

GAO

Testimony

Before the Subcommittee on National Security,
Emerging Threats, and International Relations,
Committee on Government Reform, House of
Representatives

For Release on Delivery
Expected at 10:00 a.m. EST
Wednesday, June 18, 2003

BORDER SECURITY

**New Policies and
Procedures Are Needed to
Fill Gaps in the Visa
Revocation Process**

Statement of Jess T. Ford, Director
International Affairs and Trade



GAO
 Accountability • Integrity • Reliability
Highlights

Highlights of [GAO-03-908T](#), a testimony before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

Why GAO Did This Study

The National Strategy for Homeland Security calls for preventing the entry of foreign terrorists into our country and using all legal means to identify; halt; and where appropriate, prosecute or bring immigration or other civil charges against terrorists in the United States. GAO reported in October 2002 that the Department of State had revoked visas of certain persons after it learned they might be suspected terrorists, raising concerns that some of these individuals may have entered the United States before or after State’s action. Congressional requesters asked GAO to (1) assess the effectiveness of the visa revocation process and (2) identify the policies and procedures of State, the Immigration and Naturalization Service (INS), and the Federal Bureau of Investigation (FBI) that govern their respective actions in the process.

What GAO Recommends

GAO makes recommendations to the Department of Homeland Security, in conjunction with the Departments of State and Justice, to develop specific policies and procedures for the interagency visa revocation process to ensure that when State revokes a visa because of terrorism concerns, the appropriate units within State, INS, and the FBI are notified immediately and that proper actions are taken.

www.gao.gov/cgi-bin/getrpt?GAO-03-908T.

To view the full product, click on the link above. For more information, contact Jess T. Ford at (202) 512-4128 or fordj@gao.gov.

BORDER SECURITY

New Policies and Procedures Are Needed to Fill Gaps in the Visa Revocation Process

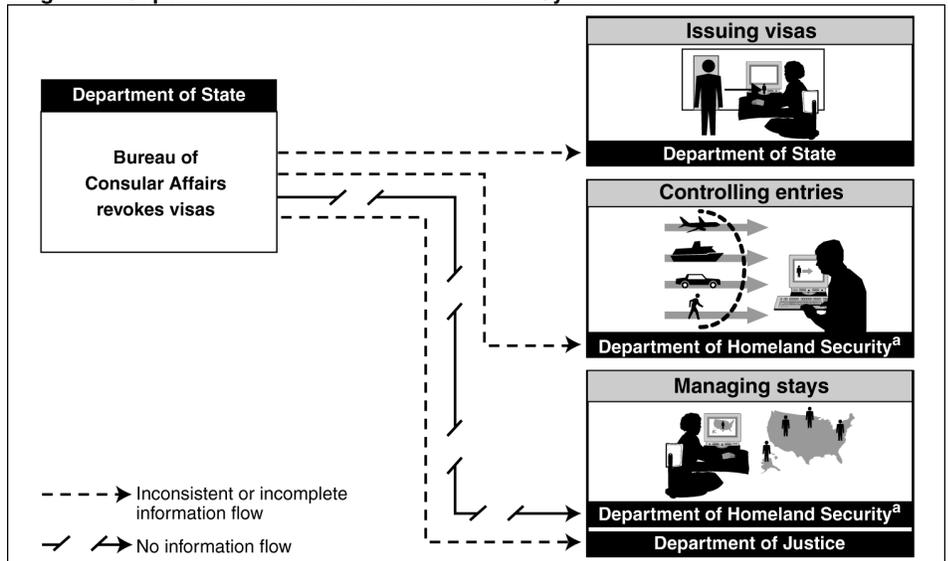
What GAO Found

Our analysis shows that the visa revocation process was not being fully utilized as an antiterrorism tool. The visa revocation process broke down when information on individuals with revoked visas was not shared between State and appropriate immigration and law enforcement offices. It broke down even further when individuals had already entered the United States prior to revocation. INS and the FBI were not routinely taking actions to investigate, locate, or resolve the cases of individuals who remained in the United States after their visas were revoked. In our review of 240 visa revocations, we found that

- appropriate units within INS and the FBI did not always receive notifications of all the revocations;
- names were not consistently posted to the agencies’ watch lists of suspected terrorists;
- 30 individuals whose visas were revoked on terrorism grounds had entered the United States and may still remain; and
- INS and the FBI were not routinely taking actions to investigate, locate, or resolve the cases of individuals who remained in the United States after their visas were revoked.

