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EQUAL EMPLOYMENT OPPORTUNITY

DHS Has Opportunities to Better Identify and Address Barriers to EEO in Its Workforce

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Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss the Department of Homeland Security's (DHS) efforts to identify and address barriers to equal employment opportunity (EEO) in its workforce. Since its inception in March 2003, DHS has faced a number of challenges, one of which is effectively and strategically managing its large workforce (about 216,000 employees) to respond to current and emerging 21st century issues.

The federal government is faced with a workforce that is becoming increasingly eligible for retirement. We have reported that it is important for federal agencies, including DHS, to use available flexibilities to acquire, develop, motivate, and retain talented individuals who reflect all segments of society and our nation's diversity. The Equal Employment Opportunity Commission's (EEOC) Management Directive (MD) 715 provides that in order to attract and retain top talent, federal agencies are to identify barriers to EEO in the workplace, execute plans to eliminate barriers, and report annually to EEOC.

This testimony is based on our report that we recently issued entitled *Equal Employment Opportunity: DHS Has Opportunities to Better Identify and Address Barriers to EEO in Its Workforce.*[1] I will discuss (1) the extent to which DHS has taken steps, according to its MD-715 reports, to identify barriers to EEO in the workplace; (2) efforts DHS has taken to address identified barriers and what progress has been reported; and (3) how DHS oversees and supports its components in identifying and addressing barriers. For this work, we analyzed DHS's identified barriers and plans to address those barriers obtained from its fiscal year 2007 and 2008 reports. In addition, we reviewed DHS policies, guidance, directives, and diversity plans related to identifying and addressing barriers. We interviewed DHS officials from its Office of Civil Rights and Civil Liberties (CRCL) and the Office of the Chief Human Capital Officer (OCHCO). We also reviewed MD-715 and EEOC instructions and guidance on MD-715, and interviewed EEOC officials from its Office of Federal Operations. We obtained information from the Office of Personnel Management's (OPM) Strategic Human Resource Policy Division on the availability of Federal Human Capital Survey (FHCS) data to federal agencies. Our report contains a more detailed discussion of our objectives, scope, and

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[1]GAO-09-639 (Washington D.C.: Aug. 31, 2009).

methodology. Our work was performed in accordance with generally accepted government auditing standards.

In brief, Mr. Chairman, we found that (1) DHS has not regularly included employee input from available sources to identify potential barriers to EEO; (2) DHS has modified nearly all of its original target completion dates on planned activities to address identified barriers and has not completed any of those planned activities; and (3) DHS uses a variety of means to oversee and support components, including conducting program audits and convening a council of EEO directors from each of the components. I will cover each one of these in turn.

First, our review of DHS's MD-715 reports showed that DHS has generally relied on workforce data to identify "triggers," the term EEOC uses for indicators of potential barriers. More specifically, such workforce data can provide a very valuable perspective. However, DHS could provide additional perspectives by regularly including employee input from available sources. DHS generally relied on workforce data to identify 13 of 15 triggers, such as promotion and separation rates, as table 1 shows.

Table 1: Triggers Identified in DHS's 2008 Management Directive 715 Report

Trigger	Groups affected	Source
1. Participation rates in the total workforce were below participation rates in the civilian labor force (CLF)[a]	Total females and White females	Analysis of workforce data
2. Participation rates among officials and managers[b] were below participation rates in the relevant civilian labor force (RCLF)[c]	Total females and White females	Analysis of workforce data
3. Participation rates among professionals[b] were below participation rates in the RCLF	Total females and White females	Analysis of workforce data
4. Participation rates among service workers[b] were below participation rates in the RCLF	Total females and White females	Analysis of workforce data
5. Participation rates among General Schedule (GS) grades GS-14 and GS-15 and the Senior Executive Service (SES) were below participation rates in DHS's total GS workforce population	GS-14: Hispanic males GS-15: Hispanic males SES: Hispanic males, total females, African American females, and African American males	Analysis of workforce data
6. Participation rates among cross-cutting, high-profile occupations[d] were below participation rates in the RCLF	Total females and White females	Analysis of workforce data
7. Participation rates among new hires by type of appointment[e] were below participation rates in the CLF	Total females and White females	Analysis of workforce data
8. Award rates of quality salary increases were below participation rates in DHS's permanent workforce	Total males, Hispanic males, White males, African American males, American Indian/Alaskan Native males, American Indian/Alaskan Native females, and males identified as two or more/other races	Analysis of workforce data
9. Separation rates (voluntary and involuntary) were higher than participation rates in DHS's permanent workforce	Voluntary: Total females, White females, African American males, and African American females Involuntary: African American males and total females	Analysis of workforce data
10. Participation rates (temporary and permanent workers) were below the "federal high" in DHS's total workforce[f]	DHS employees with targeted disabilities[g]	Analysis of workforce data
11. Physical barriers to employment	DHS employees with targeted disabilities	MD-715 self-assessment checklist (part G) and comments made at a disability awareness training for managers
12. Separation rates (total and voluntary) exceeded participation rates in DHS's permanent workforce	DHS employees with disabilities and targeted disabilities	Analysis of workforce data

