



July 2019

EQUAL EMPLOYMENT OPPORTUNITY

DHS Could Better Address Challenges to Ensuring EEO in Its Workforce

Accessible Version

GAO Highlights

Highlights of [GAO-19-573](#), a report to the Chairman, Committee on Homeland Security, House of Representatives

View [GAO-19-573](#). For more information, contact Yvonne D. Jones at (202) 512-6806 or jonesy@gao.gov, or Christopher P. Currie at (404) 679-1875 or currie@gao.gov.

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Why GAO Did This Study

EEOC's Management Directive 715 requires that, to attract and retain top talent, federal agencies are to identify EEO barriers in their workforces and deficiencies in their EEO programs, execute plans to address them, and report annually to EEOC. In 2009, GAO reported that DHS had opportunities to better identify and address barriers to EEO in its workforce, and made recommendations which DHS has taken action to address.

GAO was asked to provide an update on DHS's efforts to identify and address barriers to EEO in its workforce. This report examines the steps DHS has taken to (1) identify and address barriers to EEO in its workforce, (2) identify and address EEO program deficiencies, (3) address areas of noncompliance in its EEO program identified by EEOC, and (4) oversee and support component EEO programs. GAO reviewed DHS's and its components' policies, procedures, practices, and reports for their EEO programs for fiscal years 2014 through 2018, interviewed DHS and its component EEO officials, and assessed DHS employee survey results. GAO also reviewed EEOC's feedback on DHS's and its components' EEO programs, and interviewed EEOC officials.

What GAO Recommends

GAO is making six recommendations, including: develop performance metrics for the department's EEO program; develop DHS and component formal staffing models; and analyze options for granting additional authorities to the most senior official for EEO and Diversity. DHS concurred with our six recommendations and described actions the department plans to take to address them.

What GAO Found

The Department of Homeland Security (DHS) has identified barriers to equal employment opportunity (EEO) and has plans to address them, but lacks performance metrics for tracking its progress towards eliminating these barriers. DHS identified three barriers from fiscal years 2014 through 2017: (1) problems with supervision/management, lack of advancement opportunities, and lack of alternate work schedules, among other things, causing higher-than-expected nonretirement separations for white females and several ethnic and racial groups; (2) the geographic location of jobs, which has contributed to low hiring rates of racial groups in certain major occupations; and (3) the medical and physical requirements of various law enforcement positions, such as the ability to engage in moderate to arduous physical exertion, which limit the eligibility of some applicants with targeted disabilities. While DHS reports some improvements in employee engagement and representation of minorities and women, it does not have complete performance metrics, such as the retention rate of women in law enforcement positions. Implementing performance metrics could help DHS better assess its progress in eliminating barriers.

DHS and its components have identified various deficiencies in their EEO programs, but lack policies and procedures for developing action plans and formal staffing models to address some deficiencies. DHS components did not have action plans to address nearly half (179 out of 369) of the deficiencies self-reported by all components from fiscal years 2014 through 2017. For example, in fiscal year 2017, four DHS components did not have action plans to ensure that their EEO directors report directly to their agency heads. Developing policies and procedures to help ensure components' EEO programs have action plans for addressing deficiencies could help DHS components better comply with Equal Employment Opportunity Commission (EEOC) requirements. Developing and utilizing formal staffing models for their EEO programs could help DHS and its components to better identify, request, and obtain the staff they need. For example, DHS and its components reported that staffing challenges contributed to some of their EEO program deficiencies, and acknowledged they lack formal models to use their existing staffing to address the deficiencies.

DHS has plans to address the nine areas of noncompliance in its EEO program identified by EEOC. For example, in its most recent review of DHS compliance with EEOC requirements, EEOC identified that DHS did not provide complete demographic data on new hires and promotions in its report to EEOC in fiscal year 2016. DHS officials told us that the department plans to report the data by collecting complete data from DHS components in fiscal year 2019.

DHS's EEO and human capital offices assist and support DHS components in identifying and addressing EEO barriers. However, the EEO office lacks policies and procedures to ensure components respond timely and completely to areas of noncompliance identified in EEOC feedback letters. Additionally, DHS EEO officials said they lack authority to ensure components' compliance with EEOC requirements. Without addressing these issues, DHS may not be effectively positioned to manage its EEO program.

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Abbreviations

CBP	U.S. Customs and Border Protection
CRCL	Office for Civil Rights and Civil Liberties
DEAC	Disability Employment Advisory Council
DHS	Department of Homeland Security
DMS	Diversity Management Section
EEO	equal employment opportunity
EEOC	Equal Employment Opportunity Commission
FADs	Final Agency Decisions
FEMA	Federal Emergency Management Agency
FEVS	Federal Employee Viewpoint Survey
FLETC	Federal Law Enforcement Training Centers
FY	fiscal year
HQ EEO Office	DHS Headquarters EEO Office
ICE	U.S. Immigration and Customs Enforcement

MD-715	Management Directive 715
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
OCHCO	Office of the Chief Human Capital Officer
SRDI	Strategic Recruitment, Diversity, and Inclusion
TSA	Transportation Security Administration
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
USSS	U.S. Secret Service

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July 24, 2019

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
House of Representatives

Dear Mr. Chairman:

The Department of Homeland Security (DHS) has faced a number of challenges since it began operations in 2003, one of the most prominent being managing a workforce of more than 240,000 employees. In 2003, we designated implementing and transforming DHS as high risk because it had to transform 22 agencies—several with major management challenges—into one department. In 2013, we narrowed the scope of this high-risk area and focused on DHS’s continued need to strengthen and integrate its management functions, including human capital management.

DHS must attract, develop, and retain a high-quality workforce that can deliver security and results for the American people, and ensure the continued growth and prosperity of the nation. Federal agencies, including DHS, must make full use of our nation’s talent by promoting workplaces that provide a fair and level playing field and the opportunity for employees to achieve their fullest potential. According to the Equal Employment Opportunity Commission (EEOC), to attract, develop, and retain a top-quality workforce, agencies must ensure that their workforces are free of barriers to equal employment opportunity (EEO).¹ Through Management Directive 715 (MD-715), EEOC provides that as a part of a model EEO program, to prevent unlawful discrimination, federal agencies are to identify barriers to EEO in the workplace, execute plans to eliminate barriers, and report annually to EEOC.²

¹EEOC defines a barrier as an agency policy, procedure, practice, or condition that limits or tends to limit employment opportunities for members of a particular gender, race, or ethnic background, or for individuals based on disability status.

²EEOC, *Equal Employment Opportunity*, Management Directive 715 (Oct. 1, 2013).

In 2009, we reported that DHS had opportunities to better identify and address barriers to EEO in its workforce.³ Specifically, we found that DHS was not regularly including employee input in identifying potential barriers. We also found that it had not yet met most of its target completion dates for planned activities to address barriers. We recommended that DHS (1) develop a strategy to regularly include employee input in identifying potential barriers to EEO, and (2) establish interim milestones for completing planned activities to address identified barriers. By 2013, DHS responded to our recommendations by including a strategy to regularly use employee input to identify barriers, and by identifying essential activities and establishing interim milestones to address barriers identified in its MD-715 reports.

Key Equal Employment Opportunity (EEO) Program Terms Defined

- Barrier: Agency policy, procedure, practice, or condition that limits or tends to limit employment opportunities for members of a particular gender, race, or ethnic background, or for individuals based on disability status.
- Deficiency: EEO program compliance measure self-identified by an agency as not met.
- Noncompliance: EEOC identified deficiencies in agency compliance with EEO regulations and directives.

Source: Equal Employment Opportunity Commission (EEOC) and GAO analysis of EEOC information. | GAO-19-573

You asked us to provide an update on DHS's efforts to identify and address EEO barriers in its workforce. This report examines the steps DHS has taken to (1) identify and address barriers to EEO in its workforce, (2) identify and address EEO program deficiencies, (3) address areas of noncompliance in its EEO program identified by EEOC, and (4) oversee and support component EEO programs.

To address the first objective, we reviewed DHS's policies, procedures, practices, and reports for identifying and addressing barriers, and interviewed DHS and EEOC officials about them. We analyzed DHS's and all nine second-level reporting components' MD-715 reports to EEOC for fiscal years 2014 through 2017.⁴ We selected this time frame because fiscal year 2014 was the last time that EEOC conducted a program

³GAO, *Equal Employment Opportunity: DHS Has Opportunities to Better Identify and Address Barriers to EEO in Its Workforce*, [GAO-09-639](#) (Washington, D.C.: Aug. 31, 2009).

⁴The nine second-level reporting components that are required to submit their own MD-715 reports to EEOC are U.S. Customs and Border Protection, Federal Emergency Management Agency, Federal Law Enforcement Training Centers, DHS Headquarters EEO Office, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, U.S. Coast Guard, U.S. Secret Service, and Transportation Security Administration. DHS and its components did not complete their fiscal year 2018 reports in time for our review because EEOC extended the due date for the submission of fiscal year 2018 reports to EEOC from February 28, 2019, to July 31, 2019, as a result of the partial government shutdown and technical issues with EEOC's MD-715 report submission system.

evaluation of a DHS component agency's EEO program.⁵ We used the reports' various parts to determine, among other things, whether DHS had identified and addressed barriers. We also reviewed DHS employee survey results and DHS workforce data from fiscal years 2014 through 2017 to determine whether DHS has made progress in addressing identified EEO barriers.

We further examined various EEOC training materials and resources on identifying and addressing barriers, and observed training at DHS's EEO and Diversity Training Conference in June 2018.⁶ We interviewed or obtained written responses from EEO officials from randomly-selected DHS reporting components—the Federal Law Enforcement Training Centers, the Transportation Security Administration (TSA), the U.S. Citizenship and Immigration Services, and the U.S. Secret Service—to understand how their barrier analyses are reflected in the DHS-wide MD-715 reports. We selected these components by categorizing DHS's nine reporting components into groups of large, medium, and small components, based on workforce size in fiscal year 2017.

We then randomly selected one component from each group as well as a fourth component from any group. Collectively, the four components we reviewed employed about 44 percent of DHS's workforce. To obtain employees' views on DHS's efforts to leverage their input in identifying and addressing EEO barriers, we held three small group discussions with randomly selected DHS staff from department-wide employee organizations and affinity groups. Across the three sessions, we spoke to a total of 15 DHS employees. We compared the information about the steps that DHS has taken to identify and address EEO barriers to relevant

⁵In 2018, EEOC evaluated gender disparities in public safety occupations at multiple agencies, including DHS's Police and Criminal Investigator agency-wide and U.S. Customs and Border Protection's Interdiction and Border Patrol Agent occupational groups. However, this program evaluation did not focus on only DHS.

⁶We reviewed EEOC, *Equal Employment Opportunity Management Directive 715*, MD-715 (2003); EEOC, *Instructions to Federal Agencies for EEO MD-715*, <https://www.eeoc.gov/federal/directives/md715/>, accessed June 9, 2019; EEOC, *Frequently Asked Questions About Management Directive-715*, https://www1.eeoc.gov/federal/directives/qanda_md715.cfm, accessed June 9, 2019; EEOC Training Institute, *Basic, Management Directive 715, Training Manual*, received from DHS April 26, 2018; and EEOC, *Federal Agency Annual EEO Program Status Report, MD-715 Part G, Agency Self-Assessment Checklist*, <https://www.eeoc.gov/federal/directives/md715/partg.cfm>, accessed June 9, 2019.

guidance on MD-715 barrier analysis and *Standards for Internal Control in the Federal Government*.⁷

To address the second objective, we reviewed DHS's policies, procedures, practices, and reports for identifying and addressing deficiencies, and interviewed DHS and EEOC officials about them. We analyzed DHS's and all nine of its reporting components' MD-715 reports to EEOC for fiscal years 2014 through 2017. We used the reports' self-assessment checklists to, among other things, determine whether DHS and its components had action plans to address each of their identified EEO program deficiencies. We interviewed or obtained written responses from EEO officials from the same sample of DHS components to understand how their self-assessments and action plans are reflected in the DHS-wide MD-715 reports. We compared DHS's steps taken to identify and address deficiencies to relevant guidance on EEO programs, program management, and internal control standards.⁸

To address the third objective, we reviewed EEOC's notice and feedback letters on DHS's and DHS Headquarters' EEO programs as well as responses to those letters.⁹ We also interviewed DHS's Office for Civil Rights and Civil Liberties (CRCL) and EEOC officials about the plans DHS has to address areas of noncompliance in its EEO program identified by EEOC.