These weaknesses resulted from the U.S. government’s limited policy guidance on the process. None of the agencies have specific, written policies on using the visa revocation process as an antiterrorism tool.

Diagram of Gaps in the Visa Revocation Notification System



Sources: GAO and Art Explosion.

^aOn March 1, 2003, INS’s various functions transferred to the Department of Homeland Security.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to discuss the report¹ we are issuing today on the need for new policies and procedures to fill gaps in the visa revocation process. As you are aware, Mr. Chairman, in the National Strategy for Homeland Security² the President said that the U.S. government has no more important mission than protecting the homeland from future terrorist attacks. Our report calls for new policies and procedures to ensure that when the Department of State revokes a visa because of terrorism concerns, homeland security and law enforcement agencies that protect our country are promptly notified of this information and take appropriate action. Since the September 11 attacks, State's Bureau of Consular Affairs has been receiving an increased volume of information from the intelligence community, law enforcement agencies, and other sources on suspected terrorists. In some cases, the department decided to revoke visas of certain individuals when it received potentially derogatory information on them after issuing the visas. This issue was raised in our October 2002 report on strengthening the visa process as an antiterrorism tool.³ In that report, we found that the State Department had revoked the visas of certain individuals after learning that they might be suspected terrorists, raising concerns that some of these people may have entered the United States before or after their visas were revoked.

At your request, Mr. Chairman, and that of Senator Grassley, we evaluated how the visa revocation process is being used as an antiterrorism tool. We (1) assessed the effectiveness of the visa revocation process, specifically (a) the steps State took to notify appropriate units within the Immigration and Naturalization Service (INS),⁴ which is now part of the Department of

¹U.S. General Accounting Office, *Border Security: New Policies and Procedures Needed to Fill Gaps in the Visa Revocation Process* (Washington, D.C.: June 18, 2003).

²Office of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: July 2002).

³U.S. General Accounting Office, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, [GAO-03-132NI](#) (Washington, D.C.: Oct. 21, 2002).

⁴On March 1, 2003, INS became part of three units within the Department of Homeland Security. INS inspection functions transferred to the Bureau of Customs and Border Protection; its investigative and enforcement functions transferred to the Bureau of Immigration and Customs Enforcement; and its immigration services function became part of the Bureau of Citizenship and Immigration Services. Because our work focused on visa revocation cases that took place before the March 1 reorganization, our report refers to the U.S. government's immigration agency as INS.

Homeland Security, and the Federal Bureau of Investigation (FBI) of revocations and the procedures used by the three agencies to post lookouts on these revocations to their terrorist watch lists;⁵ (b) whether any of the individuals whose visas had been revoked were able to enter the United States before or after the revocation; and (c) the actions taken by INS and the FBI to investigate; locate; and, where appropriate, clear, remove, or prosecute the individuals who did enter the United States and may still remain here after their visas have been revoked; and (2) determined the policies and procedures of the State Department, INS, and the FBI that govern their respective actions in the visa revocation process. Our work focused on all 240 of State's visa revocations on terrorism grounds from September 11, 2001, through December 31, 2002.

Summary

Our analysis shows that the visa revocation process is not being fully utilized as an antiterrorism tool. The visa revocation process could be more aggressively used to prevent suspected terrorists from entering the country and to alert homeland security and law enforcement agencies that individuals who entered before their visas were revoked might be security risks. However, we found that, in practice, the process broke down when information on visa revocations was not shared between State and appropriate immigration and law enforcement offices. It broke down even further when the individuals in question had already entered the United States prior to revocation. INS and the FBI were not routinely taking actions to investigate,⁶ locate, or resolve the cases of individuals who remained in the United States after their visas were revoked. Depending on the results of the investigations, the cases could be resolved by clearing persons who were wrongly suspected of terrorism, removing suspected terrorists from the country, or prosecuting suspected terrorists on criminal charges.

