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The President of the Senate
The Speaker of the House of Representatives

This report addresses the major performance and management challenges that have limited the effectiveness of the Department of Justice in carrying out its mission. It also addresses corrective actions that the Department has taken or initiated to address these challenges and further actions that are needed. For many years, we have reported significant performance and management challenges at the Department. These challenges are the result of serious deficiencies in (1) the organizational structure, communications, financial management, and program implementation at the Immigration and Naturalization Service; (2) the Department's financial statements and internal controls; (3) embezzlements and financial management controls at the Drug Enforcement Administration; and (4) the Department's accountability over seized and forfeited property.

The Department has made progress in addressing some of its long-standing problems. For example, since 1993, INS has reorganized, developed a national strategy for controlling the U.S. border, and restructured the naturalization process. In addition, the Department has efforts under way to address financial management weaknesses, including establishing working groups, both at the Department level and at the Drug Enforcement

Administration. Further, the Department has taken steps to improve its accountability over seized and forfeited property, such as issuing reconciliation instructions and implementing system enhancements. However, while progress has been made in some areas, the Department has not addressed needed improvements in others. We believe that the Department's continued attention to its strategic goals and performance measures will be instrumental in addressing the challenges we identify in this report.

This report is part of a special series entitled the Performance and Accountability Series: Major Management Challenges and Program Risks. The series contains separate reports on 20 agencies—one on each of the cabinet departments and on most major independent agencies as well as the U. S. Postal Service. The series also includes a governmentwide report that draws from the agency-specific reports to identify the performance and management challenges requiring attention across the federal government. As a companion volume to this series, GAO is issuing an update to those government operations and programs that its work has identified as "high risk" because of their greater vulnerabilities to waste, fraud, abuse, and mismanagement. High-risk government operations are also identified and discussed in detail in the appropriate performance and accountability series agency reports.

The performance and accountability series was done at the request of the Majority Leader of the House of

Representatives, Dick Armey; the Chairman of the House Government Reform Committee, Dan Burton; the Chairman of the House Budget Committee, John Kasich; the Chairman of the Senate Committee on Governmental Affairs, Fred Thompson; the Chairman of the Senate Budget Committee, Pete Domenici; and Senator Larry Craig. The series was subsequently cosponsored by the Ranking Minority Member of the House Government Reform Committee, Henry A. Waxman; the Ranking Minority Member, Subcommittee on Government Management, Information and Technology, House Government Reform Committee, Dennis J. Kucinich; Senator Joseph I. Lieberman; and Senator Carl Levin.

Copies of this report series are being sent to the President, the congressional leadership, all other Members of the Congress, the Director of the Office of Management and Budget, the Attorney General of the United States, and the heads of other major departments and agencies.

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Contents

Overview	6
Major Performance and Management Issues	16
Related GAO Products	50
Performance and Accountability Series	53

Overview

The Department of Justice, the nation's chief law enforcement organization, is charged with providing leadership to ensure that U.S. citizens are protected from violence and criminal activity. The Attorney General heads the Department, represents the United States in legal matters generally, and oversees the operations of its various components, including the Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), Drug Enforcement Administration (DEA), Bureau of Prisons (BOP), U.S. Marshals Service, and the Offices of U.S. Attorneys. This report focuses on major performance and management challenges at the Department level and in two major components—INS and DEA.

The Challenges

Over the years, we and others have identified performance and management challenges within the Department. For example, at INS, these challenges have been related to organizational structure, communications, financial management, and program implementation. Other challenges within the Department have been related to its financial statements and internal controls, embezzlements and financial management controls at DEA, and accountability over

seized and forfeited property. We believe that the Government Performance and Results Act of 1993 (the Results Act) could provide the Department with a vehicle for addressing the management and performance issues that we have identified.

INS Management Challenges Persist

INS' persistent management challenges have resulted in recommendations to restructure the agency so that enforcement of immigration laws and delivery of immigration services are clearly divided. INS is in the process of developing a restructuring plan to accomplish this division and other objectives. Until the restructuring plan is approved, INS does not plan to address such management challenges as the absence of written guidance concerning appropriate channels of communication within the organization. Other management challenges we and others have reported as needing attention include (1) INS' outdated policies and procedures on how to implement immigration laws, (2) INS' selection of a replacement financial management system without first analyzing its business processes and developing a risk management plan, and (3) the absence of appropriate accounting records and internal

controls to enable INS' auditor to express an opinion on INS' financial statements.