To address the fourth objective, we reviewed DHS and the same selected components' policies, procedures, and practices that DHS officials told us sustain and enhance collaboration between its CRCL, the Office of the Chief Human Capital Officer's Strategic Recruitment, Diversity, and Inclusion, and DHS components on EEO issues.¹⁰ We interviewed or obtained written responses from DHS component EEO officials on the

⁷EEOC, *Equal Employment Opportunity Management Directive 715*, MD-715 (2003). GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

⁸EEOC, *Equal Employment Opportunity Management Directive 715*, MD-715 (2003). Project Management Institute, *The Standard for Project Management - Fourth Edition* (Newtown Square, Pennsylvania: 2017). [GAO-14-704G](#).

⁹EEOC sends these letters as part of its oversight responsibility for federal agencies' equal employment opportunity programs to assess their compliance with federal EEO laws, regulations, and management directives.

¹⁰As discussed later, CRCL oversees the department's EEO programs and SRDI supports DHS components in addressing EEO barriers.

extent of collaboration with CRCL. We compared these efforts to relevant EEOC guidance and our leading practices for collaboration.¹¹ We also interviewed or obtained written responses from DHS component EEO and EEOC officials about DHS components' responses to EEOC's feedback letters. We compared how DHS oversees and supports component EEO programs to relevant guidance on EEO programs and internal control standards.¹²

We conducted this performance audit from January 2018 to July 2019 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.

Background

EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's EEO program. EEOC assures federal agency and department compliance with EEOC regulations, provides technical assistance to federal agencies concerning EEO complaint adjudication, monitors and evaluates federal agencies' affirmative employment programs, develops and distributes federal sector educational materials, conducts training for stakeholders, provides guidance and assistance to Administrative Judges who conduct hearings on EEO complaints, and adjudicates appeals from administrative decisions made by federal agencies on EEO complaints.

EEOC's MD-715 Reporting Requirements

EEOC's MD-715 requires agencies to take appropriate steps to establish a model EEO program and to ensure that all employment decisions are free from discrimination. It also sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act

¹¹GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

¹²EEOC, *Equal Employment Opportunity Management Directive 715, MD-715* (2003). [GAO-14-704G](#).

programs, which include periodic agency self-assessments and the removal of barriers to free and open workplace competition.¹³

Under MD-715, federal agencies, and any subordinate component that enjoys autonomy from its parent agency, are required to submit annual MD-715 EEO program status reports to EEOC. Completed MD-715 reports include:

- Part F: Requires designated agency officials to certify that the agency has completed an annual self-assessment (Part G) and established plans to correct any program deficiencies (Part H), as well as conducted comprehensive barrier analyses and established plans to eliminate identified barriers (Part I).
- Part G: Contains a self-assessment checklist for an agency to assess its compliance with essential EEO program elements to operate a model EEO program and identify any deficiencies.¹⁴
- Part H: Describes the agency's plans to address identified deficiencies.
- Part I: Shows identified EEO triggers and barriers for race, gender, and national origin; how the agency plans to address them; and who the responsible officials are.¹⁵
- Part J: Contains the agency's affirmative action plan for individuals with disabilities and individuals with targeted disabilities.¹⁶

¹³Title VII refers to the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*; and the Rehabilitation Act refers to Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791.

¹⁴The MD-715 identifies six essential elements for a model EEO program: (1) demonstrated commitment from agency leadership, (2) integration of EEO into the agency's strategic mission, (3) management and program accountability, (4) proactive prevention of unlawful discrimination, (5) efficiency, and (6) responsiveness and legal compliance. According to EEOC guidance, a "No" response to any measure in Part G is a program deficiency. For each such "No" response, an agency is required in Part H to identify a plan for correcting the identified deficiency.

¹⁵EEOC guidance states that a trigger is a trend, disparity, or anomaly that suggests the need for further inquiry into a particular policy, practice, procedure, or condition. It is a red flag. Triggers can be gleaned from various sources of information, such as workforce statistics or employee surveys. Plans for triggers and barriers involving people with disabilities and people with targeted disabilities are entered in Part J.

Additionally, federal agencies are required to identify and eliminate barriers that impede free and open competition in their respective workplaces. EEOC reporting requirements state that a barrier is an agency policy, procedure, practice, or condition that limits or tends to limit employment opportunities for members of a particular gender, race, or ethnic background, or for individuals based on disability status. According to EEOC's instructions, many employment barriers are built into the organizational and operational structures of an agency, and are embedded in the day-to-day procedures and practices of the agency.

Agencies are also required to identify EEO program deficiencies and develop plans to address them. According to EEOC's instructions, deficiencies are weaknesses in an agency's EEO program where agency officials need to provide more attention. For example, a deficiency might be that the EEO director is not under the direct supervision of the agency head, or that an EEO Director or Officer lacks a regular, effective means of informing the agency head and other top management of the effectiveness, efficiency, and legal compliance of the agency's EEO program.

EEOC's Office of Federal Operations instructs agencies on how to complete their MD-715 reports, provides training and technical assistance, and offers additional informal assistance, such as sharing best workplace practices. Based on agency MD-715 reports, EEOC includes assessments of agency progress in its *Annual Report on the Federal Workforce*, and in notice and feedback letters addressed to individual agencies.¹⁷ In addition, according to EEOC officials, EEOC meets with each agency every 3 years to review the status of its compliance with federal EEO laws, regulations, and management directives.

If EEOC determines that areas of noncompliance exist in an agency's program, it may take compliance actions. Compliance actions include requiring the agency to provide an update on the status of its plans to

¹⁶Individuals with disabilities are employees in the workforce who have indicated having a disability. According to MD-715 reporting requirements, targeted disabilities are defined as deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.

¹⁷The *Annual Report on the Federal Workforce*, submitted to the President and Congress, is a public document that summarizes selected EEO programs of federal agencies and their subcomponents, and their efforts to have model EEO programs.

correct deficiencies in its MD-715 submission, or to submit a Compliance Report to EEOC explaining the agency's progress in correcting deficiencies within 6 months of the date of a feedback letter. If agencies do not comply, EEOC may choose to initiate its noncompliance process, which could include conducting a program evaluation, issuing a notice to the Secretary of Homeland Security, or publicly identifying DHS as a noncompliant agency.¹⁸

As part of its noncompliance process, EEOC has conducted program evaluations of DHS components. In 2013, EEOC initiated a program evaluation at TSA to determine the adequacy and appropriateness of the EEO complaint framework in all offices and directorates within TSA. EEOC reported in 2014 that TSA's EEO complaint process was adequate and complied with its regulations. However, EEOC made eight recommendations to TSA, including one that called for TSA to modify the EEO information in its training materials and presentations. In response to EEOC's report, TSA submitted a letter to EEOC stating that it planned to address all of the EEOC recommendations and had already taken steps to implement several of them. In addition, in 2018, EEOC conducted a multiagency program evaluation that included U.S. Customs and Border Protection (CBP).¹⁹ It found that CBP had no women serving in positions that involve intercepting prohibited commodities or persons, and that women comprised only 5 percent of its border patrol agents.²⁰ EEOC stated that the report's recommendations may help CBP with its hiring efforts.

¹⁸29 C.F.R. § 1614.102(e).

¹⁹EEOC also selected 13 other federal agencies, including the Departments of Agriculture, Defense, and Justice. EEOC stated that the agencies were included in the report's analyses because they employ public safety personnel, and many cite those personnel as mission critical. EEOC also stated the reasons for the EEOC's focus were (1) several class action suits involving women in public safety positions; (2) congressional hearings on the participation of women in the federal government; and (3) the surge of hiring for federal law enforcement positions planned and that were taking place.

²⁰EEOC, Office of Field Operations, *Program Evaluation: Recruitment & Hiring Gender Disparities in Public Safety Occupations* (2018). According to EEOC, the CBP interdiction occupational group supervises or performs aviation law enforcement operations to detect, interdict, apprehend, and prevent terrorist and other persons, weapons, and contraband from illegally entering the United States.

DHS's EEO Program

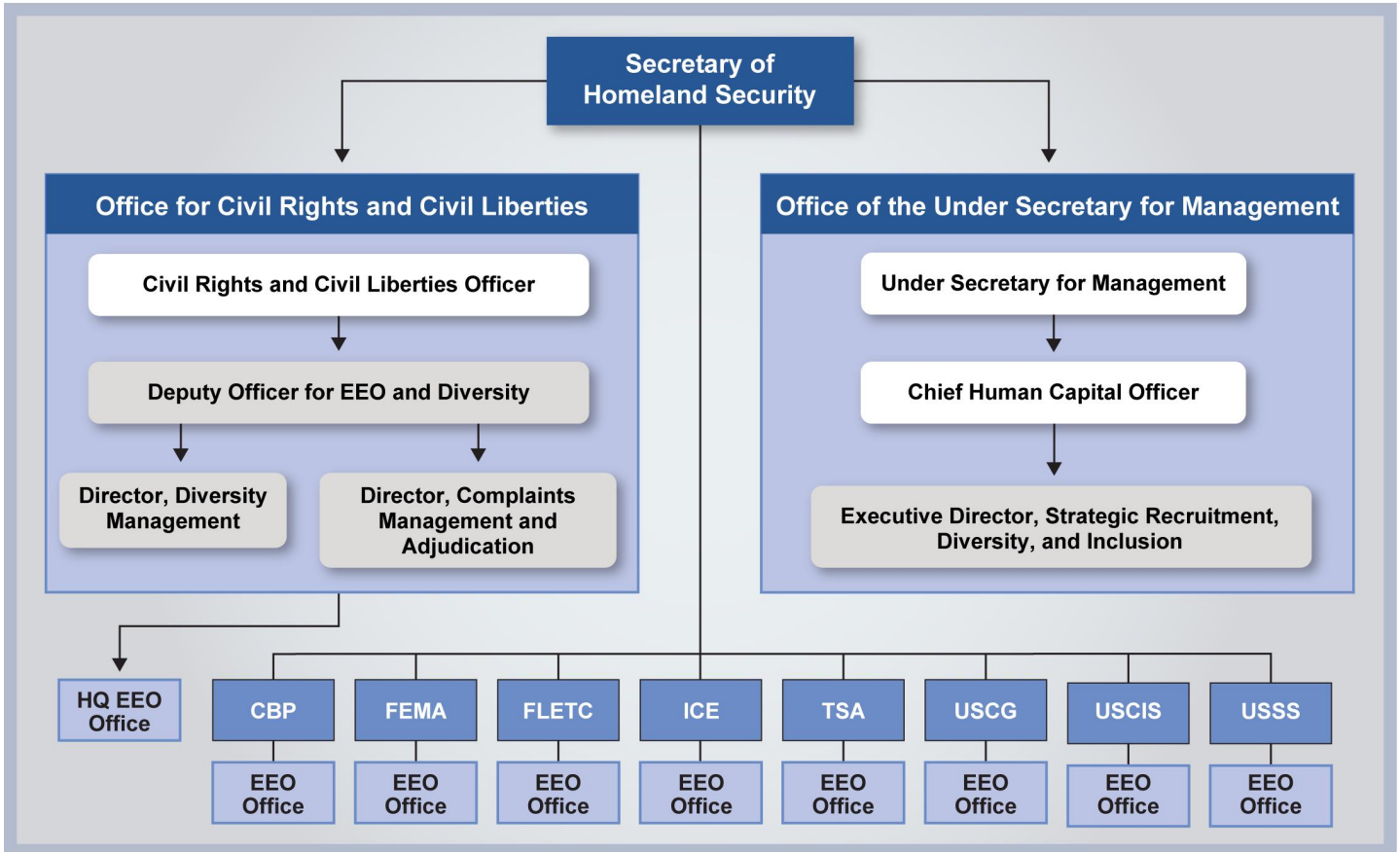
CRCL, through the Deputy Officer for EEO and Diversity, is responsible for processing complaints of discrimination; establishing and maintaining EEO programs; fulfilling reporting requirements as required by law, regulation, or executive order; evaluating the effectiveness of EEO programs; leading the department's diversity management program; and preparing and submitting DHS's annual MD-715 report to EEOC.