⁵These watch lists are automated databases that contain information about individuals who are known or suspected terrorists so that these individuals can be prevented from entering the country, apprehended while in the country, or apprehended as they attempt to exit the country. Specific entries on watch lists are sometimes referred to as "lookouts."

⁶*The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations* provide for graduated levels of investigative activity by the FBI, allowing the bureau to act well in advance of the commission of planned terrorist acts or other federal crimes. The three levels of investigative activity defined in the guidelines are (1) the prompt and extremely limited checking of initial leads; (2) preliminary inquiries; and (3) full investigations. In this testimony, we are not prescribing which level of investigative activity is appropriate for persons with revoked visas who may be in the United States.

In our review of the 240 visa revocations, we found numerous cases where notification of the revocation did not reach appropriate units within INS and the FBI and cases where lookouts were not posted to the agencies' watch lists of suspected terrorists. We also found evidence that 30 individuals whose visas were revoked because of terrorism concerns entered the United States and may still remain in the country.⁷ Additionally, INS and the FBI were not routinely taking actions to investigate, locate, or resolve the cases of individuals who remained in the United States after their visas were revoked. I would like to expand on these weaknesses in the process, and then comment on the U.S. government's lack of a specific policy on visa revocations. Finally, I will outline the recommendations we have developed to strengthen the visa revocation process as an antiterrorism tool. In general, we recommend the development of specific policies and procedures to ensure that persons whose visas have been revoked because of potential terrorism concerns be denied entry to the United States and those who may already be in the United States be investigated to determine if they pose a security threat.

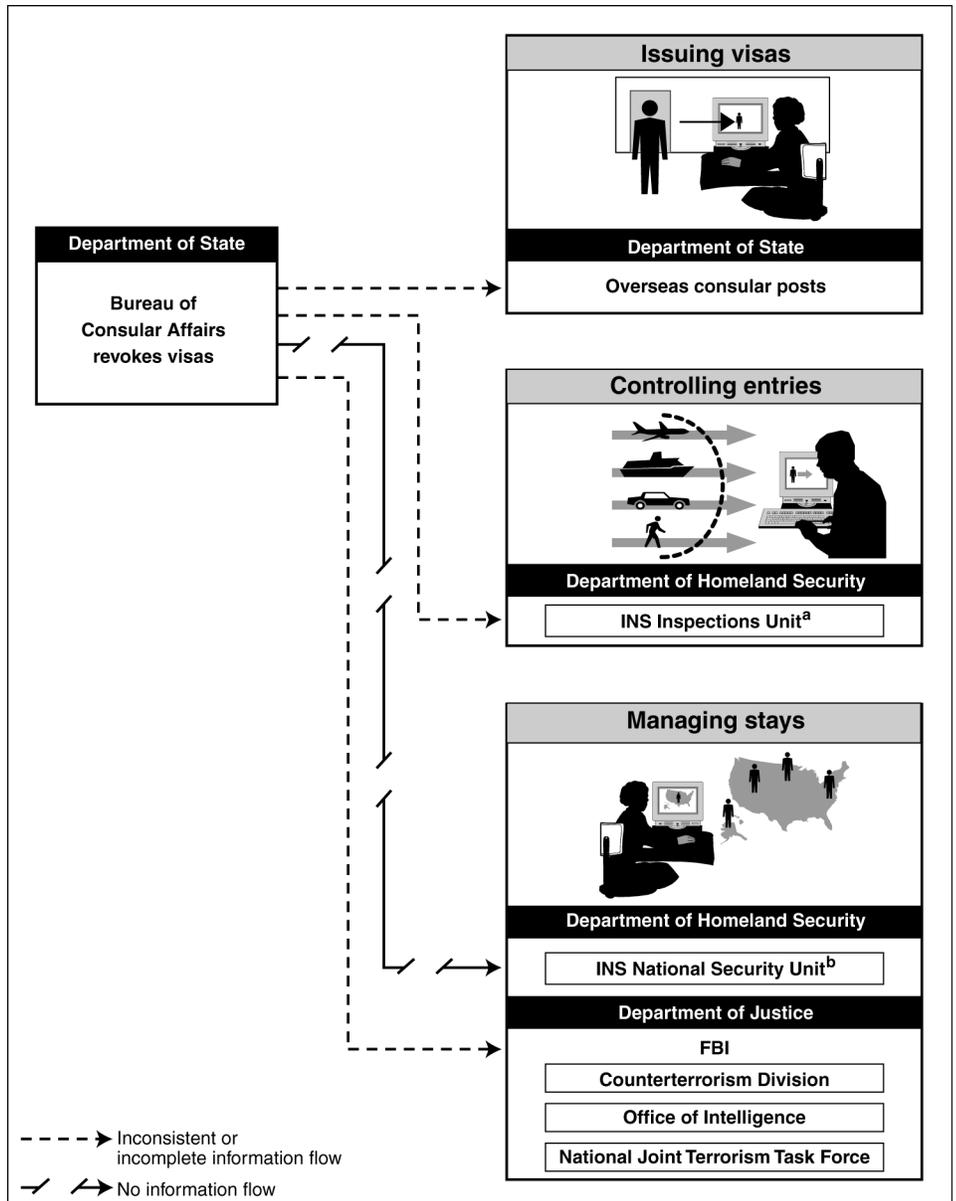
Weaknesses in Notification and Watch List Procedures