Trigger	Groups affected	Source
13. Promotion rates (competitive and noncompetitive) were below participation rates in DHS's permanent workforce	DHS employees with disabilities and targeted disabilities	Analysis of workforce data
14. Participation rates were below the "federal high" in DHS's temporary workforce	DHS employees with disabilities and targeted disabilities	Analysis of workforce data
15. Increased incidents of workplace harassment, discrimination, and violence	Muslims, Arabs, South Asians, and Sikhs	November 19, 2001, EEOC, Department of Justice and Department of Labor "Joint Statement Against Employment Discrimination in the Aftermath of the September 11 Terrorist Attacks"

Source: GAO analysis of DHS's 2007 and 2008 MD-715 reports.

[a]The CLF is defined as those 16 and older (including federal workers) who are employed or looking for work and are not in the military or institutionalized.

[b]EEOC uses nine occupational categories for the federal workforce—officials and managers, professionals, technicians, sales, administrative support workers, craft workers, operatives, laborers, and service workers.

[c]EEOC defines the RCLF as the available pool in the CLF for a specific occupation, including geographic considerations of the recruitment area.

[d]According to DHS's 2008 MD-715 report, cross-cutting, high-profile occupations within DHS are mission-critical occupations that reside in multiple organizational elements or by their very nature are high-profile occupations, for example, transportation security officers.

[e]Types of appointment include permanent, temporary, and nonappropriated funds.

[f]EEOC has designated the "federal high" as the benchmark for comparing an agency's employment of individuals with targeted disabilities. The federal high is of a federal agency (with 500 or more permanent employees) that had the highest participation rate of employees with targeted disabilities during the prior fiscal year. For 2008, the federal high was 2.65 percent.

[g]According to EEOC, to encourage the hiring, placement, and advancement of selected individuals with disabilities in affirmative action planning, EEOC has identified nine categories of targeted disabilities: (1) deafness; (2) blindness; (3) missing extremities; (4) partial paralysis; (5) complete paralysis; (6) convulsive disorders; (7) mental retardation; (8) mental illness; and (9) distortion of limb, spine, or both.

According to EEOC, in addition to workforce data, agencies are to regularly consult a variety of sources, such as exit interviews, employee groups, and employee surveys to identify triggers. Involving employees helps to incorporate insights about operations from a frontline perspective in determining where potential barriers exist. DHS does not consider employee input from such sources as employee groups, exit interviews, and employee surveys in conducting its MD-715 analysis. Data from OPM's governmentwide FHCS and DHS's internal employee survey by race, gender, or national origin are available, but DHS does not analyze these data to determine whether employees perceive certain personnel policies or practices as possible barriers. By not considering employee input on DHS personnel policies and practices, DHS is missing opportunities to identify triggers.

Once a trigger is revealed, agencies are to investigate and pinpoint actual barriers and their causes. In 2007, through its departmentwide barrier analysis, DHS identified four barriers: (1) overreliance on the Internet to recruit applicants, (2) overreliance on noncompetitive hiring authorities, (3) lack of recruitment initiatives that were directed at Hispanics in several components, and (4) nondiverse interview panels. In DHS's 2007 and 2008 MD-715 reports, DHS articulated planned activities to address these barriers. Nearly half of the planned activities involve collaboration between the civil rights and human capital offices.

In regards to my second point, our analysis of DHS's 2007 and 2008 MD-715 reports showed, as indicated in table 2, that DHS has modified nearly all of its original target completion dates by a range of 12 to 21 months, and has not completed any planned activities.