According to EEOC policy, a second-level reporting component is one that enjoys autonomy from its parent agency, and has 1,000 or more employees. EEOC instructions require second-level reporting components submit MD-715 reports to their agency headquarters for inclusion in the agency-wide report in addition to submitting them directly to the EEOC. DHS's Headquarters EEO Office, a part of CRCL, implements the EEO program for all headquarters employees and applicants.²¹ DHS has nine second-level reporting components, including DHS Headquarters, that are required to submit individual MD-715 reports to EEOC. Each component has an office headed by a director charged with implementing its EEO program.

Figure 1 shows the officials who are primarily responsible for EEO at DHS.

²¹DHS components that are supported by the DHS Headquarters EEO Office include the Countering Weapons of Mass Destruction Office, Management Directorate, Office of Inspector General, Office of the Secretary, Office of Intelligence and Analysis, Office of Operations Coordination, Science and Technology Directorate, and Office of Strategy, Policy, and Plans. In fiscal year 2019, the National Protection and Programs Directorate, which previously was supported by the office, was elevated to a new operational component—the Cybersecurity and Infrastructure Security Agency. For fiscal year 2019, it plans to submit its own Management Directive 715 report to the Equal Employment Opportunity Commission.

Figure 1: Department of Homeland Security (DHS) Organization for Department-wide Equal Employment Opportunity (EEO) Activities, 2018



HQ EEO Office = Headquarters EEO Office
 CBP = U.S. Customs and Border Protection
 FEMA = Federal Emergency Management Agency
 FLETC = Federal Law Enforcement Training Centers
 ICE = U.S. Immigration and Customs Enforcement
 TSA = Transportation Security Administration
 USCG = U.S. Coast Guard
 USCIS = U.S. Citizenship and Immigration Services
 USSS = U.S. Secret Service

Source: GAO, based on information obtained from DHS. | GAO-19-573

Text of Figure 1: Department of Homeland Security (DHS) Organization for Department-wide Equal Employment Opportunity (EEO) Activities, 2018

- 1) Secretary of Homeland Security
 - a) Office for Civil Rights and Civil Liberties
 - i) Civil Rights and Civil Liberties Officer

- ii) Deputy Officer for EEO and Diversity
 - (1) Director, Diversity Management
 - (2) Director, Complaints Management and Adjudication
- iii) HQ EEO Office
- b) CBP
 - i) EEO offices
- c) FEMA
 - i) EEO offices
- d) FLETC
 - i) EEO offices
- e) ICE
 - i) EEO offices
- f) TSA
 - i) EEO offices
- g) USCG
 - i) EEO offices
- h) USCIS
 - i) EEO offices
- i) USSS
 - i) EEO offices
- j) Office of the Under Secretary for Management
 - i) Under Secretary for Management
 - (1) Chief Human Capital Officer

ii) Executive Director, Strategic Recruitment, Diversity, and Inclusion

Legend:

HQ EEO Office = Headquarters EEO Office
CBP = U.S. Customs and Border Protection
FEMA = Federal Emergency Management Agency
FLETC = Federal Law Enforcement Training Centers
ICE = U.S. Immigration and Customs Enforcement
TSA = Transportation Security Administration
USCG = U.S. Coast Guard
USCIS = U.S. Citizenship and Immigration Services
USSS = U.S. Secret Service

Source: GAO, based on information obtained from DHS. | GAO-19-573

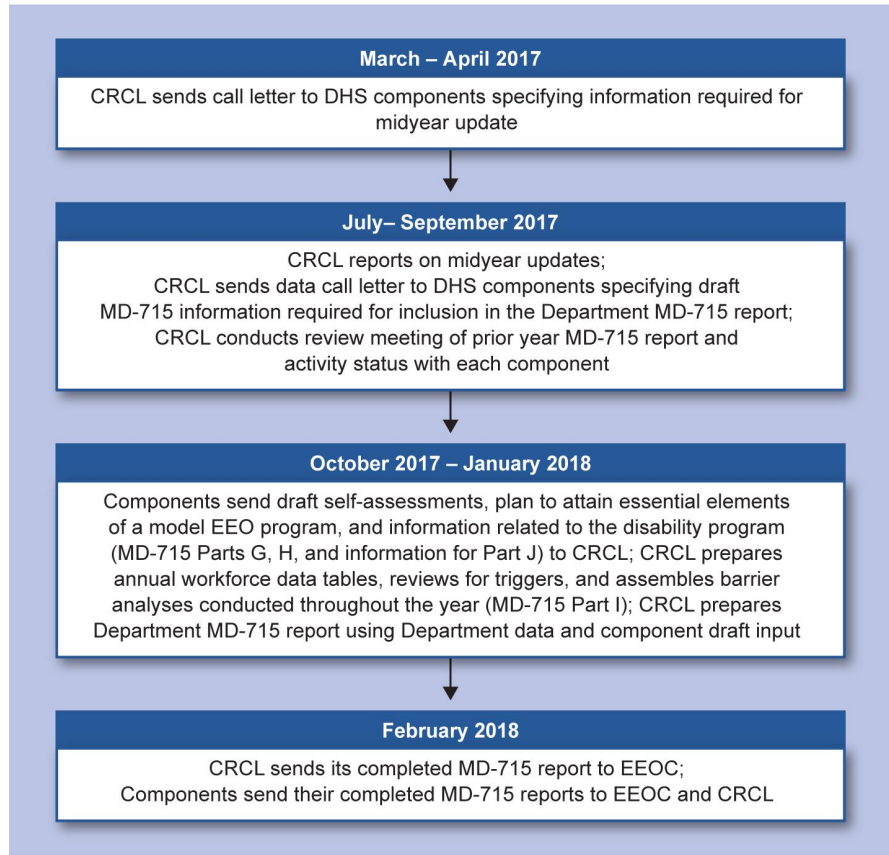
Note: The grey boxes are primarily responsible for DHS's EEO activities. The Headquarters EEO Office is part of CRCL. In November 2018, the National Protection and Programs Directorate, which previously was served by the Headquarters EEO Office, was elevated to a new operational component—the Cybersecurity and Infrastructure Security Agency. For fiscal year 2019, the component plans to submit its own Management Directive 715 report to the Equal Employment Opportunity Commission.

DHS's MD-715 Reporting Process

CRCL develops DHS's annual MD-715 EEO program status report and submits it to EEOC. CRCL works with components to gather and analyze necessary data and information, and to perform the required MD-715 exercises that are ultimately used to complete the overall DHS MD-715 report. CRCL includes components' identified deficiencies in the DHS-wide MD-715 report. The Secretary of Homeland Security (or its designee) and CRCL's Deputy Officer for EEO and Diversity are to certify DHS's MD-715 report before CRCL sends the report to EEOC.

Figure 2 illustrates DHS's MD-715 report development process. This process includes conducting a self-assessment checklist of DHS's and its components' efforts to achieve a model EEO program and barrier analysis to eliminate identified EEO barriers.

Figure 2: Department of Homeland Security (DHS) Management Directive 715 (MD-715) Report Development Process, 2017-2018



CRCL = Office for Civil Rights and Civil Liberties
EEO = equal employment opportunity
EEOC = U.S. Equal Employment Opportunity Commission

Source: GAO, based on information obtained from DHS. | GAO-19-573

Text of Figure 2: Department of Homeland Security (DHS) Management Directive 715 (MD-715) Report Development Process, 2017-2018

March – April 2017

CRCL sends call letter to DHS components specifying information required for midyear update

July– September 2017

CRCL reports on midyear updates; CRCL sends data call letter to DHS components specifying draft MD-715 information required for inclusion in the Department MD-715 report; CRCL conducts review meeting of prior year MD-715 report and activity status with each component

October 2017 – January 2018

Components send draft self-assessments, plan to attain essential elements of a model EEO program, and information related to the disability program (MD-715 Parts G, H, and information for Part J) to CRCL; CRCL prepares annual workforce data tables, reviews for triggers, and assembles barrier analyses conducted throughout the year (MD-715 Part I); CRCL prepares Department MD-715 report using Department data and component draft input

February 2018

CRCL sends its completed MD-715 report to EEOC; Components send their completed MD-715 reports to EEOC and CRCL

CRCL = Office for Civil Rights and Civil Liberties

EEO = equal employment opportunity

EEOC = U.S. Equal Employment Opportunity Commission

Source: GAO, based on information obtained from DHS. | GAO-19-573

Note: Part G contains a self-assessment checklist for an agency to assess its compliance with essential EEO program elements to operate a model EEO program and identify any deficiencies. Part H describes the agency's plans to address identified deficiencies. Part I shows identified EEO triggers and barriers for race, gender, and national origin, how the agency plans to address them, and who the responsible officials are. Part J addresses plans for triggers and barriers involving people with disabilities and people with targeted disabilities.

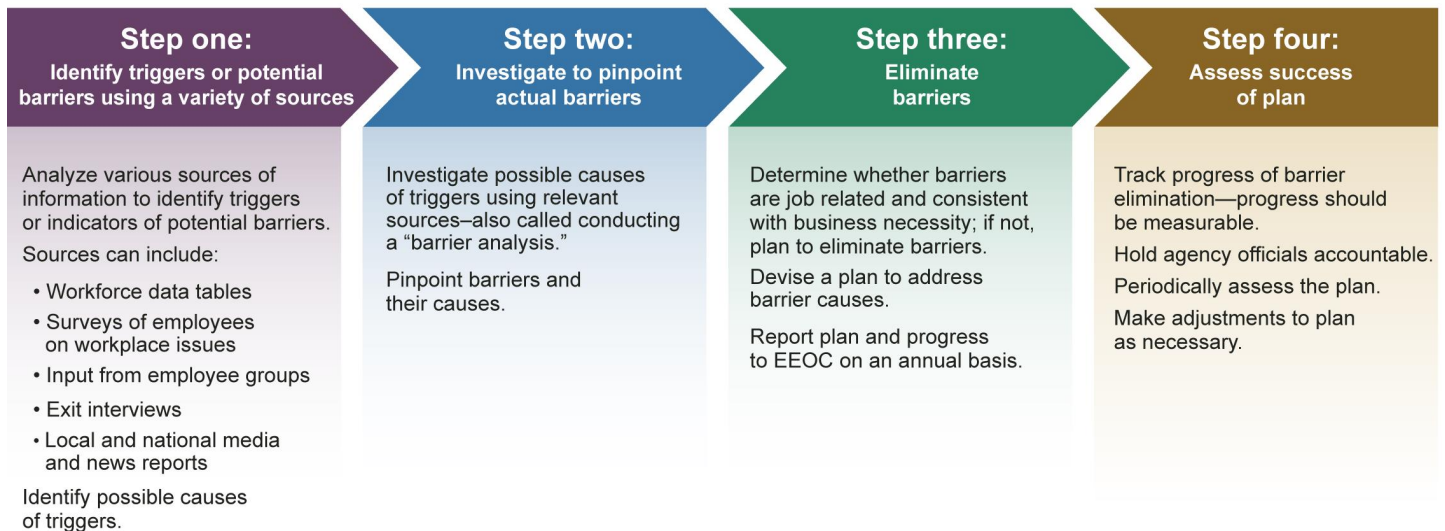
DHS Has Plans to Address the EEO Barriers It Identified, but Could Better Measure Its Progress toward Eliminating the Barriers

DHS Has Taken Steps to Follow EEOC Guidance to Identify and Address EEO Barriers

DHS has taken steps to follow EEOC's guidance by using and analyzing various information sources, investigating possible causes of potential

barriers or triggers, and planning activities to address and eliminate barriers. EEOC MD-715 guidance calls for federal agencies to continually work towards preventing all forms of discrimination and eliminating barriers that may impede free and open competition in the workplace. Figure 3 shows the barrier identification and elimination steps under MD-715.

Figure 3: Equal Employment Opportunity Commission’s (EEOC) Management Directive 715 Barrier Analysis Process



Source: GAO analysis of EEOC guidance. | GAO-19-573

Text of Figure 3: Equal Employment Opportunity Commission’s (EEOC) Management Directive 715 Barrier Analysis Process

Step one: Identify triggers or potential barriers using a variety of sources	Step two: Investigate to pinpoint actual barriers	Step three: Eliminate barriers	Step four: Assess success of plan
<p>Analyze various sources of information to identify triggers or indicators of potential barriers. Sources can include:</p> <p>Workforce data tables</p> <p>Surveys of employees on workplace issues</p> <p>Input from employee groups</p> <p>Exit interviews</p> <p>Local and national media and news reports</p> <p>Identify possible causes of triggers.</p>	<p>Investigate possible causes of triggers using relevant sources—also called conducting a “barrier analysis.”</p> <p>Pinpoint barriers and their causes.</p>	<p>Determine whether barriers are job related and consistent with business necessity; if not, plan to eliminate barriers.</p> <p>Devise a plan to address barrier causes.</p> <p>Report plan and progress to EEOC on an annual basis.</p>	<p>Track progress of barrier elimination—progress should be measurable.</p> <p>Hold agency officials accountable.</p> <p>Periodically assess the plan.</p> <p>Make adjustments to plan as necessary.</p>

Note: EEOC defines a trigger as a trend, disparity, or anomaly that suggests the need for further inquiry into a particular policy, practice, procedure, or condition. It defines a barrier as an agency policy, procedure, practice, or condition that limits or tends to limit employment opportunities for members of a particular gender, race, ethnic background, or disability status.