In our review of the 240 visa revocations, we found examples where information on visa revocations did not flow between the State Department and appropriate units overseas and within INS and the FBI. State Department officials from the Visa Office told us that when they revoke a visa in Washington, they are supposed to take the following steps: (1) notify consular officers at all overseas posts that the individual is a suspected terrorist by entering a lookout on the person into State's watch list, the Consular Lookout and Support System, known as CLASS; (2) notify the INS Lookout Unit via a faxed copy of the revocation certificate so that the unit can enter the individual into its watch list and notify officials at ports of entry; and (3) notify the issuing post via cable so that the post can attempt to contact the individual to physically cancel his visa. Information-only copies of these cables are also sent to INS's and FBI's main communications centers. State officials told us they rely on INS and FBI internal distribution mechanisms to ensure that these cables are routed to appropriate units within the agencies.

⁷This number is based on our analysis of data we received from INS as of May 19, 2003. On May 20 and 21, the INS and FBI, respectively, provided additional information related to this matter. Because of the nature and volume of this data, we were not able to fully analyze it in time for this testimony. The data could show that the number of persons is higher or lower than 30.

Figure 1 demonstrates gaps that we identified in the flow of information from State to INS and the FBI, and within these agencies, as well as the resulting inconsistencies in the posting of lookouts to the agencies' respective watch lists.

Figure 1: Diagram of Gaps in the Visa Revocation Notification System and Watch List Procedures



Sources: GAO and Art Explosion.

^aNow within the Bureau of Customs and Border Protection.

^bNow within the Bureau of Immigration and Customs Enforcement.

The top arrow in the diagram shows the extent of communication on visa revocations between the State Department's Bureau of Consular Affairs and State's overseas consular posts. We found that State had not consistently followed its informal policy of entering a lookout into its CLASS lookout system at the time of the revocation. State officials said that they post lookouts on individuals with revoked visas in CLASS so that, if the individual attempts to get a new visa, consular officers at overseas posts will know that the applicant has had a previous visa revoked and that a security advisory opinion on the individual is required before issuing a new visa. Without a lookout, it is possible that a new visa could be issued without additional security screening. We reviewed CLASS records on all 240 individuals whose visas were revoked and found that the State Department did not post lookouts within a 2-week period of the revocation on 64 of these individuals.

