported agency data.

The Director of the National Records Center stated that the online status-check service, by reducing the number of customer service calls, has also

allowed staff to spend more time on other duties, such as processing requests. Before USCIS deployed the service, requesters seeking information about their requests needed to call the service center and speak directly with staff.

Like USCIS, ICE has also developed and implemented an online status-check service. Deployed in December 2008, it allows requesters to query the tracking system regarding the status of their requests by filling out a form on the agency's Web site. ICE's FOIA Officer described the online status-check service as part of an effort to enhance customer service and reduce the number of status request phone calls ICE receives. At the time of our review, the ICE service had not been in operation long enough for data to be collected on the benefits it has yielded.

In contrast to USCIS and ICE, the other five major DHS components have not yet deployed online status-check services. In order for agency components to provide an online status-check capability, they must maintain tracking systems that capture status information for all requests and can make it available for online queries. Three of the five components operate comprehensive tracking systems but do not provide the service. The other two neither provide an online service nor possess a sufficiently comprehensive tracking system to support one.

USSS is an example of a component that has not deployed an online status-check service, even though it operates a comprehensive tracking system. The agency instructs requesters who are seeking status information to call the FOIA service center or submit their request's unique tracking number through its Web site. Once a status inquiry is received, staff search the tracking system to provide requesters with status information. Agency officials stated that, in response to Executive Order 13392, USSS is considering the feasibility of deploying an online status system. By deploying such a service, the component may be able to reduce the staff resources it currently devotes to responding to status inquiries.

Like USSS, FEMA does not provide an online service, despite operating a comprehensive tracking system. Currently, when requesters call or e-mail FEMA's central office seeking status information, staff must contact the relevant program offices to determine the status of the request and relay that information to the requester. Agency officials stated that responding to requester calls to its FOIA Helpline was a full-time job, and that transitioning to an online status service would be cost-effective and efficient for both the agency and requesters. Although agency officials stated that FEMA is developing a database feature to allow requesters to

view status information through its FOIA Web site, they did not provide an estimate of when the service would be available. Until the online status service is made available, FEMA will likely continue to devote significant staff resources to responding to status inquiries.

TSA also continues to use staff to manually search its tracking system to determine a request's status. TSA officials stated that, for technical reasons, it would not be feasible to develop an online status service based on its current comprehensive tracking system. Instead, staff reply to requester inquiries in the same format (e-mail or phone) that the inquiry was received, typically within 24 to 48 hours. Agency officials also stated that the FOIA office is exploring adopting other case management software applications that could support an online status service. If TSA ultimately develops such a capability, it might be able to reduce the staff resources devoted to responding to status inquiries.

Currently, the FOIA tracking systems at the Coast Guard and CBP are not sufficiently comprehensive to support an online status service. The Coast Guard operates separate tracking systems for each of its 1,300 field offices. Requesters seeking the status of their requests must inquire directly with the Coast Guard field office responsible for processing the request. Similarly, CBP cannot yet provide a component-wide online status service because its tracking system does not capture current status information for commercial or financial requests processed by offices or ports other than its central office. For such requests, CBP's tracking system, which is manually updated each month, records when the request was received and to which office or port it was referred. The tracking system is also updated when the office or port notifies the central office that the request was processed. CBP officials stated that they had not deployed an online service for noncommercial and nonfinancial requests because CBP does not provide outside entities access to its tracking system. As a result, requesters seeking status information for noncommercial or nonfinancial requests, which account for approximately 95 percent of CBP's requests, must phone their inquiry to personnel at CBP's central office. By providing an online status check service, the Coast Guard and CBP could improve customer service and reduce staff resources devoted to responding to status inquiries.

## Releasing Records for Large Requests in an Electronic Format Could Provide Cost Savings and Improve Efficiency

The format (paper or electronic) on which records are released to requesters can affect operating expenditures and processing efficiency. Based on actions taken at DOJ, as well as within several DHS components, using electronic dissemination to respond to "large" requests (requests involving many document pages) can decrease the amount of resources expended on paper, toner, and postage. In such cases, agency officials report that the cost of copying responsive records onto a CD and mailing the CD to the requester is generally significantly less than printing and mailing the information on paper.

DOJ has used electronic dissemination to improve the efficiency of its processing. For example, the Executive Office for Immigration Review has used electronic dissemination to streamline its FOIA process. Prior to adopting a policy of providing records on CD by default, the Executive Office's staff often engaged in lengthy negotiations with requesters over reproduction fees. Agency officials cited the transition to releasing records on CD as a major factor in reducing the agency's backlog because it reduced the need for staff to spend time negotiating over fees with requesters.