Challenges With Implementation of INS' Programs

Although the Attorney General has established a strategy to strengthen immigration enforcement, our review of three aspects of the strategy has raised concerns about INS' efforts to achieve program objectives. First, INS has spent billions of dollars on border enforcement but has not yet done a comprehensive evaluation to determine whether its strategy to deter illegal entry has been effective. Second, INS has a program designed to place criminal aliens in removal proceedings while they serve their prison sentences, but it has failed to identify thousands of such aliens before their release into U.S. communities. Of those whom INS did identify, most were released from prison and placed in detention by INS before it completed the removal proceedings, causing INS to incur millions of dollars in avoidable detention costs. Third, INS is required to complete criminal history checks on all applicants for naturalization before the application is approved. However, its failure to do so in some cases has resulted in criminal aliens being improperly naturalized. INS has issued instructions to implement internal control procedures in the

naturalization process, but questions about the integrity of the process remain.

Significant Departmental Financial Management Weaknesses

Auditors issued a disclaimer of opinion on the Department's fiscal years 1996 and 1997 consolidated financial statements because they were unable to obtain sufficient evidence to determine whether the Department's account balances and disclosures were fairly stated. In addition, the auditors identified multiple deficiencies in internal controls, including serious departmentwide computer-based control weaknesses that jeopardized a number of sensitive operations.

Embezzlements and Financial Management Control Weaknesses at DEA

We recently reported on two embezzlement cases at DEA and on some of the financial management weaknesses identified and reported by DEA's external auditor. In this report, we stated that some of the financial management weaknesses compromised DEA's overall control environment and are the type of control problems that could allow embezzlements, such as those reported, to occur without timely detection. For example, the external auditor reported in its fiscal year 1997 financial statement audit report that, of 148 items sampled,

documentation to support the proper receipt and acceptance of goods and services had not been received for 14 expense transactions. Payment of expenses without adequate documentation is the type of control weakness that contributes to an environment where embezzlements can take place. For instance, in one of the cases of reported embezzlements, DEA processed transactions even though it lacked documents to establish that the amounts were owed.

Challenges in Seized Asset Management

The Department's program for managing and disposing of seized assets has been designated a high-risk area. Managed by the U.S. Marshals Service, the program has experienced major operational problems for several years. Our recent work has indicated that property management has improved, but some challenges with maintaining proper accountability over seized property remain. In addition, independent auditors disclaimed on the fiscal year 1997 financial statements of the Department's Asset Forfeiture Program (AFP) and found that the program had several material weaknesses. For example, the auditors found that they could not determine the validity of accounts payable, expenses, and undelivered orders

and that controls were not operating effectively with respect to monitoring and reporting changes in seized/forfeited cash and property.

Progress and Next Steps

We believe that the Results Act can be a useful vehicle for addressing the management and performance challenges that we have identified at the Department. For example, at INS, our work has shown that a comprehensive, systematic evaluation of INS' strategy to deter illegal entry along the Southwest Border would provide INS with information on whether the money it spent on border enforcement has produced the intended results. INS could use this information to help it make decisions about what changes, if any, are needed in its strategy, resource levels, and management of the program.

Recognizing the need for better management, INS has undertaken steps to address some of its long-standing problems. For example, since 1993, INS developed a strategic plan, reorganized, identified organizational priorities, incorporated priorities and workload information into resource allocation decisions, developed a national border strategy consistent with the

Attorney General's strategy, and restructured the naturalization process. INS also is in the process of developing a restructuring plan that would create separate enforcement and service functions. In addition, INS has initiated actions to address its financial management problems.

To help improve its performance and achieve its intended results, the Department developed strategic and performance plans in accordance with the requirements of the Results Act. The plans described the Department's long-range goals, strategies, and performance indicators for its major functional areas. As part of its Results Act planning, the Department established strategies for (1) ensuring sound and effective financial management policies and practices; (2) providing timely, useful, and reliable budget accounting and performance data to support decisionmaking; and (3) effectively managing seized and forfeited assets. However, the plans did not specifically address how the Department will correct significant financial management weaknesses identified in its fiscal year 1996 and 1997 audits, nor the steps involved in improving its AFP.

According to Department officials, various actions are planned or under way to correct the reported financial management weaknesses. For example, the Department established a working group comprised of senior-level accounting representatives from each of the reporting entities, the Department's Inspector General, and representatives from an independent public accounting firm to address these problems. DEA has taken or is planning to take a number of actions to address its reported financial management weaknesses. For example, DEA has established an executive working group to oversee the development and completion of its financial management action plan to address weaknesses identified in financial statement audits in fiscal years 1996 and 1997. The Department has improved its management of seized property, but more remains to be done, particularly with respect to accountability over seized and forfeited property, including seized drugs. According to Department officials, the asset forfeiture management staff have taken various steps to address reported problems. For example, they have issued seized and forfeited inventory reconciliation instructions and implemented system enhancements.