The second arrow depicts the information flow on revocations between State and the INS Lookout Unit, which is the inspections unit that posts lookouts on INS's watch list to prevent terrorists (and other inadmissible aliens) from entering the United States. Officials from the INS Lookout Unit told us they had not received any notice of the revocations from State in 43 of the 240 cases. In another 47 cases, the INS Lookout Unit received the revocation notice only via a cable; however, these cables took, on average, 12 days to reach the Lookout Unit, although in one case it took 29 days. An official from the INS communications center told us that, because State's cables were marked "information only," they were routed through the Inspections division first, which was then supposed to forward them to the Lookout Unit. He told us that if the cables had been marked as "action" or "urgent," they would have been sent immediately to the Lookout Unit. In cases where the INS Lookout Unit could document that it received a notification, it generally posted information on these revocations in its lookout database within one day of receiving the notice. When it did not receive notification, it could not post information on these individuals in its lookout database, precluding INS inspectors at ports of entry from knowing that these individuals had had their visas revoked.

The third arrow on the diagram shows the communication between State and INS's National Security Unit that is responsible for investigations. This broken arrow shows that the State Department did not send copies of the faxed revocation certificates or cables to the unit. Further, in cases where the INS Lookout Unit received the revocation notification from State, INS Lookout Unit officials said that they did not routinely check to see whether these individuals had already entered the United States or notify investigators in the National Security Unit of the visa revocations. Without

this notification, the National Security Unit would have no independent basis to begin an investigation. In May 2003, an official from the Lookout Unit said that her unit recently established a procedure in which, upon receiving notification of a revocation, she will query the Interagency Border Inspection System to determine if the individual recently entered the country. She will then give this information to investigators in the National Security Unit, which is now part of the Bureau of Immigration and Customs Enforcement.

The bottom arrow on the diagram shows the information flow on visa revocations from State to the FBI's Counterterrorism units. We found that that these units did not consistently receive information on visa revocations. FBI officials said that the agency's main communications center received the notifications but the officials could not confirm if the notifications were then distributed internally to the appropriate investigative units at the FBI or to the agency's watch list unit, known as the Terrorist Watch and Warning Unit. The Department of Justice said that to add a person to its watch list,⁸ additional information must be provided to the FBI, such as the person's full name, complete date of birth, physical descriptors, and watch list-specific classification information. The revocation notifications did not include most of this information.

Individuals with Revoked Visas May Be in the United States

Our analysis shows that thirty individuals with revoked visas have entered the United States and may still remain in the country. Twenty-nine of these individuals entered before State revoked their visas. An additional person who may still be in the country entered after his visa was revoked. INS inspectors allowed at least three other people to enter the country even though their visas had already been revoked, largely due to breakdowns in the notification system. These three people have left the country.

Despite these problems, we noted cases where the visa revocation process prevented possible terrorists from entering the country or cleared individuals whose visas had been revoked. For example, INS inspectors successfully prevented at least 14 of the 240 individuals from entering the country because the INS watch list included information on the revocation action or had other lookouts on them. In addition, State records showed that a small number of people reapplied for a new visa after the

⁸This watch list, known as the Violent Gang and Terrorist Organization File, is accessed by local and state law enforcement officials via the National Crime Information Center.

revocation. State used the visa issuance process to fully screen these individuals and determined that they did not pose a security threat.

INS and the FBI Did Not Routinely Take Action on Individuals with Revoked Visas Who Had Entered the United States

The INS and the FBI did not routinely attempt to investigate or locate any of the individuals whose visas were revoked and who may be in the country.

Due to congressional interest in specific cases, INS investigators located four of the persons in the United States but did not attempt to locate other revoked visa holders who may have entered the country. INS officials told us that they generally do not investigate these cases because it would be challenging to remove these individuals unless they were in violation of their immigration status even if the agency could locate them. A visa revocation by itself is not a stated grounds for removal under the Immigration and Nationality Act (INA). Investigators from INS's National Security Unit said they could investigate individuals to determine if they were violating the terms of their admission, for example by overstaying the amount of time they were granted to remain in the United States, but they believed that under the INA, the visa revocation itself does not affect the alien's legal status in the United States—even though the revocation was for terrorism reasons. They and other Homeland Security officials raised a number of legal issues associated with removing an individual from the country after the person's visa has been revoked. Our report discusses these issues in detail.