Likewise, three of DHS's seven major components have used electronic dissemination to reduce operating costs when responding to large requests:

- USCIS officials reported that they respond to approximately 60 percent of requests by mailing electronic copies of records on CD, accounting for 80 percent of the total number of released pages. The remaining 40 percent of requests are released on paper, either because the request is less than 15 pages or because the requester specifically requests a paper format. Although they have not documented the costs of providing responsive records on CD, USCIS officials estimated that electronic dissemination had reduced their paper and toner costs by half.

- ICE also has a policy of releasing records on CD, except when a requester specifies paper. ICE's FOIA Information System Security Officer estimated that electronic dissemination had reduced the office's paper consumption by almost 90 percent.

- FEMA also has a policy of using electronic dissemination (on CD) for large requests.

DHS's four remaining major components release records on paper, unless otherwise specified by the requester:

- CBP officials stated that they were focusing their efforts on hiring staff to process requests and they would consider process enhancements, such as electronic dissemination, once they achieved full staffing.

- Coast Guard officials stated that they had not adopted a policy of defaulting to an electronic format because they had not received guidance from DHS on this subject and because it may be less expensive for them to reproduce records on paper.

- TSA officials stated that their FOIA office releases records on paper based on its understanding that this is the preference of requesters, and only provides records in electronic format when specifically requested.

- USSS officials stated that the agency considered adopting a policy of releasing records electronically or on CD when FOIA requesters did not specify a preference for paper, but decided not to adopt such a policy out of deference to requesters who do not have the means or capability to access information stored electronically.

While it may be less expensive to respond to small requests in a paper format, it can be more economical to respond to large requests in an electronic format. Adopting a release policy that more fully incorporates electronic means of dissemination when it is economically advisable could reduce the operational costs of processing requests, as well as the staff resources diverted to negotiating the release format with requesters.

## Use of Electronic Redaction Could Allow Efficient Processing of Requests

Rapidly and accurately removing (redacting) nonreleasable data from requested records is an integral part of responding to FOIA requests in a timely manner. DOJ's Implementation Guidance notes that electronic redaction software can enable agencies to process requests more efficiently than through manual redaction.[12] Based on actions taken at DOJ and the Department of State, as well as within several DHS components, the use of electronic redaction can allow for more timely responses to requests. Electronic redaction involves using software to eliminate nonreleasable data from electronic files. The software allows staff to quickly select text or images to be removed and annotate the text with the reasons (applicable exemptions) for the redactions. Manual redaction is

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[12]Department of Justice, Executive Order 13392 Implementation Guidance (posted Apr. 27, 2006). See http://www.usdoj.gov/oip/foiapost/2006foiapost6.htm.

more labor-intensive, typically involving photocopying or scanning a document after removing nonreleasable information by physically cutting, covering, or marking each page.

Officials at DOJ and the Department of State reported that electronic redaction had led to improvements in the efficiency of their operations for processing information requests. FBI officials stated that electronic redaction had enabled the agency to significantly reduce staff while doubling productivity. Since 2002, the use of automation, including electronic redaction, has allowed the FBI to reduce staff levels from 630 to 230 employees, while reducing its number of pending requests from 2,500 to 1,800. Also, the rate of processing by individual staff was reported to have increased from 500 pages to 1,000 pages per month. Likewise, Bureau of Prisons officials estimated that electronic redaction had reduced redaction time by 10 percent. The State Department's Director of Information Programs and Services likewise credited electronic redaction with improving efficiency and also noted that it resulted in a more professional product.

Officials from several DHS components also reported having improved the efficiency or quality of their request processing by adopting electronic redaction:

- CBP officials stated that since November 25, 2008, all of the permanent FOIA staff in the central office have used electronic redaction software to process records. They estimated that 90 to 95 percent of records are redacted electronically.

- USCIS officials reported that they use electronic redaction exclusively. A senior official estimated that, since adopting electronic redaction in 1998, the agency had significantly increased the efficiency of the its redaction process by eliminating the need to manually cut or mark records.

- ICE's FOIA Officer stated that electronic redaction had resulted in significant time-savings over previous manual redaction processes.