Table 2: DHS Identified Barriers, Planned Activities, and Target Completion Dates

Identified barrier	Planned activities[a]	Modified target completion date from 2008 MD-715 report and (original date from 2007 MD-715 report)	2008 update
Overreliance on the Internet to recruit applicants for cross-cutting, high-profile occupations.	1. Partner with OCHCO to "Implement an enterprise-wide recruitment strategy."[b]	(09/30/2009)	No 2008 update was listed for this planned activity.
	2. Partner with OCHCO to "Deploy applicant flow tool to analyze recruitment and hiring results."	12/31/2009 (09/30/2008)	OCHCO indicated that it is working toward a redeployment of the e-Recruitment System.
	3. Collect and analyze additional data that could more conclusively demonstrate a link between overreliance on online recruiting media and equality of opportunity for applicants.[c]	12/31/2010 (09/30/2009)	A lesson learned in fiscal year 2008 was that targeted recruiting can be done more efficiently over the Internet and that DHS needs to develop an online methodology in fiscal year 2009 to reach active candidates looking for jobs and passive (not actively looking) candidates who have the appropriate skills and education.
	4. Develop a financial grid with information about the employee group(s) targets for a specific recruitment tactic.[d]	12/31/2010 (03/30/2009)	See #3.

Identified barrier	Planned activities[a]	Modified target completion date from 2008 MD-715 report and (original date from 2007 MD-715 report)	2008 update
Overreliance on noncompetitive hiring authorities.	1. Coordinate with OCHCO to ensure that the applicant flow tool has the capability to capture the additional data identified in #2.	12/31/2009 (09/30/08)	OCHCO indicated it is working toward a redeployment of the e-Recruitment System.
	2. Collect and analyze additional data that would more conclusively demonstrate a link between overreliance on noncompetitive hiring authorities and equality of opportunity for applicants.[c]	12/31/2010 (09/30/2009)	CRCL will identify any specific follow-on actions required after the potential barriers are confirmed.
	3. Have the DHS Corporate Recruitment Council target candidates for components that have low participation rates.[e]	12/31/2010	N/A[f]
Lack of specific recruitment initiatives directed to Hispanics in several components.	1. Partner with OCHCO to "Implement an enterprise-wide recruitment strategy."[b]	(09/30/2009)	CRCL participated in the DHS Corporate Recruitment Council, which in fiscal year 2008 targeted five major categories of candidates to target.
	2. Coordinate with OCHCO to ensure that the applicant flow tool has the capability to capture the additional data identified under item #3.	12/31/2009 (12/31/2008)	OCHCO indicated that it is working towards a redeployment of the e-Recruitment System.
	3. Collect additional data that could more conclusively demonstrate a link between problematic/insufficient responses to Executive Order 13171 and equality of opportunity for applicants and employees.[c]	12/31/2010 (09/30/2009)	CRCL will identify any specific follow-on actions required after the potential barriers are confirmed.
	4. Develop departmentwide guidance to address the issue of levels of education among Hispanics in the pipeline.	12/31/2010 (03/31/2009)	No 2008 update was listed for this planned activity.
	5. Have the DHS Corporate Recruitment Council target candidates for components that have underrepresentation.[e]	12/31/2010	N/A[f]
Nondiverse interview panels.	1. Collaborate with OCHCO in the development of guidelines that addresses the diversity/composition of interview panels.	12/31/2009 (09/30/2008)	No 2008 update was listed for this planned activity.
	2. Collect additional data to determine the impact of nondiverse interview panels.[c]	12/31/2010 (09/30/2009)	CRCL will identify any specific follow-on actions required after the potential barriers are confirmed.

Source: GAO analysis of DHS's 2007 and 2008 MD-715 reports.

[a]DHS has identified 12 unique planned activities. The planned activities listed total 14 because 2 planned activities are listed twice.

[b]This planned activity is listed twice.

[c]In the fiscal year 2008 MD-715 report, DHS specifies the additional information to obtain.