Despite several reorganizations, management problems at INS have persisted and, we believe, have affected INS' ability to carry out its mission and achieve its performance goals. Solving its long-standing problems will require sustained management attention to INS' implementation of its strategic goals and good measurement of the extent to which the goals are met. INS will need to use the performance information it generates to help it make decisions about what changes, if any, are needed to its strategies, policy directives, resource levels, and program management in order to realize improvements in agency management and program effectiveness. We believe that strong leadership and direction from within the agency, as well as from the Congress, would be instrumental in achieving such improvements.

The Department, similarly, will need to focus on implementation and measurement of its strategic goals. We believe it is too early to tell how well the Department's results-oriented plans will be implemented and what impact they will have on decisionmaking, resource allocation, and program results. The results of the audits of the Department's fiscal year 1998 financial statements, including those of DEA and INS,

should provide an update on the status of the Department's and its components' financial management weaknesses. We believe that in other areas, such as the asset forfeiture program, the Department should build on progress it has already made and continue to implement better procedures for maintaining accountability over seized and forfeited property. In addition, with respect to financial management of seized and forfeited assets, the results of the audit of the fiscal year 1998 asset forfeiture program's financial statements should provide an indication of the progress made in addressing the challenges facing the program.

Major Performance and Management Issues

The Department of Justice is a multifaceted organization whose responsibilities encompass a wide array of functions, including assisting local and state law enforcement agencies in reducing juvenile delinquency, detecting and investigating acts of terrorism, securing the nation's borders, and interdicting illegal drugs.

Over the past several years, we, the Department's Inspector General, the National Performance Review, and others have studied performance and management issues at the Department and its components and identified a number of challenges that are of continuing concern. At INS, where we have focused much of our work in response to congressional interest, concerns exist about management issues relating to organizational structure, communications, and financial management. Within INS' program areas, INS' implementation of the Attorney General's strategic priorities in such program areas as border control, criminal alien removal, and naturalization need further attention. At the Departmental level, we have identified significant financial management challenges, including weaknesses in certain internal controls at DEA that have allowed embezzlements to occur. Weaknesses also exist in the

Department's asset forfeiture program. We believe that the Department's implementation of the Results Act could help to address the performance and management issues that we identified at the Department.

INS Management Challenges Persist

INS' functions are multilayered and complex. In carrying out its responsibilities, INS contends with issues of foreign policy (for example, U.S. readiness to provide asylum to political refugees); domestic policy (for example, the tension between the need for cheap labor that immigrants have historically met and the protection of employment and working standards for U.S. citizens); and intergovernmental relations (for example, between the federal government, which sets policy on immigration, and state and local governments, which largely bear its costs and consequences). Effective performance of INS' functions requires skills in a wide range of areas, including leadership, program development, coordination and communication between headquarters and field offices, service delivery, and enforcement. To enable INS to better implement and enforce immigration laws, the Congress significantly increased its

resources during the past several years. For example, between fiscal years 1993 and 1998, the number of on-board staff at INS increased from about 19,000 to nearly 31,000. During the same period, INS' budget more than doubled from $1.5 billion in fiscal year 1993 to about $3.8 billion in fiscal year 1998.

In 1991, we reported that INS was experiencing severe management problems in a variety of areas. Two years later, INS began to take steps to address some of those problems. INS reorganized, prepared a national strategy for controlling the U.S. border, and developed a management priority system in which it set measurable goals for such program activities as the removal of criminal aliens. In 1994, INS implemented a new organizational structure intended to provide more direct oversight of field units and took steps to use priorities and workload information to better allocate resources. However, less progress had been made on other needed improvements, such as issuing updated policies and procedures manuals and establishing clear channels of communications within the new organizational structure. Additionally, INS lacked appropriate accounting records and internal controls to enable its auditor to express an opinion on INS' fiscal year 1997

financial statements. Further, INS selected a new financial management system without focusing first on analyzing its business processes—an approach required by the Congress.

Continuing Concerns About INS' Organizational Structure

INS' mission involves carrying out two primary functions. One is an enforcement function that involves preventing aliens from entering the United States illegally and removing aliens who succeed in doing so. The other is a service function that involves providing services or benefits to facilitate entry, residence, employment, and naturalization of legal immigrants.

Several critics have concluded that "mission overload" has impeded INS from succeeding at either of its primary functions. The Commission on Immigration Reform, for example, stated that INS' service and enforcement functions are incompatible and that tasking one agency with carrying out both functions causes problems, such as competition for resources, lack of coordination and cooperation, and personnel practices that create confusion regarding mission and responsibilities. In March 1998, the administration acknowledged that INS needed to implement fundamental reforms

to address organizational problems. The administration concluded that these problems impeded INS' ability to (1) effectively enforce immigration laws at the borders and in the interior of the United States, and (2) efficiently provide immigration and citizenship services.