- According to USSS officials, approximately 70 to 75 percent of the records they process are redacted electronically. USSS officials credit electronic redaction with increasing productivity, reducing response time frames, and improving customer service. The remaining 25 to 30 percent of USSS records are processed manually because of security requirements prohibiting the electronic redaction of classified records.

- FEMA officials reported that they use electronic redaction to respond to approximately 90 percent of their requests. FEMA officials stated that implementing electronic redaction has enabled faster processing and a more professional and consistent product for requesters. FEMA still manually processes 10 percent of its records, either because the records are classified or because they have already been partially manually redacted.

  In contrast, the Coast Guard and TSA do not use electronic redaction when responding to the majority of their requests:

- Coast Guard officials estimated that 7 percent of their FOIA staff have access to electronic redaction software, and approximately 70 percent of the records processed by those with access are redacted electronically. Nevertheless, Coast Guard officials stated that electronic redaction had reduced processing time for large volume records and reduced the likelihood of improperly releasing information. Coast Guard officials added that funding had been requested for an electronic system located at all major FOIA processing centers which would enable online redactions.

- Although all of TSA's FOIA staff members have access to electronic redaction software, only 10 percent of records are redacted electronically. Agency officials stated that TSA had been unable to adopt electronic redaction more broadly because of difficulties integrating the redaction software with TSA's file sharing application. The officials added that TSA is considering other software solutions that might allow broader adoption of electronic redaction.

  By more broadly adopting electronic redaction, the Coast Guard and TSA have opportunities to improve the efficiency of their operations.

## Conclusions

While DHS has made advances in ensuring compliance and oversight among its components, such as developing a departmentwide handbook and monitoring monthly data processing statistics, opportunities exist for further improvements. Practices in place at DOJ and the Department of State, and within a number of DHS's own component agencies, have demonstrated that a variety of enhancements are possible. However, these key practices have not yet been implemented consistently across the department. Such practices include monitoring and oversight of FOIA processing, component-specific training, providing online status information, releasing records in electronic format, and using electronic redaction. By consistently implementing these practices across all major departmental components, DHS is likely to be able to further reduce its

backlog, increase efficiency, improve customer service, and respond to FOIA requests in a more timely fashion.

# Recommendations for Executive Action

To help improve the efficiency and cost-effectiveness of the department's FOIA program, we are recommending that the Secretary of Homeland Security take the following five actions:

- Direct the FOIA Officers at the U.S. Customs and Border Protection, Federal Emergency Management Agency, Transportation Security Administration, and United States Coast Guard to consider establishing monitoring and oversight mechanisms to help reduce the backlog of overdue requests.

- Direct the FOIA Officers at the Federal Emergency Management Agency and United States Secret Service to consider developing and implementing specialized training programs for their staff.

- Direct the FOIA Officers at the U.S. Customs and Border Protection, Federal Emergency Management Agency, Transportation Security Administration, United States Coast Guard, and United States Secret Service to consider providing requesters with an online mechanism to obtain information about the status of their requests.

- Direct the FOIA Officers at the U.S. Customs and Border Protection, Transportation Security Administration, United States Secret Service, and United States Coast Guard to consider establishing a policy of primarily disseminating records to requesters in an electronic format when large numbers of pages are involved.

- Direct the FOIA Officers at the Transportation Security Administration and United States Coast Guard to consider expanding the use of electronic redaction when processing requests.

# Agency Comments
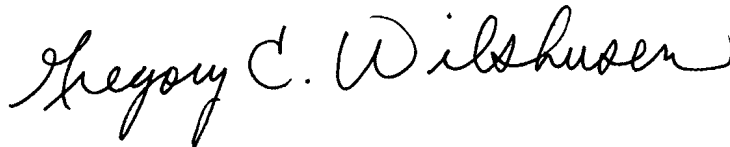
We provided a draft of this report to DHS, DOJ, and the Department of State for review and comment. In response, we received written comments from the Director of DHS's GAO/OIG Liaison Office, which are reprinted in appendix II. Officials from DOJ and the Department of State indicated that they had no comments on the draft report.

In his written comments, the Director stated that DHS concurred with our assessment and recommendations and stated that the department will use the report to ensure improvement to its FOIA program in the future. In

addition, DHS provided information on actions certain components are taking to address our recommendations. DHS also provided technical comments by e-mail, which we incorporated as appropriate.

We are sending copies of this report to the Secretary of Homeland Security, the Attorney General, the Secretary of State, and interested congressional committees. The report also is available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staffs have questions about this report, please contact me at (202) 512-6244 or wilshuseng@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix III.