Although DHS officials reported completing other activities in fiscal year 2007 and 2008 associated with its EEO program, DHS said that it modified the dates because of staffing shortages. To ensure that agency programs are effectively and efficiently implemented, it is important for agencies to implement internal control activities,[2] such as establishing and tracking implementation goals with timelines.[3] This allows agencies to pinpoint performance shortfalls and gaps and suggest midcourse corrections. DHS has not developed project plans with milestones beyond what is included in its MD-715 report and its *Human Capital Strategic Plan*. These documents include only the anticipated outcomes and target completion dates, not the essential activities needed to achieve the outcomes. For example, in DHS's 2007 and 2008 MD-715 reports, CRCL identified analyzing recruitment and hiring results using an applicant flow tool as a planned activity to address the barrier of overreliance on the use of the Internet to recruit applicants. DHS's *Human Capital Strategic Plan* also identified analyzing recruitment and hiring results using an applicant flow tool as an action to achieve its departmentwide diversity goal. DHS does not articulate interim steps or milestones that would help it to achieve this outcome in either document. Identifying the critical phases of each planned activity necessary to achieve the intended outcome with interim milestones could help DHS ensure that its efforts are moving forward and manage any needed midcourse corrections, while minimizing modification of target dates.

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[2] GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999). We used the criteria in these standards, issued pursuant to the requirements of the Federal Managers' Financial Integrity Act of 1982 (FMFIA), to provide the overall framework for establishing and maintaining internal control in the federal government. Pub. L. No. 97-255, 96 Stat. 814. Also pursuant to FMFIA, the Office of Management and Budget issued Circular No. A-123, revised December 21, 2004, to provide the specific requirements for assessing and reporting on internal controls. Internal control standards and the definition of internal control in Circular No. A-123 are based on the aforementioned GAO standards.

[3] GAO, *Results-Oriented Cultures: Implementation Steps to Assist Mergers and Organizational Transformations*, GAO-03-669 (Washington, D.C.: July 2, 2003).

My third and final point is that DHS uses a variety of means to oversee and support components, including providing written feedback on draft reports to components that are required to prepare their own MD-715 reports, conducting program audits, and convening a council of EEO directors from each of the components.[4] At DHS, according to the DHS Acting Officer for CRCL and the Deputy Officer for EEO Programs, component EEO directors do not report directly to CRCL but to their respective component heads. While this EEO organizational structure is similar to other cross-cutting lines of business (LOB), other cross-cutting LOBs have indirect reporting relationships, established through management directives, between the component LOB head and the DHS LOB chief for both daily work and annual evaluation. In contrast, the Deputy Officer for EEO Programs stated that he relies on a collaborative relationship with the EEO directors of the components to carry out his responsibilities. A management directive interpreting the scope of authority delegated by the Secretary of Homeland Security to the Officer for CRCL to integrate and manage the DHS EEO program is awaiting approval.

Conclusions and Recommendations

Input from employee groups reflects the perspective of the individuals directly affected by employment policies and procedures and could provide valuable insight into whether those policies and procedures may be barriers to EEO. Because CRCL does not regularly include employee input from available sources, such as the FHCS and DHS's internal employee survey, it is missing opportunities to identify potential barriers to EEO. For barriers DHS has already identified, it is important for DHS to ensure the completion of planned activities through effective internal control activities, including the identification of critical schedules and milestones that need to be completed by a given date. Effective internal controls could help DHS ensure that its efforts are moving forward, manage any needed midcourse corrections, and minimize modifications of

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[4]According to MD-715 guidance, components with a certain amount of autonomy from their parent agencies are to prepare their own MD-715 reports. Components are to submit these reports to their headquarters for inclusion in the agencywide report and must also file a copy with EEOC. DHS has eight reporting components that must prepare and submit their own MD-715 reports. DHS reporting components are the Federal Emergency Management Agency, Federal Law Enforcement Training Center, Transportation Security Administration, U.S. Citizenship and Immigration Services, U.S. Coast Guard, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Secret Service.

target completion dates. Additional staff, which DHS plans to add in 2009, could help DHS implement effective internal control activities.

We recommend in our report that the Secretary of Homeland Security

- direct the Officer for CRCL to develop a strategy to regularly include employee input from such sources as the FHCS and DHS's internal survey in identifying potential barriers to EEO; and
- direct the Officer for CRCL and the CHCO to identify essential activities and establish interim milestones necessary for the completion of all planned activities to address identified barriers to EEO.

Agency Comments

We provided a draft of our report to the Secretary of Homeland Security for review and comment. In written comments, which are reprinted in the report, the Director of DHS's Departmental GAO/OIG Liaison Office agreed with our recommendations.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or the other Members of the Committee may have.

For questions about this testimony, please contact Yvonne D. Jones at (202) 512-6806 or jonesy@gao.gov. Individuals making key contributions to this statement include, Belva Martin, Acting Director; Amber Edwards; Karin Fangman; Melanie H. Papasian; Tamara F. Stenzel; and Greg Wilmoth. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this testimony.