To remedy these problems, the Commission on Immigration Reform, the Carnegie Endowment for International Peace, INS, and several Members of Congress have recommended ways to restructure INS. The proposals have ranged from dismantling INS and replacing it with a new agency that would handle immigration enforcement functions, while moving immigration service functions to the Departments of State and Labor, to restructuring INS internally by creating two separate chains of command—one for enforcement and the other for services—and leaving it as a single agency within the Department of Justice. INS has appointed an executive to oversee its reorganization in the two functional areas. Under this arrangement, INS would remain a single agency within the Department.

As of October 1998, the details of the new structure had not been worked out, the timetable for its implementation had not

been established, and the ability of the structural reorganization to resolve long-standing management and program implementation problems remained unclear.

Challenges With Internal Communications and Coordination

Although INS' Commissioner stated that the 1994 INS reorganization would build communication capabilities, communication continued to be a challenge in INS. We reported in 1997, as we did in 1991, that INS' headquarters and field managers generally viewed headquarters as not being in touch with events, problems, and concerns in the field. Part of the communications challenge involved uncertainty among INS managers about the roles and responsibilities of headquarters executives, which in turn caused uncertainty about proper channels of communication for obtaining policy guidance or implementing program initiatives. Headquarters' efforts to resolve concerns about roles, responsibilities, and communication processes were not successful. For example, instances occurred in which key stakeholders were excluded from decision meetings affecting them, and various inconsistent versions of guidance on naturalization procedures were distributed to field offices. INS does not intend to issue written guidance on appropriate

communication channels and coordination methods between offices until it obtains a decision on how the agency will be restructured.

Lack of up-to-date policies and procedures also have contributed to communications challenges. For example, field manuals containing policies and procedures on how to implement immigration laws were out-of-date at the time of our 1991 report and had not been updated by the time of our 1997 report. As a result, INS employees were burdened with having to search for information on immigration laws or regulations in multiple sources; this sometimes resulted in their obtaining conflicting information. The lack of current manuals also led some field officers to create policy locally, thus compounding coordination difficulties. However, during the past 2 years, INS has published an administrative manual and established a timetable through January 2001 for issuing five field manuals.

Financial Management Weaknesses at INS

The financial statement audit of INS' fiscal year 1997 Statement of Financial Position and the related Statements of Operations and Changes in Net Position resulted in a

disclaimer of opinion. The auditor reported that INS had not maintained appropriate accounting records and relevant documentation to support certain balances in the financial statements. In addition, INS' internal control structure was not adequate to ensure that its assets were properly safeguarded from loss, damage, or misappropriation, and that transactions were accurately and completely recorded. Accordingly, the auditor could not perform sufficient audit procedures to determine whether the financial statements were affected by these conditions. The auditor identified eight material weaknesses[1] with respect to (1) the fund balance with the Treasury reconciliation process, (2) intragovernmental receivables, (3) fixed assets, (4) accounts payable, (5) deferred revenue, (6) contingent liabilities, (7) recording of revenues and expenses, and (8) INS' financial management systems.

In connection with its financial management systems, the auditor reported that the systems (1) are not integrated, resulting in significant delays and burdensome

[1]A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material to the financial statements may occur and not be detected promptly by employees in the normal course of performing their duties.

reconciliation efforts; (2) have significant internal control weaknesses—including computer control problems—affecting the accuracy and reliability of financial information; and (3) limit, rather than enhance, effective decisionmaking. We reported in July 1997 that financial management systems problems made it difficult for INS to monitor the status of its budget and to make sound budgetary decisions. For example, in March 1995, INS' budget office projected that the field would have about $115 million in surplus funds through the rest of the year. Upon subsequent input from INS' field offices, it turned out that the field offices would experience a $5 million shortfall for the remainder of the year.

In 1997, INS selected a new financial management system but did not first analyze its financial management processes, as required by the Clinger-Cohen Act of 1996,[2] to ensure that the new system did not automate outmoded, inefficient business processes. Instead of developing and implementing a risk management plan, as we recommended, INS tasked its contractor with helping to ensure that risks associated with

[2]The Clinger-Cohen Act requires executive agencies to conduct analyses of work processes before making significant investments in information technology.

implementation of the new system would be identified and necessary steps taken to mitigate them. According to INS, it had an urgent need to replace its financial management system, which is over 19 years old and does not have the functionality needed for INS to efficiently manage and account for its resources, and believed this was a prudent way to proceed. INS did not take all the requisite steps to ensure that its new financial management system would meet its requirements.

INS has recently initiated actions to address its financial management problems. These include (1) engaging a contractor to reconcile the fund balance differences with Treasury and (2) undertaking a complete review of all open balances prior to conversion to the new financial management system.