FBI officials told us that they did not routinely attempt to investigate and locate individuals with revoked visas who may have entered the United States. They said that State's method of notifying them did not clearly indicate that visas had been revoked because the visa holder may pose terrorism concerns. Further, the notifications were sent as "information only" and did not request specific follow-up action by the FBI. Moreover, State did not attempt to make other contact with the FBI that would indicate any urgency in the matter.

Systemic Weaknesses Were the Result of Limited Guidance on Visa Revocation Process

The weaknesses I have outlined above resulted from the U.S. government's limited policy guidance on the visa revocation process. Our analysis indicates that the U.S. government has no specific policy on the use of visa revocations as an antiterrorism tool and no written procedures to guide State in notifying the relevant agencies of visa revocations on terrorism grounds. State and INS have written procedures that guide some types of visa revocations; however, neither they nor the FBI has written internal procedures for notifying their appropriate personnel to take specific actions on visas revoked by State Department headquarters officials, as was the case for all the revoked visas covered in our review. While State and INS officials told us they use the visa revocation process to prevent suspected terrorists from entering the United States, neither they nor FBI officials had policies or procedures that covered investigating, locating, and taking appropriate action in cases where the visa holder had already entered the country.

In conclusion, Mr. Chairman, the visa process could be an important tool to keep potential terrorists from entering the United States. Ideally, information on suspected terrorists would reach the State Department before it decides to issue a visa. However, there will always be some cases when the information arrives too late and State has already issued a visa. Revoking a visa can mitigate this problem, but only if State promptly notifies appropriate border control and law enforcement agencies and if these agencies act quickly to (1) notify border control agents and immigration inspectors to deny entry to persons with a revoked visa, and (2) investigate persons with revoked visas who have entered the country. Currently there are major gaps in the notification and investigation processes. One reason for this is that there are no specific written policies and procedures on how notification of a visa revocation should take place and what agencies should do when they are notified. As a result, there is heightened risk that suspected terrorists could enter the country with a revoked visa or be allowed to remain after their visa is revoked without undergoing investigation or monitoring.

State has emphasized that it revoked the visas as a precautionary measure and that the 240 persons are not necessarily terrorists or suspected terrorists. State cited the uncertain nature of the information it receives from the intelligence and law enforcement communities on which it must base its decision to revoke an individual's visa. We recognize that the visas were revoked as a precautionary measure and that the persons whose visas were revoked may not be terrorists. However, the State Department determined that there was enough derogatory information to revoke visas for these persons because of terrorism concerns. Our recommendations,

which are discussed below, are designed to ensure that persons whose visas have been revoked because of potential terrorism concerns be denied entry to the United States and those who may already be in the United States be investigated to determine if they pose a security threat.

To remedy the systemic weaknesses in the visa revocation process, we are recommending that the Secretary of Homeland Security, who is now responsible for issuing regulations and administering and enforcing provisions of U.S. immigration law relating to visa issuance, work in conjunction with the Secretary of State and the Attorney General to:

- develop specific policies and procedures for the interagency visa revocation process to ensure that notification of visa revocations for suspected terrorists and relevant supporting information are transmitted from State to immigration and law enforcement agencies, and their respective inspection and investigation units, in a timely manner;
- develop a specific policy on actions that immigration and law enforcement agencies should take to investigate and locate individuals whose visas have been revoked for terrorism concerns and who remain in the United States after revocation; and
- determine if any persons with visas revoked on terrorism grounds are in the United States and, if so, whether they pose a security threat.

In commenting on our report, Homeland Security agreed that the visa revocation process should be strengthened as an antiterrorism tool. State and Justice did not comment on our recommendations.

I would be happy to answer any questions you or other members of the subcommittee may have.

Contacts and Acknowledgments

For future contacts regarding this testimony, please call Jess Ford or John Brummet at (202) 512-4128. Individuals making key contributions to this testimony included Judy McCloskey, Kate Brentzel, Mary Moutsos, and Janey Cohen.

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The General Accounting Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, Managing Director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548