DHS Uses Multiple Information Sources to Identify Potential EEO Barriers

DHS generally uses the information sources that EEOC guidance recommends in addition to workforce data to help identify potential barriers. As directed by EEOC guidance, DHS analyzes its workforce data to help identify triggers or indicators of potential EEO barriers by comparing the racial, national origin, gender, and disability profiles of its total workforce, and for various occupational categories to relevant civilian labor workforce data. In fiscal year 2017, DHS analyzed all available workforce data including:

- Total Workforce – Distribution by Race/Ethnicity, Gender, and Disability,
- Participation Rates by Major Occupations – Distribution by Race/Ethnicity, Gender, and Disability, and
- Applicants and Hires by Major Occupations – Distribution by Race/Ethnicity, Gender, and Disability.

In addition to analyzing workforce data, in each of the fiscal years 2014 through 2017, DHS utilized the U.S. Office of Personnel Management's Federal Employee Viewpoint Survey (FEVS) and DHS's employee exit survey results to help identify and address barriers.²² For example, CRCL, in DHS's fiscal year 2017 MD-715 report, used FEVS and exit survey results to help investigate the possible causes of higher-than-expected nonretirement separations for white females and several other ethnic and racial groups. According to the report, possible causes included the lack of advancement opportunities, insufficient work/life programs, and the lack of alternate work schedules.

During our small group discussions, DHS employee groups told us that through the MD-715 report development process, they helped identify and address triggers and barriers. For example, Special Emphasis Program

²²FEVS is a tool offered by the Office of Personnel Management that measures employees' perceptions of whether, and to what extent, conditions characterizing successful organizations are present in their agencies. The DHS exit survey is a tool used to obtain information on the top reasons that employees separate from the department.

Managers we spoke with told us that DHS components conduct climate surveys to obtain input from employees on workforce practices every 1 or 2 years.²³ Further, several DHS components' MD-715 reports referenced soliciting employee input, such as obtaining Disability Employment Program Managers' input via quarterly disability employment advisory council meetings where they share best practices and discuss issues and topics including barriers.

DHS Has Identified Workforce Demographics Data Anomalies That Indicate Potential EEO Barriers

Our review of DHS's MD-715 reports showed that DHS identified three department-wide triggers in fiscal years 2014 through 2017. The three triggers were (1) high rate of nonretirement separations for certain groups, particularly white women; (2) low participation rates of women and various ethnic and racial groups in the permanent workforce; and (3) low participation rates of individuals with disabilities and targeted disabilities.²⁴

While Investigating Various EEO Anomalies, DHS Identified Three Barriers

Subsequent to its trigger identification and department-wide barrier analysis, from fiscal years 2014 through 2017, DHS identified three barriers: (1) problems with supervision/management, lack of advancement opportunities, lack of alternate work schedules, insufficient work/life programs, and personal/family related reasons causing higher-than-expected nonretirement separations for white females and several ethnic and racial groups; (2) the geographic location of jobs which has contributed to the low hiring rates of racial groups in certain major occupations; and (3) medical and physical requirements of law enforcement positions, such as the ability to engage in moderate to

²³According to DHS, Special Emphasis Program Managers advise and assist management officials in the identification, analysis, and resolution of policies, practices, and procedures which serve to create barriers to the hiring, advancement, and retention of minorities, women, and persons with disabilities, or other identified groups. EEOC requires three special emphasis programs: Federal Women's Program, Hispanic Employment Program, and Persons with Disabilities Program.

²⁴From fiscal years 2014 through 2016, DHS identified the underrepresentation of individuals with disabilities and targeted disabilities as a trigger. However, in fiscal year 2017, DHS included this trigger in Part J instead of Part I as directed by EEOC guidance.

arduous physical exertion, which limit the eligibility of some applicants with targeted disabilities.²⁵ DHS identified these barriers by analyzing component and DHS level workforce data and reviewing DHS FEVS and exit survey results. DHS identified barriers in its MD-715 reports for fiscal years 2014 through 2017. However, EEOC noted that for fiscal years 2015 to 2017, DHS had not identified any policies, procedures, practices, or conditions causing (1) low hiring rates for women in certain major occupations, and (2) the high separation rate of employees with disabilities.

DHS's Planned Activities to Address the Identified EEO Barriers

As stated in EEOC's guidance, barrier elimination is a vital step to addressing identified barriers and working towards the goal of making the federal government a model employer. To address and eliminate identified barriers, EEOC's instructions direct agencies to include in their MD-715 reports measurable objectives, an action plan that includes planned activities and completion dates, as well as officials responsible for overseeing the plan, and a summary of accomplishments.

Since our 2009 recommendations, DHS has included interim milestones in its MD-715 reports. Our 2009 report showed that DHS had modified nearly all of its target completion dates.²⁶ We recommended that DHS identify essential activities and establish interim milestones necessary for the completion of all planned activities to address identified barriers to EEO. In its fiscal year 2011 MD-715 report to EEOC, DHS identified essential activities and established interim milestones. Based on its MD-715 reporting for fiscal years 2014 through 2017, DHS has continued to identify planned activities and establish interim milestones.

Our review of DHS's MD-715 reports from fiscal years 2014 through 2017 also shows that DHS has planned activities and targeted completion dates to address each identified barrier, and each trigger for a potential barrier.²⁷ For example, to address the low participation rates of women

²⁵In fiscal year 2017, DHS included this disability related barrier in Part J instead of Part I as directed by EEOC guidance.

²⁶[GAO-09-639](#).

²⁷Agencies are to investigate triggers and develop plans and activities to try to uncover the cause of the identified conditions. A barrier is not always pinpointed, however. In some cases where DHS cannot identify a barrier, it takes action to address the relevant trigger.

and several ethnic and racial groups in DHS's overall workforce, DHS's planned activities included researching where to conduct outreach for the identified groups, and producing a plan to integrate data from the multiple applicant data-tracking systems used across DHS. DHS's outreach activities included identifying colleges and universities with large populations of underrepresented groups, identifying relevant job fairs in selected service areas, and conducting focus group meetings with employees from underrepresented groups to determine how to improve recruitment and retention, among other events. These events were initiated in 2011, but are to be reviewed and updated annually. For example, DHS reported that it develops a "Top 25" list of annual outreach and recruitment activities that include law enforcement focused events. DHS also reported developing a framework in 2016 for applicant flow data analysis—important for identifying and addressing potential recruitment and outreach barriers. In 2017, activities included conducting more robust department-wide analysis of applicant data. Many of the activities were initiated in prior years and target dates for completion were met. To address the high nonretirement separation rate of certain groups, notably white women, DHS's planned activities included updating and augmenting previously instituted exit survey methods, and identifying and implementing retention interventions.

Further, in its fiscal year 2014-2017 reports, DHS has identified essential activities, established interim milestones, and met recurring interim milestones for its planned activities. For example, DHS reported that it planned to research where to conduct outreach for groups in occupations with underrepresentation. DHS components completed this outreach activity in 2012, and components are to annually identify (1) colleges with substantial populations of underrepresented groups, (2) relevant job fairs in the service area, and (3) relevant local affinity groups and community groups, among other outreach activities. Additionally, DHS's Office of the Chief Human Capital Officer (OCHCO) has lead responsibility for implementing a multiyear plan for targeted recruitment of applicants from identified underrepresented groups. OCHCO completed its initial multiyear plan in 2012 and is to annually update its established goals for intern programs, job fairs, and local advertising.

Selected DHS Components Took Steps to Conduct Barrier Analyses

All four selected DHS components have taken steps to follow EEOC guidance to conduct barrier analyses. Of the components, Federal Law

Enforcement Training Centers (FLETC), the U.S. Secret Service (Secret Service), the Transportation Security Administration (TSA), and U.S. Citizenship and Immigration Services (USCIS), only one, TSA, identified any EEO barriers. However, each of the components identified triggers and analyzed potential barriers by

- reviewing workforce data (i.e., data on total workforce, new hires, and mission critical occupations) and comparing the data to relevant benchmarks,
- reviewing various information sources to help identify possible barriers that may be resulting in the current condition highlighted by the analysis of workforce data, and
- reporting action plans and time frames for addressing potential or actual barriers.

The Secret Service's fiscal year 2017 MD-715 report showed that after analyzing demographic data to identify triggers, the Secret Service used FEVS data to identify potential barriers to the employment of individuals with disabilities in occupations where the triggers were identified. In addition, USCIS stated in its fiscal year 2017 MD-715 report that its review of exit survey data provided reasons that men, Hispanics, and whites left the agency, but data were inconclusive regarding the continuing underrepresentation of those groups. USCIS also reported that it would continue analyzing exit data in fiscal year 2018.

In fiscal year 2017, TSA identified two barriers in its MD-715 report—(1) medical and physical restrictions limit opportunities for individuals with disabilities and individuals with targeted disabilities in Transportation Security Officer and Federal Air Marshal occupations, and (2) women are not applying to Transportation Security Officer or Federal Air Marshal positions at the same rate as men. TSA reported that it analyzed workforce data and policies, procedures, and practices related to recruiting, hiring, and promotions to try to determine what may be contributing to low participation rates for women and individuals with disabilities. TSA also interviewed employees involved in those processes, and conducted focus groups with supervisors and leadership at airports and field offices. TSA's plans to address barriers include developing a communication plan to promote TSA programs that support persons with disabilities and with targeted disabilities; making sure training modules are accessible; conducting training to increase awareness of unconscious bias towards working with individuals with disabilities; and working with its

human capital office and others to assist with recruiting and hiring to more effectively target women.

Although FLETC, Secret Service, and USCIS did not identify EEO barriers in fiscal year 2017, they each developed action plans that identified activities designed to help address and correct undesired conditions, identified responsible officials, and set time frames for addressing the conditions. Examples of selected components' plans and activities include:

- **FLETC.** To address low participation rates of persons with targeted disabilities in the permanent workforce, FLETC-planned activities include working with human resource specialists to identify data and timelines needed to create reports in its applicant data flow system that would help identify any barriers in the selection process, and working to resolve issues concerning applicant flow data in the applicant pool.²⁸
- **Secret Service.** To address low participation rates of certain groups in the general workforce and new hires, planned activities include quarterly tracking and reporting ethnicity, race, and gender data net changes, hires, resignations, and retirements. Other activities would involve working closely with the Office of Human Resources Talent and Employee Acquisition Management Division in recruitment activities.
- **USCIS.** To address the lower-than-expected participation rate of certain groups in the permanent workforce—for example, white males and females and Hispanic males—planned activities include conducting comprehensive applicant flow data analysis of the top five major occupational categories, and administering and analyzing a bi-annual EEO and Diversity Climate Survey.²⁹

DHS has provided training for its components on how to conduct EEO barrier analysis. In 2016 and 2018, DHS trained DHS component EEO officials on methods for identifying the root of specific triggers in the workplace, as well as steps for eliminating identified barriers. According to

²⁸Applicant flow data refers to demographic data on sex, ethnicity, race, and disability. The data are requested by an agency and are voluntarily submitted by an applicant. They can be used to help identify potential barriers to EEO.

²⁹Applicant flow data analysis evaluates the effectiveness of an agency's recruitment and selection processes for each occupation using internal competitive promotions and external new hires.

DHS's analysis of participant training evaluations, the majority of participants believed they would be able to apply what they learned from the training. In 2017, DHS provided a 2-day barrier analysis training to agency and component affirmative employment practitioners that introduced various barrier analysis methods. It included an exercise involving a hypothetical federal agency. Based on our review of participant evaluations, participants were satisfied with the training.