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Challenges With Implementation of INS' Programs

In 1994, the Attorney General announced a strategy to strengthen enforcement of the nation's immigration laws. Three priorities within the strategy involved strengthening the U.S. border, removing criminal aliens, and promoting citizenship for qualified immigrants. In accordance with these priorities, INS considerably increased its allocation of resources and its law enforcement presence along the Southwest Border. At the same time, INS established the removal of criminal aliens as a key enforcement priority and improvements in its adjudicative processes, such as processing naturalization applications, as a key service priority. Reviews of these program areas by us and others have resulted in concerns about the effectiveness of INS' efforts in implementing these priorities.

Effectiveness of Southwest Border Strategy Unknown

Consistent with the Attorney General's strategy, in 1994, INS issued a national Border Patrol strategy intended to deter illegal entry between the ports of entry along the Southwest Border. In the strategy's initial phase, the focus was on two sectors—San Diego and El Paso—that in 1993 accounted for the majority of apprehensions nationwide. In the second phase of the

strategy, INS increased the resources it allocated to sectors in Tucson, Arizona, and south Texas. We reported in 1997 that after investing billions of dollars in the strategy, INS had made progress in implementing some, but not all, of its strategy. For example, INS had allocated Border Patrol agents in general accordance with the strategy, focusing resources in the areas of highest known illegal activity, but the proportion of time the agents at the Southwest Border collectively spent on border enforcement activities did not increase as planned between 1994 and 1997. Further, the Border Patrol had not identified the most appropriate mix of staffing and other resources needed for its sectors, as called for in the strategy.

We also reported that INS did not have data on several outcomes that the strategy was expected to achieve. For example, there were no data to indicate whether illegal aliens were deterred from entering the United States, whether there had been a decrease in attempted reentries by those who had previously been apprehended, and whether the strategy had reduced border violence. We noted that, despite the investment of billions of dollars in the strategy, INS had amassed only a partial

picture of the effects of increased border control and did not know whether the investment was producing the intended results. Further, INS lacked a systematic, comprehensive evaluation plan to assess the strategy's overall effectiveness. We noted that developing such a plan would be in keeping with the concepts embodied in the Results Act. Pursuant to our report, in September 1998, INS contracted with independent research firms for an evaluation.

Process for Removing Criminal Aliens Needs Improvement

In accordance with the Attorney General's strategy, one of INS' priorities has been to remove deportable criminal aliens from this country. However, we and the Department's Inspector General have issued several reports noting that INS has been challenged in implementing this priority.

INS' Institutional Hearing Program (IHP)[3] is the Department's main vehicle for placing aliens who are incarcerated in state and federal prisons into deportation proceedings so that they can be expeditiously deported

[3]The IHP was subsumed under a broader program in June 1998 called the Institutional Removal Program (IRP). The objectives of the programs are the same. The IRP, however, counts certain removal orders not included in the IHP—specifically, reinstatement of prior removal orders and administrative removal orders—in measuring program outcomes.

upon release from prison. We reported in 1997 on the 1995 performance results of the IHP, and in 1998 we reported on 1997 IHP results. In each year, covering a 6-month period, we found that INS failed to identify nearly 2,000 potentially deportable aliens before they completed their prison sentences. As a result, the criminal aliens were released into communities in the United States without INS determining whether they posed a risk to public safety. Hundreds of these criminal aliens were aggravated felons who, by law, should have been placed in removal proceedings while in prison and taken into INS custody upon release. Some of these aliens were subsequently rearrested for new crimes, including felonies.

Even when INS determined that an alien was potentially deportable and should be placed in removal proceedings, INS did not complete the IHP for at least half of such cases in both 1995 and 1997. As a result, INS took many of the released criminal aliens into custody and completed the removal process for them subsequent to prison release. As a result of its failure to complete the IHP before prison release, INS incurred about $37 million in avoidable detention costs in 1995 and about $40 million in such costs in 1997.

In response to our 1997 recommendations for improving the IHP, INS made progress in some areas and no progress in others. For example, despite our recommendation that INS give priority to aliens serving time for aggravated felonies, INS indicated that it did not intend to do so. INS' position was that it should be screening all foreign-born inmates as they enter prison systems and that aggravated felons as a unique group did not need to be singled out. However, since INS was not yet using a workload analysis model to help it determine its resource needs for completing the IHP on all eligible aliens, it remains unclear whether INS has sufficient resources to screen everyone as they enter the prison system. INS acknowledged the need to address the backlog of cases not screened in previous years because aggravated felons could be part of the backlog. In response to a 1995 recommendation by the Inspector General, INS was planning to address the backlog by December 1998.

A September 1998 report by the Inspector General noted that INS failed to remove aliens who were arrested by the Border Patrol during drug seizures. In the majority of cases, INS did not take any steps to ensure that aliens who were arrested by the Border

Patrol and subsequently incarcerated for criminal drug convictions were placed in deportation proceedings or taken into INS custody after they were released from prison.