Gregory C. Wilshusen
Director, Information Security Issues

# Appendix I: Objectives, Scope, and Methodology

In enacting the Consolidated Appropriations Act, 2008, the Committees on Appropriations directed us to evaluate the operations of the Department of Homeland Security's (DHS) Freedom of Information Act (FOIA) program. Our specific objectives were to determine (1) what key steps DHS has taken to improve its FOIA program, and (2) what opportunities, if any, exist to improve the efficiency and cost-effectiveness of FOIA operations across the department.

To determine the key steps DHS has taken to improve its program, we reviewed the goals contained in the DHS improvement plan, the reported progress made on these goals from the DHS annual FOIA reports, and documentation regarding initiatives aimed at improving departmental operations. To corroborate information obtained from the DHS Privacy Office about the department's actions and reported reductions in backlog, we obtained and analyzed supporting information from major departmental components by observing processing operations and obtaining documentation of improvement initiatives. We focused our work on the seven agency components that reported the largest number of pending cases at the end of fiscal year 2007: U.S. Customs and Border Protection, the Federal Emergency Management Agency, Immigration and Customs Enforcement (ICE), the Transportation Security Administration, United States Citizenship and Immigration Services (USCIS), the United States Coast Guard, and the United States Secret Service. We obtained and analyzed documentation and interviewed officials from each of these components to assess DHS's performance. We also conducted site visits at ICE and USCIS, which account for the majority of requests processed at DHS, to analyze information regarding their processes and the implementation of improvement initiatives. Further, we interviewed DHS officials regarding the impact of organizational, technological, and managerial actions on achieving departmental improvement plan goals.

To determine what opportunities exist to improve the efficiency and cost-effectiveness of FOIA operations across the department, we reviewed DHS-specific FOIA policies and procedures, including documentation regarding program structure, processes, and resources, to determine what practices were in place throughout the department. We also reviewed laws, regulations, and guidance aimed at improving FOIA operations across the government, including Executive Order 13392, the Department of Justice's (DOJ) guidance on implementing Executive Order 13392, and the Openness Promotes Effectiveness in our National Government Act of 2007. We then reviewed similar documentation from DOJ and the Department of State—two agencies with types of information similar to DHS—and compared their programs to DHS operations to identify key

practices that could be implemented more widely in DHS to make improvements in efficiency and customer service. Specifically, within DOJ, we analyzed key practices of FOIA programs at the Federal Bureau of Investigation, the Bureau of Prisons, the Executive Office for Immigration Review, and the Executive Office for United States Attorneys—the four components that reported the largest number of pending cases at the end of fiscal year 2007—by discussing practices with officials, analyzing documentation, and observing processing activities firsthand to determine the impact they had on program efficiency. To supplement information on key practices obtained from DOJ and the Department of State, we analyzed documentation and interviewed officials from each of the seven major component agencies within DHS to determine which processes and improvement initiatives they had implemented and the extent to which these actions had produced tangible benefits. For components that had not implemented key practices, we obtained and analyzed information about the reasons they had not done so.

We conducted this performance audit from May 2008 to January 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528

**Homeland Security**

February 25, 2009

Mr. Gregory C. Wilhausen
Director, Information Security Issues
United States Government Accountability Office
Washington, DC 20548

Dear Mr. Wilhausen:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO's) Draft Report GAO-09-260 entitled *Freedom of Information Act: DHS Has Taken Steps to Enhance its Program, but Opportunities Exist to Improve Efficiency and Cost-Effectiveness.* The United States Department of Homeland Security (DHS) remains grateful for all that the GAO has done to bring attention to issues within our Freedom of Information Act (FOIA) Program and concurs with the findings of this report. The Department benefits from this oversight and will use it to ensure improvement to our FOIA program in the future. We appreciate the commitment the GAO has towards making the DHS FOIA program successful.

## RECOMMENDATIONS

**GAO Recommendation #1:** Direct the FOIA Officers at the Customs and Border Protection, Federal Emergency Management Agency, Transportation Security Administration, United States Coast Guard, and United States Secret Service to consider establishing monitoring and oversight mechanisms to help reduce the backlog of overdue requests.

**DHS Response: Concur** – The Department concurs with this recommendation and the Chief FOIA Officer plans to direct the FOIA Officers at the Transportation Security Administration, United States Coast Guard and United States Secret Service to consider establishing monitoring and oversight mechanisms to help reduce their respective backlogs of overdue requests.