DHS Reports Some Improvements in Employee Engagement and Representation of Minorities and Women, but Lacks Performance Metrics for Tracking Progress

DHS reported improvements in EEO indicators in its MD-715 reports from fiscal years 2014 through 2017. DHS cited its higher FEVS scores under employee engagement.³⁰ For example, although DHS's employee engagement remained 7 percent below the government-wide average, it increased from 54 percent in 2014 to 60 percent in 2017. According to DHS, this score was largely driven by TSA and U.S. Customs and Border Protection employees, who accounted for 46.8 percent of DHS's completed surveys.

Our review of DHS's workforce data from fiscal years 2014 through 2017 showed that every minority group as well as individuals with disabilities and individuals with targeted disabilities had been trending in a positive direction since fiscal year 2014.³¹ Further, DHS officials told us that minority representation was up 3 percent and female representation was up 2 percent since 2015.

In addition, DHS has produced barrier analysis reports that address underrepresentation of women and various ethnic and racial groups. In 2018, DHS completed a barrier analysis report on Hispanic employment in General Schedule pay scale grades 12 and higher, as required by

³⁰According to the U.S. Office of Personnel Management, employee engagement measure factors that lead to an engaged workforce include supporting employee development and communicating agency goals.

³¹Individuals with disabilities are employees in the workforce who have indicated having a disability. According to MD-715 reporting requirements, targeted disabilities are defined as deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.

EEOC and the U.S. Office of Personnel Management.³² The report identified several potential triggers, such as Hispanic women separating from DHS, and related barriers, such as possible harassment of Hispanic employees and women, and glass walls.³³ DHS also developed action plans focused on enhancing elder and family care programs, offering training on preventing harassment in the workforce, increasing recruitment into job series with substantial promotion opportunities, and ensuring interview panels were diverse and interviewers properly trained.

Although DHS has reported positive trending in various underrepresented groups, DHS officials said they were unable to fully identify the barriers contributing to the underrepresentation of women in its workforce despite conducting the required barrier analysis. In 2014, DHS conducted a barrier analysis of women in law enforcement to help identify any barriers. While specific barriers were not identified, DHS's report, *Women in Law Enforcement Study*, provided insight into why DHS employed lower rates of female law enforcement officers than federal government-wide.³⁴ For example, study participants shared anecdotal instances of where they or their colleagues did not pursue promotional opportunities because they perceived their work environment made them choose between the job and family. The study also highlighted steps DHS could take to help address its underrepresentation of women, such as being more creative in its approach to attracting qualified women through use of social media, and by creating more family-friendly environments.

According to EEOC, one important tool in examining the fairness and inclusiveness of the federal government's recruitment efforts is applicant flow data. By reviewing the yield of an agency's recruitment effort, the organization can reassess and improve its effort to reach all segments of the population. EEOC guidance states that having department-wide applicant flow data could aid in analyzing differences in selection rates among different groups for a particular job. In July 2017, EEOC informed

³²DHS, *Barrier Analysis Report on Hispanic/Latino Employment* (Washington, D.C.: 2018). This report is not publicly available.

³³According to EEOC, a glass wall is a type of barrier that involves individuals in an EEO group who are unable to obtain employment in the mission-critical occupations of the agency.

³⁴DHS, *Women in Law Enforcement Study* (Washington, D.C.: 2017). This study is not publicly available.

DHS that the agency's applicant flow data were incomplete.³⁵ DHS has reported challenges in collecting department-wide data that could help identify potential barriers. EEOC found that DHS's workforce data tables do not always contain all of the agency's applicant flow data. According to EEOC, without such data, it becomes much more difficult to pinpoint the specific policies, procedures, or practices in which barriers might be embedded.

DHS does not have a consolidated applicant flow data system. According to DHS, four of its components use one system (USA Staffing), while five other components use a different system (Monster Government Solutions).³⁶ Office for Civil Rights and Civil Liberties (CRCL) officials told us DHS is developing a new system to integrate applicant flow data department-wide. However, the officials could not give us a time frame for when the system is expected to be completed. As a work-around, DHS explained that it obtains these data directly from each component that uses Monster Government Solutions. CRCL officials said they will report complete applicant flow data in fiscal year 2019.

In addition to creating a model EEO environment, progress in eliminating EEO barriers can help DHS avoid costs related to workplace disputes. According to EEOC guidance, the elimination of barriers may help an agency avoid expensive costs, such as back pay awards, compensatory damages, and attorney's fees, from findings of discrimination. EEOC found 81 instances of discrimination from fiscal years 2014 through 2017 resulting in DHS paying nearly \$30 million to cover judgments, awards, and settlements for these EEO cases, or an average of \$7.4 million per year.³⁷ These expenses were nearly equal to the average annual cost of

³⁵EEOC stated that most federal agencies have challenges collecting applicant flow data. According to EEOC, only nine out of 62 agencies, or 15 percent, submitted the required data in all four applicant flow data tables in their fiscal year 2017 MD-715 report.

³⁶CBP, DHS Headquarters EEO Office, ICE, and USCIS use USA Staffing, while U.S. Coast Guard, FEMA, FLETC, U.S. Secret Service, and TSA use Monster Government Solutions.

³⁷A finding of discrimination is an EEOC decision that a federal agency has discriminated against an employee or class of employees. 29 C.F.R. § 1614.702(h)(1).

DHS's EEO program, which DHS estimated at about \$7.63 million in fiscal year 2019.³⁸

DHS Lacks Metrics for Tracking Progress towards Eliminating Identified EEO Barriers

DHS does not have complete performance metrics or mechanisms for tracking progress towards eliminating its identified EEO barriers. For example, CRCL does not maintain numerical objectives or goals for eliminating barriers involving certain EEO groups, such as workplace satisfaction of white females or the retention rate of women in law enforcement positions. According to CRCL officials, they are not required to establish performance metrics or mechanisms for tracking progress towards eliminating barriers beyond what is included in the department-wide MD-715 report. DHS reported one performance measure for its EEO program—the percent of timely merit Final Agency Decisions (FADs).³⁹

Standards for Internal Control in the Federal Government states that management should establish specific and measureable objectives, and ways to assess progress including performance metrics and milestones. It also states that management should design control activities to achieve objectives and respond to risks. Such control activities may include the establishment and review of performance metrics.⁴⁰ Further, EEOC guidance states that agencies are not prevented from establishing additional practices that exceed its requirements. DHS officials acknowledged that their EEO program performance measurement does not reflect all the work that they do.

According to CRCL officials, CRCL has proposed additional performance measures for its MD-715 activities, but they were rejected by DHS's

³⁸CRCL officials said that they could not provide an annual cost of the EEO program because they do not have a line item for their EEO program budget and they share costs with CRCL. They also said that it would be difficult to calculate the staffing costs because they do not keep track of temporary detailees joining and leaving the staff of the EEO program.

³⁹FADs are issued by CRCL after a complainant files a formal complaint alleging discrimination, the component investigates, and a request is made for the agency to determine whether or not discrimination occurred. EEOC regulations require merit FADs to be issued within 60 days of election, or failure to timely request a FAD or hearing. 29 C.F.R. § 1614.110(b).

⁴⁰[GAO-14-704G](#).

Office for Policy because they were not directly related to national security or public safety. DHS's Office for Policy is responsible for approving new performance measures. CRCL officials told us that adopting hiring goals for individuals with disabilities and individuals with targeted disabilities—which had previously been identified as potential barriers—has been beneficial in garnering support and commitment towards meeting them. They said that DHS incorporated these goals into its efforts and initiatives to increase the recruitment, hiring, advancement, and retention of individuals with disabilities. Implementing performance metrics could help DHS better assess its progress in eliminating EEO program barriers.

DHS and Its Components Have Taken Steps to Identify EEO Program Deficiencies, but Lack Action to Fully Address Them

DHS and Its Components Have Identified Various Deficiencies in Their EEO Programs

As shown in table 1, our analysis of DHS's MD-715 reports found that DHS did not meet about a quarter of the compliance measures for a model EEO program for each fiscal year from 2014 through 2017.⁴¹ Specifically, over this 4-year period, DHS did not meet 26 percent of its compliance measures (128 out of 487). The largest percentage of unmet measures occurred under the model EEO essential element D—which focuses on proactive steps taken by an agency to prevent unlawful discrimination—where about 53 percent or 21 of 40 measures were unmet. According to DHS officials, in Part G of its MD-715 report, DHS includes deficiencies identified and reported at the component level as well as deficiencies directly attributable to the department. For example, in each of the fiscal years 2015 through 2017, DHS reported that it did not meet a compliance measure under element D that senior managers successfully implement EEO action plans and incorporate EEO action plan objectives into agency strategic plans. Specifically, in fiscal years 2015 through 2017, DHS noted that USCIS had not met this measure,

⁴¹The MD-715 report's self-assessment checklist is organized to track the essential elements of a model EEO program. According to DHS, although deficiencies are generally rolled up from component reports into the department report, some measures specifically apply to components while other measures specifically apply to the department.

and in fiscal year 2017, the Federal Emergency Management Agency (FEMA) and DHS Headquarters did not meet this measure.

Table 1: Deficiencies in the Department of Homeland Security’s (DHS) Equal Employment Opportunity (EEO) Program, Fiscal Years 2014-2017

Model EEO Program Essential Element	DHS	
	Number of measures	Percentage of unmet measures
Essential Element A: Demonstrated Commitment from Agency Leadership	76	13.2%
Essential Element B: Integration of EEO into the Agency’s Strategic Mission	127	30%
Essential Element C: Management and Program Accountability	40	42.5%
Essential Element D: Proactive Prevention of Unlawful Discrimination	40	52.5%
Essential Element E: Efficiency	128	32.8%
Essential Element F: Responsiveness and Legal Compliance	76	0%
Total	487	26%

Source: GAO analysis of DHS’s Management Directive 715 reports from fiscal year 2014 through 2017. | GAO-19-573

Our analysis of components’ MD-715 reports showed that components did not meet 9 percent of the compliance measures for a model EEO program from fiscal years 2014 through 2017. Specifically, over this 4-year time frame, components had a combined total of 369 program deficiencies out of a total of 4,229 compliance measures. DHS Headquarters, one of the nine second-level reporting components, accounted for 36 percent of deficient measures (134 of 369), while the other eight components accounted for 64 percent (235 of 369) of deficient measures. Examples of DHS’s deficient measures included EEO directors not under the direct supervision of the agency head, and the lack of established timetables or schedules for the agency to review its employee development and training programs for systemic barriers that may be impeding full participation in training opportunities by all groups.

DHS and Its Components Lack Action Plans to Address Some EEO Program Deficiencies

DHS and its components did not have action plans to address some of their self-identified deficiencies from fiscal years 2014 through 2017. Specifically, DHS did not have action plans to address 56 percent, or 72 of the 128 reported deficiencies, and components did not have action plans to address nearly half, or about 179 of the 369 deficiencies reported by all of the components during the four year period. For example, in fiscal year 2017, four out of nine DHS components—U.S. Customs and Border Protection (CBP), DHS Headquarters, FEMA, and Federal Law Enforcement Training Centers (FLETC)—did not have action plans to ensure that their EEO directors report directly to their agency heads.⁴²

EEOC guidance requires agencies to demonstrate meaningful progress toward the removal of deficiencies, and to develop action plans for how agencies will attain the essential elements of a model EEO program. Specifically, for each deficient measure, agencies are to develop an action plan for correcting the deficiency. The plan should

- identify and briefly describe the deficiency;
- provide a measurable objective, including the reason for the deficiency, and target date for completion;
- identify officials responsible for overseeing implementation of planned activities to accomplish the objective; and
- provide for a yearly update on status of activities until objective is completed (i.e., the deficiency is removed).

In addition, *Standards for Internal Control in the Federal Government* states that management should design control activities to achieve objectives.⁴³ Control activities, such as policies or procedures to enforce directives, can help identify if a required activity is not being achieved (e.g., action plan completion) or implemented.

⁴²Although DHS Headquarters did not meet the letter of the measure as set forth in Part G, the Headquarters EEO Director reports to the DHS EEO Director, which EEOC guidance explicitly permits.

⁴³[GAO-14-704G](#).

The four selected DHS components told us that they do not have standard operating procedures for completing their MD-715 reports, including review and assessment of deficiencies and action plans, but have various processes in place to review their reports for accuracy and completeness. For example, according to USCIS, its process for the preparation and review of its MD-715 report includes providing a self-assessment checklist to each of its subcomponents; a review of their responses for accuracy; and follow-up with subcomponents to address any questions. In addition, USCIS stated that its MD-715 report undergoes multiple levels of reviews by subject matter experts and managers that include collaboration with human capital and chief counsel, and obtaining review and approval from the Director and other agency officials. The other three components—FLETC, TSA, and Secret Service—also reported having MD-715 review processes in place, including report review and approval by senior management; however, none specifically cited a review and approval of action plans to address reported deficiencies.