Weaknesses in INS' Procedures for Granting Citizenship

In support of the Attorney General's strategy, a priority in INS' service delivery area has been to facilitate processing of aliens' applications for citizenship. In order to become a naturalized citizen, aliens must meet certain requirements, such as that of being of good moral character. To determine whether an alien has been convicted of a crime that would preclude citizenship, INS is to submit the alien's fingerprints to the FBI, which researches whether that alien has a criminal record.

Over the past several years, the Department's Inspector General and we have reported on INS' failure to conduct complete criminal history checks before granting applications for citizenship. For example, in 1994, we reported that INS did not obtain the results of all requested fingerprint checks from the FBI, and the results were, therefore, not always available to examiners before the aliens' hearings. As a result, INS improperly naturalized citizens with felony convictions.

In 1997, we reported that INS still could not ensure itself and the Congress that it was granting citizenship only to deserving applicants. In addition, a report to the Department by a consulting firm indicated that INS had not ensured that its field units were implementing internal control procedures issued by the INS Commissioner. INS has begun restructuring its naturalization process to address these challenges.

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Significant Departmental Financial Management Weaknesses

The audit of the Department's fiscal year 1997 Consolidated Statement of Financial Position and Consolidated Statements of Operations and Changes in Net Position resulted in a disclaimer of opinion because the auditors were unable to obtain sufficient evidence about certain balances and disclosures in the consolidated financial statements.[4] The Department had also received a disclaimer of opinion on the

[4]The Department prepared its fiscal year 1997 consolidated financial statements from the financial statements of its nine components.

Consolidated Statement of Financial Position for fiscal year 1996, and the Department's Inspector General noted that, although improvements were being made in certain areas, overall, the Department had not substantially progressed toward an unqualified opinion.

The auditor of the 1997 Consolidated Financial Statements issued a disclaimer of opinion on the basis of deficiencies, including the following four departmentwide material weaknesses (1) inadequate reconciliations of Fund Balance with Treasury account balances, including a $350 million unreconciled difference between one component's account balance and Treasury's books; (2) inadequately supported intragovernmental accounts receivable balances at two components; (3) weaknesses in accounting for and disclosure of seized and forfeited cash, property, and evidence at three components; and (4) weaknesses in the processing and recording of accounts payable and undelivered orders at five components. The auditor also reported that one component did not maintain appropriate accounting records and relevant documentation to support certain balances and disclosures, and that there were also weaknesses with

the component's internal control structure. In addition, the auditor identified a reportable condition[5] related to weaknesses in accounting for and control over property and equipment at three components.

In addition to the control weaknesses that contributed to the disclaimer of opinion in 1996 and 1997, the auditor reported as a departmentwide material weakness that improvements were needed in general controls at the Department's data centers and in certain components' financial management systems. Specifically, the auditor reported that access controls were weak over files supporting various operations at the FBI, DEA, INS, and Marshals Service. User passwords were not required to be changed, security software was not configured to prevent access to inactive users, and system programmers had been inappropriately provided the ability to make numerous types of modifications to files that would allow them to circumvent security

[5]Reportable conditions involve matters coming to an auditor's attention relating to significant deficiencies in the design or operation of internal controls that, in the auditor's judgment, could adversely affect an agency's ability to (1) safeguard assets against loss from unauthorized acquisition, use, or disposition; (2) ensure the execution of transactions in accordance with management's authority and in accordance with laws and regulations; or (3) properly record, process, and summarize transactions to permit the preparation of the financial statements or to maintain accountability for assets.

controls or assist others in such actions. Program change control procedures for system and application software were not formally documented or uniformly followed, increasing the risk that unauthorized software changes or unintentional errors could be made. Further, the auditor reported that the Department did not have a plan to recover primary systems, critical data processing applications, or key business processes in the event of a disaster. An underlying concern was that written security policies and procedures were outdated and did not define the roles and responsibilities of managers and others with security responsibilities. The Department's management agreed with the findings and stated that each departmental component will work with the Department's Chief Information Officer to develop corrective actions.

With respect to compliance with laws and regulations, the auditor noted certain inconsistencies between the Department's Federal Managers' Financial Integrity Act (FMFIA) report and the auditors' evaluation of internal controls that were based on their audits of the components' financial statements. In addition, the auditor identified instances where the Department's

or the components' systems did not substantially comply with one or more of the requirements detailed in the Federal Financial Management Improvement Act of 1996 (FFMIA). The auditor noted that seven of the nine components reported noncompliance with the financial management system requirements of FFMIA. The Department reported that inadequate controls existed in the financial accounting, reporting, and control of (1) undelivered orders and accounts payable, (2) property and equipment, (3) seized/forfeited property, and (4) certain revenue and expense account balances. The auditors of six of the nine components noted similar conditions. Finally, auditors of four components reported that certain financial transactions were not processed in accordance with the requirements of the Standard General Ledger at the transaction level.