Components such as FEMA and U.S. Customs and Border Protection are already taking steps to enhance this aspect of their program. The FEMA Disclosure Branch is developing a FOIA Scorecard that will be shared with FEMA leadership on a weekly basis in order to instill a sense of accountability. Furthermore, FEMA's Assistant Administrator for Management approved contract funding for a Backlog Reduction Team. This will be a performance-based contract in which FEMA's target is to eliminate the backlog within 7 months of award.

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At U.S. Customs and Border Protection (CBP), the Executive Director, Commercial Targeting, Office of International Trade, directed the CBP FOIA Division Director to report the FOIA Division activity on a weekly basis, beginning in September 2008. That weekly report provides the Executive Director with the on-going progress of reducing the backlog of overdue requests. Corrective actions such as temporary duty assignments and shifting the focus of CBP FOIA Division priorities are taken in response to the weekly report because of the importance of timely responses to FOIA requests. This weekly reporting, along with monthly reporting to DHS, will continue, as will any adjustments that are necessary to reduce the backlog. The CBP FOIA Division will monitor the progress made on reducing the existing backlog to work toward the goal of eliminating it in the summer of 2009.

**GAO Recommendation #2:** Direct the FOIA Officers at the Federal Emergency Management Agency and United States Secret Service to consider developing and implementing specialized training programs for their staff.

**DHS Response: Concur -** The Department concurs with this recommendation and has begun addressing the issue. The Disclosure Branch at FEMA, for example, has tailored the U.S. Department of Justice training to the specific FOIA exemptions utilized most frequently within FEMA. Furthermore, the FEMA Disclosure Branch is in the process of developing a component-specific training to be utilized with the incoming contractor support as well as the program office points of contact. The Chief FOIA Officer will direct the FOIA Officer at the United States Secret Service to consider augmenting existing training programs to provide specialized training opportunities for their staff.

**GAO Recommendation #3:** Direct the FOIA Officers at the Customs and Border Protection, Federal Emergency Management Agency, Transportation Security Administration, United States Coast Guard, and United States Secret Service to consider providing requesters with an online mechanism to obtain information about the status of their requests.

**DHS Response: Concur –** The Department concurs with this recommendation. The DHS Privacy Office recommended component FOIA offices follow USCIS' lead in this arena in June 2008. Two components, U.S. Citizenship and Immigration Services and U.S. Immigration and Customs Enforcement (ICE), for example, have already implemented online status-check mechanisms for requesters. Several other components, including Customs and Border Protection are currently assessing the feasibility of implementing this type of feature. The Chief FOIA Officer plans to direct the FOIA Officers at the Federal Emergency Management Agency, Transportation Security Administration, United States Coast Guard and United States Secret Service to consider providing requesters with an online status check tool.

**GAO Recommendation #4:** Direct the FOIA Officers at the Customs and Border Protection, Transportation Security Administration, United States Secret Service and United States Coast Guard to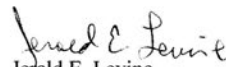 consider establishing a policy of primarily disseminating records to requesters in an electronic format when large numbers of pages are involved.

**DHS Response: Concur –** The Department concurs with this recommendation and the Chief FOIA Officer will direct the FOIA Officers at Customs and Border Protection, Transportation Security Administration, United States Secret Service and United States Coast Guard to

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consider establishing a policy of primarily disseminating records to requesters in an electronic format when large numbers of pages are involved.

**GAO Recommendation #5:** Direct the FOIA Officers at the Transportation Security Administration and United States Coast Guard to consider expanding the use of electronic redaction when processing requests.

**DHS Response: Concur** – The Department concurs with this recommendation and plans to direct the FOIA Officers at the Transportation Security Administration and United States Coast Guard to consider expanding the use of electronic redaction when processing requests.

We thank you for considering our comments on these very important issues. We look forward to working with the GAO on future Homeland Security issues.

Sincerely,

Jerald E. Levine
Director
Departmental GAO/OIG
Audit Liaison Office

# Appendix III: GAO Contact and Staff Acknowledgments

## GAO Contact

Gregory C. Wilshusen, (202) 512-6244 or wilshuseng@gao.gov

## Staff Acknowledgments

In addition to the contact named above, key contributions to this report were made by John de Ferrari, Assistant Director; Marisol Cruz; Richard J. Hagerman; and Lee McCracken.