CRCL officials told us that DHS and its components' MD-715 reports met EEOC requirements for action plans for fiscal years 2014 through 2017 by providing explanations for, or briefly stating plans to address, the majority of their deficiencies rather than developing action plans identifying how each deficiency would be addressed. During our review of the MD-715, we noted that the Part G self-assessment checklist form gave respondents the option of providing a brief explanation in a comment box on the form or completing an action plan for each deficiency in Part H of the MD-715 report. For fiscal year 2018, EEOC revised its MD-715 report form and instructions to clarify that a plan is required for each identified program deficiency.

For example, one component responded to a measure that asks whether an agency implemented an adequate data collection and analysis system that permits tracking of the information required by MD-715 and these instructions by stating “selected offices were currently working on the initiative.” The same component responded to a measure that asks whether an agency tracked recruitment efforts and analyzed efforts to identify potential barriers in accordance with MD-715 standards by stating, “The inconsistencies with the reporting of applicant flow data will need to be addressed to help identify potential barriers.” Another component responded to this measure by stating that, while its participation in various events are tracked, a clear, concise, and efficient system to track and analyze recruitment efforts according to MD-715

standards is currently not in place. Neither component provided a plan for how these deficient measures would be addressed.

EEOC continues to identify areas of noncompliance in DHS component EEO programs. For example, in fiscal year 2017, EEOC noted that three of four selected components had areas of noncompliance. The areas of noncompliance included (1) failure to timely issue FADs, and (2) not establishing timetables or schedules to review its merit program policies and procedures, employee recognition awards programs, and employee developmental training programs for potential barriers.⁴⁴ Developing policies or procedures, in consultation with the Deputy Officer for EEO and Diversity, to help ensure component EEO programs have action plans with measurable objectives for addressing deficiencies could help DHS components better comply with EEOC requirements.

DHS and Its Components Lack Adequate Staffing to Address EEO Program Deficiencies

DHS continues to report insufficient staffing to support its EEO program. In 2009, we reported that, according to CRCL, DHS modified the target dates for planned activities to address identified barriers primarily because of staffing shortages in both CRCL and the Office of the Chief Human Capital Officer. We also reported that DHS had not conducted barrier analyses of policies, procedures, and practices that were established or used after fiscal year 2004 because of resource limitations, such as staffing and limited funding to contract for this activity.⁴⁵ According to CRCL's MD-715 and Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act reports from fiscal years 2014 through 2017, certain aspects of DHS's EEO program did not have sufficient staffing.⁴⁶ In addition, in fiscal years 2014 through 2017, DHS reported that staffing shortages contributed to it not meeting its target for

⁴⁴Although CRCL issues all FADs for the department, EEOC cited some components, along with CRCL, for this deficiency. In discussions with components, EEOC noted that there are steps that components can implement to assist in the timely issuance of FADs, such as sending the FAD request to CRCL as soon as or shortly after the component receives it.

⁴⁵[GAO-09-639](#).

⁴⁶The No FEAR Act of 2002 requires each federal agency, including DHS, to submit an annual report containing each agency's EEO complaints activity and other information to Congress and other recipients. Pub. L. No. 107-174, 116 Stat. 566 (2002).

the percent of timely decisions on discrimination complaints. In fiscal year 2017, DHS reported deficiencies for five out of seven staffing measures in its MD-715 report. In February 2019, CRCL officials told us they lacked staffing to issue timely decisions on discrimination complaints, to increase the number of mediators in the alternative dispute resolution program, and to provide them with training.

From fiscal years 2014 through 2017, DHS and its components reported funding and staffing challenges in components' EEO programs. As shown in table 2, DHS and its components reported that certain aspects of components' EEO programs do not have sufficient funding or staffing from fiscal years 2014 through 2017.

Table 2: DHS Component Equal Employment Opportunity (EEO) Programs' Selected Self-Reported Funding and Staffing Deficiencies, Fiscal Years 2014-2017

Fiscal year	DHS components			
	2014	2015	2016	2017
Insufficient funding to enable the agency to conduct a thorough barrier analysis of its workforce, including the provision of adequate data collection and tracking systems.	CBP	CBP	CBP	USCG
	HQ	HQ	HQ	
	FEMA	FEMA	FEMA	
		ICE	USCG	
		USCG	USCIS	
	USCIS			
Insufficient staffing allocated to ensure that agency self-assessments and self-analyses prescribed by EEO MD-715 are conducted annually and to maintain an effective complaint processing system.	HQ	HQ	FEMA	FEMA
			HQ	ICE

Legend

CBP: U.S. Customs and Border Protection

FEMA: Federal Emergency Management Agency

HQ: DHS Headquarters EEO Office

ICE: U.S. Immigration and Customs Enforcement

USCG: U.S. Coast Guard

USCIS: U.S. Citizenship and Immigration Services

Source: GAO analysis of Department of Homeland Security (DHS) components' Management Directive 715 (MD-715) reports from fiscal years 2014 through 2017. | GAO-19-573

Note: According to the U.S. Coast Guard, its funding deficiency was corrected in its fiscal year 2018 MD-715 report.

EEOC guidance states that an agency must provide its EEO program with sufficient budget and staffing to be able to successfully implement various activities, including (1) conducting a self-assessment of the agency for possible program deficiencies; (2) conducting a thorough barrier analysis of its workforce; and (3) ensuring timely, thorough, and fair processing of EEO complaints.

CRCL and component EEO officials told us that they do not have formal staffing models to assess appropriate staffing of their EEO program sections. CRCL officials explained that each component EEO program section is unique with its own assessments and measures by the leaders in charge of their funding and staffing resources. Using these informal processes to identify staffing needs, CRCL and component EEO officials told us that they have requested additional staffing and funding to address some of their EEO program deficiencies from their top leadership. However, they said that additional staffing has not been granted. Our analysis of DHS's congressional budget justifications show that DHS's EEO program funding requests have decreased each year from nearly \$8 million in fiscal year 2016 to nearly \$7 million in fiscal year 2019. CRCL officials told us that DHS's overall resources for the EEO program have not significantly increased.

A staffing model could be a computer-based formula that estimates the number of staff needed to conduct varying numbers of EEO activities, such as processing a certain number of complaints or providing a certain number of training courses on an annual or ad hoc basis. As we have reported, a staffing model is a helpful tool that could better justify requests for resources to top leadership.⁴⁷ Staffing models can identify resources required to enable program delivery to a sufficient degree and in a timely manner, or to adapt to changes in program delivery.⁴⁸ According to DHS, the department has contracted support to help components develop models for Mission Support areas as part of a larger effort to ensure that all positions are eventually covered by a staffing model. Developing and utilizing a formal staffing model for its EEO program could help CRCL better identify, request, and obtain the staff it needs. Further, developing staffing models, in collaboration with the Deputy Officer for EEO and Diversity, would help components to better assess the staff they need.

⁴⁷GAO, *DOJ Workforce Planning: Grant-Making Components Should Enhance the Utility of Their Staffing Models*, [GAO-13-92](#) (Washington, D.C.: Dec. 14, 2012).

⁴⁸Project Management Institute, Inc., *The Standard for Project Management - Fourth Edition* (Newtown Square, Pennsylvania: 2017).

DHS Has Plans to Address the Nine Areas of EEOC Identified Noncompliance

DHS did not respond timely to EEOC's findings of noncompliance and EEOC did not follow up with DHS concerning the untimely response. In July 2017, in its most recent review of DHS compliance with EEOC requirements, EEOC reported nine areas of noncompliance in DHS's EEO program. For example, EEOC found that DHS lacked resources to process EEO complaints and to conduct trend analyses of workforce data. EEOC stated in its feedback letter to DHS that it would initiate its noncompliance process if DHS did not submit a report explaining the agency's progress in correcting its EEO program deficiencies by January 2018. However, according to DHS officials, due to an administrative oversight, DHS was unaware of EEOC's July 2017 feedback letter until October 2018, when we asked about it. In February 2019, DHS submitted a report to EEOC that responded to each area of noncompliance. EEOC officials told us that it had not initiated its noncompliance process against DHS, but that it had placed DHS in its queue for agencies to be held in noncompliance.

As discussed earlier, DHS Headquarters, a second-level reporting component, is required by EEOC to submit a separate MD-715 report to EEOC. However, DHS's Headquarters EEO Office did not submit a separate MD-715 report to EEOC during fiscal years 2014 through 2017. DHS Headquarters EEO Office staff told us that the office had not submitted the required reports due to staff vacancies, including its EEO director position. They explained that the component's EEO data and information were subsumed in DHS's department-level MD-715 submission. In October 2018, CRCL filled its Headquarters EEO director position, which had been vacant for 8 months. DHS officials told us they plan to submit Headquarters' fiscal year 2018 MD-715 report to EEOC by the due date.⁴⁹ In February 2019, EEOC officials told us that DHS could be subject to EEOC's noncompliance process if the report is not received.

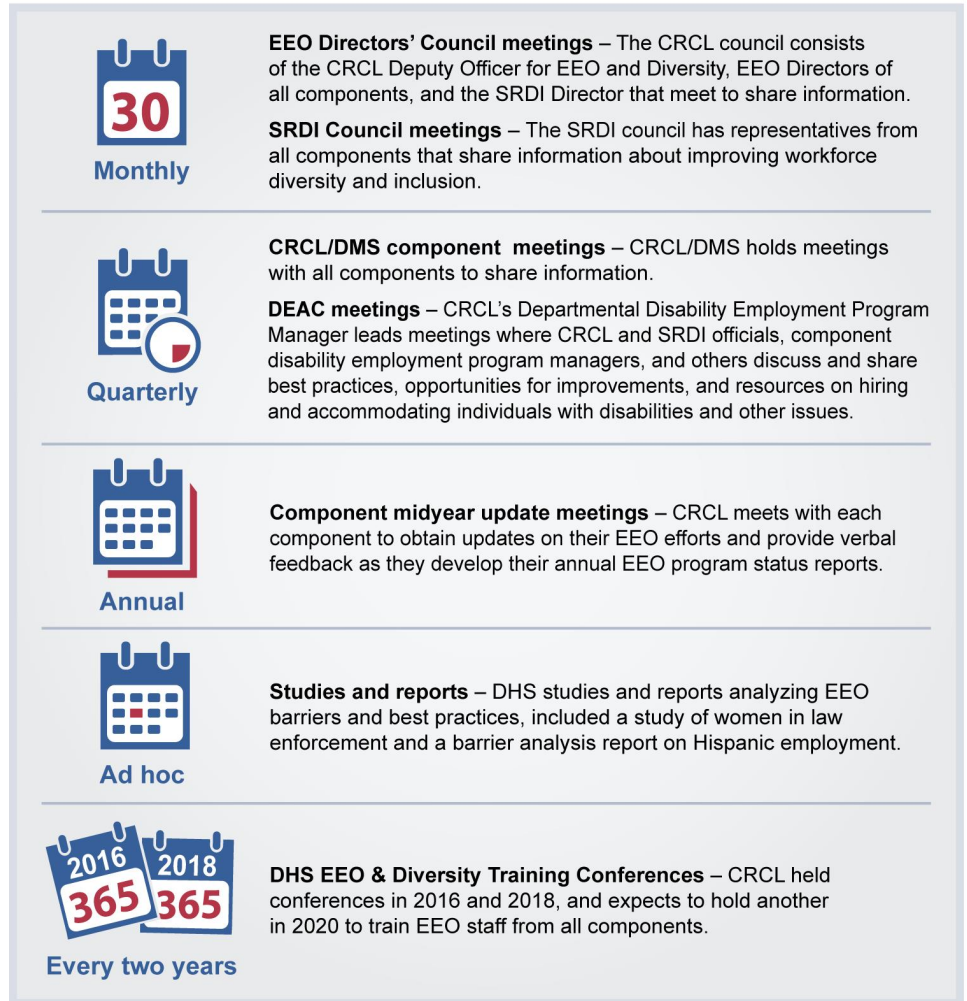
⁴⁹According to EEOC, due to the certification issue that many agencies are encountering, the agency has extended its deadline for submitting fiscal year 2018 MD-715 reports. The new deadline is July 31, 2019.