According to the Department, it has various actions planned or under way to correct the weaknesses that the auditor identified as contributing to the disclaimer of opinion on the departmentwide statements. Significant actions planned or under way include (1) establishing a working group comprising senior-level accounting representatives from each of the reporting entities, the

Department's Inspector General, and representatives from an independent public accounting firm; (2) hiring contractors to research and resolve differences between the Department's Fund Balance with Treasury account records and Treasury's records; (3) issuing new or revised policies and procedures to address various weaknesses; (4) implementing new financial and property management systems; and (5) establishing a departmentwide strategic action plan and corresponding timetables for preparing the fiscal year 1998 departmentwide financial statements.

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Embezzlements and Financial Management Control Weaknesses at DEA

In September 1998, we reported that several DEA employees had recently been involved in two different cases of embezzling DEA funds. One embezzlement case involved a single employee who allegedly embezzled more than $6 million during a 6-year period. The

employee allegedly submitted hundreds of false payment vouchers, seeking reimbursement for services never performed by a sham corporation he established. The second case involved collusion among three DEA employees who used DEA funds to purchase various electronic and other equipment—valued at approximately $2.7 million—that was diverted for their own use.

We also reported that (1) DEA's auditor had reported numerous financial management weaknesses in connection with its annual financial statement audits for fiscal years 1996 and 1997 and (2) DEA reported weaknesses in its FMFIA report covering the period October 1, 1997, through March 31, 1998. In our report, we stated that some of these financial management weaknesses are the type of control challenges that weaken DEA's overall control environment and could allow embezzlements, such as those reported, to occur without timely detection. For example, the auditor's fiscal year 1997 financial statement audit report stated that weaknesses existed in DEA's reporting of nonpayroll expenses, including a lack of documentation to support the proper receipt and acceptance of goods and services in 14 of the 148 expense transactions sampled.

Payment of expenses without adequate documentation is the type of control weakness that contributes to an environment where embezzlements can take place. For instance, in one of the cases of reported embezzlement, DEA processed transactions even though it lacked documentation to establish that amounts were owed.

According to DEA officials, DEA has taken or is planning to take a number of significant actions to address the reported control weaknesses. For instance, in February 1998 the DEA Administrator established an executive working group to oversee the development and completion of the agency's financial management action plan to effectively address all of the audit findings. In addition, at the direction of the DEA Administrator, the Office of Inspections has revised its on-site inspection/audit protocol specifically to review and assess compliance with the agency's segregation of duties policy, as well as other significant financial management areas. DEA officials stated that this was done to prevent potential weaknesses that could facilitate similar circumstances found to have occurred in the two embezzlement cases.

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Challenges in Seized Asset Management

Since 1990, the Department's Asset Forfeiture Program (AFP) has been designated a high-risk area. In recent years, we have reported on the existence of major operational challenges relating to the management and disposition of seized and forfeited property.[6] Although some improvements were made, significant problems have remained, and continued oversight is necessary to ensure that policies and procedures are followed and that adequate safeguards are in place.

In 1996, we reported on inadequate management of seized real property, including instances where property deteriorated because of inadequate maintenance, and mortgages were paid late at one of the largest Marshals Service

[6]Seized property includes illegal drugs that have no resale value to the federal government. These items are subject to forfeiture and are typically held by the seizing agency until they are approved for destruction.

districts,[7] the Central District of California. Because of inadequate property management, the government incurred unnecessary losses. We also reported that the Marshals Service was in the process of taking action to enhance oversight of seized assets and to improve time frames for property disposition.

In 1998, we reviewed Marshals Service operations in the Central District of California to determine the extent of certain controls over seized assets. We visited 14 real properties, all of which appeared to be in good condition and properly maintained. Additionally, property management case files for these real properties contained evidence of recent physical inspections and appraisals. A district official attributed improved property management to increased oversight of properties by district personnel and preseizure planning on all real estate seizures. We also reviewed the district's physical security and internal controls over seized automobiles, vessels, and financial instruments. In addition, we conducted similar audit work at the Southern District of Florida and the Southern and Eastern

[7]The Marshals Service has responsibility for safeguarding, storing, and maintaining property such as financial instruments, automobiles, vessels, and real property seized by the Department's investigative agencies.

Districts of New York. Overall, we found no material weaknesses or deficiencies in the controls we reviewed at these districts.

These improvements notwithstanding, challenges remain, including the following examples.