DHS's EEO and Human Capital Offices Have Taken Steps to Oversee and Support Components, but Need to Strengthen Oversight over Components

DHS's EEO and Human Capital Offices Use a Variety of Means to Oversee and Support Components in Identifying and Addressing EEO Barriers

As shown in figure 4, CRCL and the Strategic, Recruitment, Diversity, and Inclusion (SRDI) Office support and oversee components in their efforts to identify and address EEO barriers.

Figure 4: Department of Homeland Security’s (DHS) Variety of Means for Overseeing and Supporting Components in Identifying and Addressing Barriers



CRCL = Office for Civil Rights and Civil Liberties
 DEAC = Disability Employment Advisory Council
 DMS = Diversity Management Section
 EEO = Equal Employment Opportunity
 SRDI = Strategic Recruitment, Diversity, and Inclusion

Source: GAO, based on information obtained from DHS. | GAO-19-573

Text of Figure 4: Department of Homeland Security’s (DHS) Variety of Means for Overseeing and Supporting Components in Identifying and Addressing Barriers

Monthly	EEO Directors’ Council meetings – The CRCL council consists of the CRCL Deputy Officer for EEO and Diversity, EEO Directors of all components, and the SRDI Director that meet to share information. SRDI Council meetings – The SRDI council has representatives from all components that share information about improving workforce diversity and inclusion.
Quarterly	CRCL/DMS component meetings – CRCL/DMS holds meetings with all components to share information. DEAC meetings – CRCL’s Departmental Disability Employment Program Manager leads meetings where CRCL and SRDI officials, component disability employment program managers, and others discuss and share best practices, opportunities for improvements, and resources on hiring and accommodating individuals with disabilities and other issues.
Annual	Component midyear update meetings - CRCL meets with each component to obtain updates on their EEO efforts and provide verbal feedback as they develop their annual EEO program status reports.
Ad hoc	Studies and reports - DHS studies and reports analyzing EEO barriers and best practices, included a study of women in law enforcement and a barrier analysis report on Hispanic employment.
Every two years	DHS EEO & Diversity Training Conferences - CRCL held conferences in 2016 and 2018, and expects to hold another in 2020 to train EEO staff from all components.

Legend

- CRCL = Office for Civil Rights and Civil Liberties
 - DEAC = Disability Employment Advisory Council
 - DMS = Diversity Management Section
 - EEO = Equal Employment Opportunity
 - SRDI = Strategic Recruitment, Diversity, and Inclusion
- Source: GAO, based on information obtained from DH S. | GAO-19-573

For example, CRCL convenes an EEO council consisting of EEO directors from each component that meets monthly and, among other things, shares best practices for identifying and addressing barriers. In addition, CRCL hosts EEO and Diversity Training Conferences for EEO staff that includes barrier analysis training.

Further, CRCL provides midyear feedback to component EEO officials on components’ planned action items and plans for inclusion in their respective MD-715 reports. For example, based on our review of the CRCL statistician’s notes, during feedback meetings with components in 2017, he suggested that components consider opportunities for improving their draft MD-715 reports. The notes show that at least two out of nine components—CBP and DHS Headquarters—were given feedback to conduct more robust barrier analyses.

SRDI supports component EEO program efforts to address EEO barriers related to recruitment, hiring, veterans, and individuals with disabilities. For example, to increase the participation of women in law enforcement across the department, SRDI held a joint hiring event in Dallas based on its analysis that a large number of female veterans live in Texas. According to SRDI officials, SRDI also assists DHS components with their evaluations of their human capital policies, procedures, or practices that may represent EEO barriers, such as awards, promotions, and career development.

For example, in fiscal year 2016, SRDI analyzed the representation of the DHS Senior Executive Service Candidate Development Program applicant pool by various ethnic and racial groups, and by actual selectee participation. When it found that the representation rate of women decreased from 32.5 percent in the application stage to 23.4 percent in the selection stage, SRDI stated that the results, among other things, triggered the need for further analysis. Two cohorts later in 2018, the representation rate of women increased from 23.3 percent to 41.4 percent in the selection/participant stage.

Further, CRCL and SRDI officials said they collaborate on a number of EEO activities to identify and address EEO barriers. For example, SRDI works together with CRCL to provide input for completing MD-715 report sections that address human capital-related EEO barriers. In addition, SRDI and CRCL worked together to conduct a barrier analysis of Hispanic employee representation.

DHS Components Are Generally Satisfied with CRCL's Collaboration Practices to Identify and Address EEO Barriers

DHS components told us that its collaboration practices are generally working well and provided examples. In our interviews of nine DHS components, they told us they are generally satisfied that DHS has:

- clearly defined its short- and long-term outcomes,
- bridged the organizational cultures of participating agencies,
- sustainable long-term leadership,
- clearly defined roles and responsibilities for participating agencies,

- included all relevant DHS participants when identifying and addressing EEO barriers,
- funded and staffed its collaborative mechanisms, such as monthly EEO council meetings, and
- documented its agreements on how participating agencies will be collaborating in identifying and addressing barriers.

All nine components told us that CRCL regularly meets with them and provides guidance on identifying and addressing barriers. Four components specifically stated that CRCL provided assistance for reviewing and processing EEO data. For example, USCIS officials said that CRCL's statistician provided direction on analyzing workforce data when conducting barrier analysis. Components also said that they find the training and technical assistance provided by CRCL helpful, and specifically commented that DHS's EEO and Diversity Training Conferences have helped improve their barrier analyses.

While DHS components are generally satisfied with DHS's collaboration practices, some components provided examples of collaboration practices that could be improved. Three components—CBP, the U.S. Secret Service (Secret Service), and USCIS—told us that collaboration on funding or staffing efforts could be improved.⁵⁰ For example, USCIS officials said CRCL lacks sufficient staffing to provide needed training, tools, and assistance to components to meet new MD-715 reporting requirements. Three components—CBP, the Transportation Security Administration, and USCIS—cited the lack of written guidance and agreements regarding collaboration between CRCL and components as areas that could be improved.⁵¹ For example, USCIS officials said that its collaborative efforts with CRCL were guided by informal best practices, feedback, and guidance, but having formal written guidance and agreements could clarify roles and responsibilities for identifying and addressing component EEO triggers and barriers.

⁵⁰Our leading practices for collaboration state that agencies should identify the human, information technology, physical, and financial resources needed to initiate or sustain their collaborative effort. [GAO-12-1022](#).

⁵¹Our leading practices for collaboration state agencies that articulate their agreements in formal documents can strengthen their commitment to working collaboratively. [GAO-12-1022](#).

CRCL Does Not Review DHS Components' EEOC Feedback Reports and DHS's Organizational Structure Does Not Ensure Its Components Comply with EEOC Requirements

CRCL officials and component EEO officials stated that component EEO directors report directly to their respective component heads and not to CRCL.⁵² While CRCL requires components to meet to discuss midyear updates on their EEO efforts, CRCL officials explained that DHS components are responsible for developing, certifying, and submitting their own MD-715 reports to EEOC. They also said that if EEOC finds areas of noncompliance in DHS components' EEO programs, EEOC requires DHS components to submit their compliance reports directly to EEOC.

In fiscal year 2017, EEOC provide notice to six out of eight DHS components for having areas of noncompliance in their EEO programs.⁵³ For five out of six DHS components, EEOC required components to establish plans to correct deficiencies, submit compliance reports explaining the agency's progress in correcting these deficiencies, and showing meaningful progress in implementing its plans within 6 months.

We found that three out of five DHS components—CBP, FEMA, and USCIS—did not submit timely compliance reports in response to EEOC's feedback letters.⁵⁴ Due to an administrative oversight, CBP officials explained that the component did not submit a compliance report that was due in February 2018 until we asked about it during our review. Although CBP submitted the report in March 2019, the report did not include plans to correct three out of seven areas of noncompliance. As of July 2019, CBP has taken steps to address the areas of noncompliance but has not yet responded to EEOC. As a result, CBP remains at risk of EEOC initiating the noncompliance process against it.

⁵²The director of the DHS Headquarters EEO Office reports to CRCL.

⁵³EEOC has not reviewed the DHS Headquarters EEO Office since fiscal year 2014 because, as previously discussed, the office has not submitted its own MD-715 reports to EEOC; instead, its reports were subsumed in the department-level submission.

⁵⁴USCIS submitted its Compliance Report 27 days late.

FEMA also did not submit a compliance report that was due in February 2018 until we asked about it during our review. In June 2019, FEMA responded to EEOC's feedback letter and included plans to correct three areas of noncompliance. FEMA's response stated that the component would provide another update on its plans to correct these areas to EEOC in October 2019. FEMA's response also stated that it would update its actions on 12 other areas of noncompliance in its fiscal year 2018 MD-715 report.

EEOC guidance states that an agency's EEO Director ultimately is responsible for ensuring equal opportunity throughout the entire agency. In addition, *Standards for Internal Controls in the Federal Government* states that management should implement control activities through policies.⁵⁵ According to CRCL officials, CRCL does not have policies and procedures to ensure that components have addressed EEOC's feedback letters completely and timely. CRCL officials said CRCL does not have the authority to ensure components' responses completely and timely address EEOC's feedback letters. They explained that components interact directly with EEOC and are not required to discuss EEOC's feedback with CRCL. CRCL officials further said that components may address EEOC's feedback in their MD-715 reports instead of sending compliance reports to EEOC. For example, in response to the EEOC's 2017 feedback letter, in its MD-715 report for fiscal year 2017, the U.S. Coast Guard discussed ways to assist DHS with improving its issuance of Final Agency Decisions.

CRCL reported in its MD-715 reports from fiscal years 2015 through 2017 that it had authority for components' EEO programs. A DHS delegation of authority order states that CRCL can recommend EEO program improvements to the component head before he or she responds to EEOC's feedback letters.⁵⁶ In addition, CRCL could use its existing practices to discuss EEOC's feedback letter with components, such as midyear update meetings and monthly council meetings. However, CRCL officials stated they did not meet to discuss EEOC's feedback letters with components in 2018. EEOC officials told us they send component feedback letters to both the component and CRCL, and invite CRCL officials to participate in component site visits. They also explained that

⁵⁵GAO-14-704G.

⁵⁶DHS, *Delegation to the Deputy Officer for Equal Employment Opportunity Programs*, Delegation Order No. 19000 (Aug. 1, 2006).

DHS could be found noncompliant if a component's EEO program does not comply with EEOC guidance. Developing policies and procedures for responding completely and timely to EEOC's feedback letters may help the department comply with EEOC guidance.

While DHS officials told us that ensuring DHS components' compliance with MD-715 guidance is EEOC's responsibility, EEOC officials explained that DHS's responsibility equaled the responsibility that EEOC has to ensure DHS components' compliance with MD-715 guidance. In addition, MD-715 guidance states that federal agencies, such as DHS, have the primary responsibility to ensure nondiscrimination in employment.

Our prior work has found that an agency can benefit from periodically evaluating its organizational structure. Additionally, *Standards for Internal Control in the Federal Government* states that agency management should establish an organizational structure to achieve the agency's objectives. According to these standards, an effective management practice for attaining this outcome includes periodically evaluating the organizational structure to ensure that it meets its objectives.⁵⁷

As we previously discussed, EEOC found areas of noncompliance in the EEO programs of six out of eight DHS components, and two of the six components did not have plans to correct all of the areas of noncompliance until we asked about them during our review. While CRCL officials told us that they lack authority to certify that components' MD-715 reports comply with MD-715 guidance, EEOC guidance states that an agency's EEO Director ultimately is responsible for ensuring equal opportunity throughout the entire agency. EEOC guidance allows DHS components to report to either the Deputy Officer for EEO and Diversity or the Secretary of Homeland Security. However, DHS has not taken steps—in consultation with EEOC and other agencies as relevant—to analyze options to address EEO program management weaknesses, such as analyzing alternatives for granting additional authorities to the Deputy Officer for EEO and Diversity to ensure DHS components comply with MD-715 guidance, and assessing benefits and trade-offs of each alternative. In the absence of these steps, DHS may not be positioned to effectively manage its EEO program.

⁵⁷[GAO-14-704G](#).

Conclusions

As the third largest U.S. government department, the challenges DHS has faced to fully implement effective EEO programs may result in widespread negative consequences, including monetary expenses borne by the agency in connection with workplace disputes and decreased morale and productivity resulting from the ineffective and inefficient use of human capital resources.

MD-715 requires DHS and its components to report annually on the status of their EEO activities and include plans that set forth steps they will take to correct deficiencies or improve EEO efforts. From fiscal years 2014 through 2017, DHS and its components have reported deficiencies in their EEO programs and identified EEO barriers in their workforces. We found areas for improvement in DHS and its components' EEO programs that could help ensure success and compliance with MD-715.

Specifically, DHS does not have complete performance metrics for the department's EEO program, including a mechanism for tracking progress towards eliminating barriers. Developing performance metrics for the department's EEO program could help improve progress in eliminating identified EEO barriers.

In addition, DHS and its components reported that they lack action plans for addressing deficiencies in their MD-715 reports. Developing policies and procedures could help DHS component EEO Directors correct deficiencies in their EEO programs.

DHS and its components also reported that areas of their EEO programs do not have sufficient staffing to successfully implement EEO activities. Developing formal staffing models could help DHS and its components better assess their resource needs to correct their deficiencies and eliminate their barriers.

Further, from fiscal years 2014 through 2017, EEOC found areas of noncompliance in DHS and its component EEO programs. Without developing policies and procedures for responding completely and timely to EEOC's feedback letters, DHS components may not correct areas of noncompliance and remain at risk of financial penalties and lost employee potential.

Finally, DHS has not taken steps to address the key EEO program management weaknesses. Analyzing options for granting additional authorities to the Deputy Officer for EEO and Diversity can help position DHS to ensure its components are complying with MD-715 guidance.

The commitment of DHS's leadership is essential to successfully addressing these issues. By focusing leadership attention on developing performance metrics, policies and procedures, and staffing models, DHS and its components can help improve their EEO programs by making progress towards eliminating barriers, obtaining sufficient staffing, and addressing areas of noncompliance.

Recommendations

We are making the following six recommendations to DHS:

1. The Secretary of Homeland Security should develop performance metrics for the department's EEO program including a mechanism for tracking progress towards eliminating barriers. (Recommendation 1)
2. DHS component EEO Directors, in consultation with the Deputy Officer for EEO and Diversity, should develop policies and procedures to help ensure that their component EEO programs have action plans for addressing deficiencies in their MD-715 reports. (Recommendation 2)
3. The Deputy Officer for EEO and Diversity should develop a formal staffing model for its EEO program. (Recommendation 3)
4. DHS component EEO Directors, in collaboration with the Deputy Officer for EEO and Diversity, should develop component formal staffing models. (Recommendation 4)
5. The Deputy Officer for EEO and Diversity should develop policies and procedures for responding in a complete and timely manner to EEOC's feedback letters. (Recommendation 5)
6. The Secretary of Homeland Security—in consultation with CRCL and EEOC, and other agencies and components, as relevant—should analyze options for granting additional authorities to the Deputy Officer for EEO and Diversity to ensure DHS components comply with MD-715 guidance, including the authority of the Deputy Officer for EEO and Diversity to certify components' MD-715 reports. (Recommendation 6)

Agency Comments

We provided a draft of this report to DHS and to EEOC for review and comment. In its official comments, reproduced in appendix I, DHS agreed with all six of our recommendations, and DHS and EEOC provided separate technical comments to the draft of our report, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Acting Secretary of Homeland Security, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or jonesy@gao.gov, or Christopher P. Currie at (404) 679-1875 or curriec@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 key contributions to this report are listed in appendix II.

Sincerely yours,



Yvonne D. Jones
Director,
Strategic Issues



Christopher P. Currie
Director,
Homeland Security and Justice

Appendix I: Comments from the Department of Homeland Security

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



July 10, 2019

Yvonne D. Jones
Director, Strategic Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Christopher P. Currie
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-19-573, "EQUAL EMPLOYMENT OPPORTUNITY: DHS Could Better Address Challenges to Ensuring EEO in Its Workforce"

Dear Ms. Jones and Mr. Currie:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition of DHS's efforts to identify barriers to equal employment opportunity (EEO) and our plans to address them. GAO also acknowledged the steps that DHS's EEO and human capital offices have taken to oversee and support Components in conducting barrier analyses. The Department is proud of the level of collaboration with and among Component EEO and Diversity Programs at both the staff and leadership levels, including that seen through regular meetings of the EEO Directors' Council and the Disability Employment Advisory Council, and other activities such as the cross-Component anti-harassment working group and various training activities. The DHS Office of Civil Rights and Civil Liberties (CRCL) remains committed to supporting the Department's mission to secure the nation while preserving individual liberty, fairness, and equality under the law.

The draft report contained six recommendations with which the Department concurs. Attached find our detailed response to these recommendations. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,



J. M. H. CRUMPLER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-19-573**

GAO recommended that:

Recommendation 1: The Secretary of Homeland Security develop performance metrics for the Department's EEO program, including a mechanism for tracking progress towards eliminating barriers.

Response: Concur. By October 31, 2019, the DHS CRCL, Deputy Officer for EEO and Diversity will convene the DHS EEO Directors' Council and charge them with developing one or more metrics that meaningfully measure the Department's progress toward eliminating barriers to EEO. The Deputy Officer will then work with DHS Management Directorate, Office of the Chief Financial Officer, Program Analysis and Evaluation Division personnel to include the identified metric(s) in the Department's annual performance or other report(s), as appropriate. Estimated Completion Date (ECD): April 30, 2020.

Recommendation 2: DHS Component EEO Directors, in consultation with the Deputy Officer for EEO and Diversity, develop policies and procedures to help ensure that their Component EEO programs have action plans for addressing deficiencies in their MD-715 reports.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will ask that each Component EEO Director submit a written proposed policy or procedure by December 31, 2019, for ensuring that the Component has a viable action plan to address MD-715 report deficiencies. The Deputy Officer will review each input received, offer recommended changes where appropriate, and return the proposed policy or procedure for Component implementation. ECD: April 30, 2020.

Recommendation 3: The Deputy Officer for EEO and Diversity develop a formal staffing model for its EEO program.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will develop a formal staffing model for the Department-level EEO program. ECD: April 30, 2020.

Recommendation 4: DHS Component EEO Directors, in collaboration with the Deputy Officer for EEO and Diversity, develop Component formal staffing models.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will ask that each Component EEO Director submit a formal staffing model for the Component's EEO

program, no later than April 30, 2020. The Deputy Officer will review and comment on each staffing model before the Component finalizes it, as appropriate. ECD: July 31, 2020.

Recommendation 5: The Deputy Officer for EEO and Diversity develop policies and procedures for responding in a timely manner to EEOC's feedback letters.

Response: Concur. With input from the DHS EEO Directors' Council, the DHS CRCL Deputy Officer for EEO and Diversity will develop and implement a procedure for responding in a timely manner to the EEOC's feedback letters. The Deputy Officer will convene the EEO Directors' Council to begin formulating this procedure no later than October 31, 2019. ECD: April 30, 2020.

Recommendation 6: The Secretary of Homeland Security—in consultation with CRCL and EEOC, and other agencies and components, as relevant—analyze options for granting additional authorities to the Deputy Officer for EEO and Diversity to ensure DHS Components comply with MD-715 guidance, including the authority of the Deputy Officer for EEO and Diversity to certify Components' MD-715 reports.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will stand up a cross-Component working group to develop a report, due January 31, 2020, benchmarking best practices at similar federal agencies and including input from EEOC subject-matter experts. Based on the findings in the report, the DHS CRCL Officer will make recommendations to the Secretary of Homeland Security regarding additional authority that would help better ensure compliance with MD-715 guidance. ECD: April 30, 2020.

**Appendix I: Comments from the Department of
Homeland Security**

Text of Appendix I: Comments from the Department of Homeland Security

Page 1

July 10, 2019

Yvonne D. Jones Director, Strategic Issues

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548

Christopher P. Currie

Director, Homeland Security and Justice

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548

Re: Management Response to Draft Report GAO-19-573, "EQUAL EMPLOYMENT OPPORTUNITY: DHS Could Better Address Challenges to Ensuring EEO in Its Workforce"

Dear Ms. Jones and Mr. Currie:

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition of DHS's efforts to identify barriers to equal employment opportunity (EEO) and our plans to address them. GAO also acknowledged the steps that DHS's EEO and human capital offices have taken to oversee and support Components in conducting barrier analyses. The Department is proud of the level of collaboration with and among Component EEO and Diversity Programs at both the staff and leadership levels, including that seen through regular meetings of the EEO Directors' Council and the Disability Employment Advisory Council, and other activities such as the cross-Component anti-harassment working group and various training activities. The DHS Office of

Civil Rights and Civil Liberties (CRCL) remains committed to supporting the Department's mission to secure the nation while preserving individual liberty, fairness, and equality under the law.

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The draft report contained six recommendations with which the Department concurs. Attached find our detailed response to these recommendations. Technical comments were previously provided under separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H. CRUMPACKER, CIA, CFE

Director

Departmental GAO-OIG Liaison Office

Page 3

Attachment: Management Response to Recommendations

Contained in GA0-19-573

GAO recommended that:

Recommendation 1: The Secretary of Homeland Security develop performance metrics for the Department's EEO program, including a mechanism for tracking progress towards eliminating barriers.

Response: Concur.

By October 31, 2019, the DHS CRCL, Deputy Officer for EEO and Diversity will convene the DHS EEO Directors' Council and charge them with developing one or more metrics that meaningfully measure the Department's progress toward eliminating barriers to EEO. The Deputy Officer will then work with DHS Management Directorate, Office of the Chief Financial Officer, Program Analysis and Evaluation Division personnel to include the identified metric(s) in the

Department's annual performance or other report(s), as appropriate. Estimated Completion Date (ECD): April 30, 2020.

Recommendation 2: DHS Component EEO Directors, in consultation with the Deputy Officer for EEO and Diversity, develop policies and procedures to help ensure that their Component EEO programs have action plans for addressing deficiencies in their MD-715 reports.

Response: Concur.

The DHS CRCL Deputy Officer for EEO and Diversity will ask that each Component EEO Director submit a written proposed policy or procedure by December 31, 2019, for ensuring that the Component has a viable action plan to address MD-715 report deficiencies. The Deputy Officer will review each input received, offer recommended changes where appropriate, and return the proposed policy or procedure for Component implementation. ECD: April 30, 2020.

Recommendation 3: The Deputy Officer for EEO and Diversity develop a formal staffing model for its EEO program.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will develop a formal staffing model for the Department-level EEO program. ECD: April 30, 2020.

Recommendation 4: DHS Component EEO Directors, in collaboration with the Deputy Officer for EEO and Diversity, develop Component formal staffing models.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will ask that each Component EEO Director submit a formal staffing model for the Component's EEO

Page 4

program, no later than April 30, 2020. The Deputy Officer will review and comment on each staffing model before the Component finalizes it, as appropriate. ECD: July 31, 2020.

Recommendation 5: The Deputy Officer for EEO and Diversity develop policies and procedures for responding in a timely manner to EEOC's feedback letters.

Response: Concur. With input from the DHS EEO Directors' Council, the DHS CRCL Deputy Officer for EEO and Diversity will develop and implement a

procedure for responding in a timely manner to the EEOC's feedback letters. The Deputy Officer will convene the EEO Directors' Council to begin formulating this procedure no later than October 31, 2019. ECD: April 30, 2020.

Recommendation 6: The Secretary of Homeland Security- in consultation with CRCL and EEOC, and other agencies and components, as relevant- analyze options for granting additional authorities to the Deputy Officer for EEO and Diversity to ensure DHS Components comply with MD-715 guidance, including the authority of the Deputy Officer for EEO and Diversity to certify Components' MD-715 reports.

Response: Concur. The DHS CRCL Deputy Officer for EEO and Diversity will stand up a cross-Component working group to develop a report, due January 31, 2020, benchmarking best practices at similar federal agencies and including input from EEOC subject-matter experts. Based on the findings in the report, the DHS CRCL Officer will make recommendations to the Secretary of Homeland Security regarding additional authority that would help better ensure compliance with MD-715 guidance. ECD: April 30, 2020.

Appendix II: GAO Contacts and Staff Acknowledgments

GAO Contacts

Yvonne D. Jones, (202) 512-6806 or jonesy@gao.gov.
Christopher P. Currie, (404) 679-1875 or curriec@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Clifton G. Douglas, Jr. (Assistant Director), Luis E. Rodriguez (Analyst-in-Charge), Adam J. Brooks, Carla D. Brown, Andrew Howard, Haley Klosky, and Steven Putansu made key contributions to this report.

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