The Department reported as a material weakness in its FMFIA report for fiscal year 1997 that its asset forfeiture information systems had been inadequate for tracking the life cycle of an asset from its seizure through its ultimate disposition. In addition, the audit of the Department's fiscal year 1997 AFP financial statements resulted in a disclaimer of opinion on the Statement of Financial Position and Statement of Operations and Changes in Net Position. The auditor was unable to express an opinion since it could not obtain sufficient evidence as to (1) the reasonableness of seized/forfeited asset balances and related revenues and activity; (2) the validity of accounts payable, expenses, and undelivered orders; and (3) the adequacy of the overall presentation and disclosure of the financial statements. The auditor also reported the following material weaknesses: (1) controls were not operating effectively, and timely oversight was not performed with respect to

monitoring and reporting changes in seized/forfeited cash and property, and, as a result, the September 30, 1997, seized and forfeited cash and property balances may be materially misstated; (2) accrual-based accounting concepts were not followed for all of the AFP's operations; and (3) improved security is required for the AFP's Consolidated Asset Tracking System (CATS), which is the integrated information system for the AFP, and at the Department's data centers, where CATS resides.

In September 1998, the Department's Inspector General reported that at most of the INS Border Patrol stations they visited, they found weaknesses in the management of seized drugs. Specifically, the Border Patrol (1) lacked written policies or procedures on how to handle and store seized drugs, (2) failed to store seized drugs in a secure manner, (3) lacked adherence to proper chain of custody procedures, and (4) did not always have an individual specifically designated as responsible for the evidence. These types of weaknesses increase the risk of loss of seized drugs and contamination of evidence. The Border Patrol reportedly stated that it had taken action, such as establishing an Evidence Procedures Team, which developed an

evidence handling policy, to correct these weaknesses. According to officials, the policy was undergoing internal review.

The Departments of Justice and the Treasury continue to operate two similar but separate seized asset management and disposal programs without plans for consolidation, despite legislation requiring them to develop and maintain a joint plan to consolidate postseizure administration of certain properties.[8] In June 1991, we recommended consolidating the management and disposition of all noncash seized property, designating the Marshals Service as the custodian. We estimated that program administration costs could be reduced if the Department of Justice and the Customs Service consolidated the postseizure management and disposition of such items. We also reported that consolidation would likely result in lower contractor costs due to economies of scale. We still believe that consolidation of asset management and disposition functions makes sense. We encourage both departments to continue to identify areas of duplication and pursue options for consolidation.

[8]The Anti-Drug Abuse Act of 1988, Public Law No. 100-690, 21 U.S.C. 887.

In summary, the Department continues to make considerable improvements to its AFP. However, we believe that, as a result of the foregoing challenges, the program remains high risk and warrants future follow-up. Enhancements of internal controls are still needed to effectively reduce vulnerability to theft and misappropriation of seized property. In addition, both the Departments of Justice and the Treasury should pursue options for efficiency gains through program consolidation. We will continue to monitor progress in addressing these issues.

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Implementation of the Results Act Provides a Vehicle for Addressing Management and Performance Issues

With passage of the Results Act, the Congress sought to improve its policymaking, spending decisions, and oversight by imposing on federal agencies a new framework for management and accountability. In crafting the Results Act, the Congress recognized that congressional and executive branch decisionmakers had been handicapped by inadequate information on program goals and performance. By creating requirements for agencies to generate such information, the Results Act intended to improve the efficiency and effectiveness of federal programs.

We believe that the Results Act can be a useful vehicle for addressing the management and performance challenges that we have identified at the Department. For example, at INS, our work has shown that a comprehensive, systematic evaluation of the agency's strategy to deter illegal entry along the Southwest Border would provide INS with information on whether the billions of dollars it has spent on border enforcement have produced the intended results. The performance, planning, and measurement evaluation principles that underpin the Results Act can be used to help generate information that would help the agency and the Congress identify what

changes, if any, are needed in the strategy, in policy, in resource levels, or in program management.

On the other hand, the Department has recognized the need to address certain management and performance challenges that we, the Department itself, and others have identified, and it has incorporated strategies, goals, and performance indicators into its Results Act plans to address them. For example, the Department's fiscal year 1999 performance plan established excellence in management practices as an annual goal and identified several strategies for achieving this goal, including (1) ensuring sound and effective financial management policies and practices, and (2) providing timely, useful, and reliable budget accounting and performance data to support decisionmaking. The Department's goal is to obtain unqualified departmentwide audited financial statements by fiscal year 1999. It intends to accomplish this by, among other things, completing the replacement of financial management systems in DEA, INS, the Marshals Service, and BOP, and addressing the material weaknesses reported by the Department's auditors.

The Department's plan also stated that effective management of seized and forfeited assets would be another strategy for achieving excellence in management practices. To improve accountability, control, and oversight of the AFP, the Department established time frames for disposing of seized assets and a threshold for selling real property at a percentage of appraised value. In addition, all new major asset forfeiture property management contracts are to include performance-based elements.

Because of the breadth and complexity of the Department's responsibilities, we do not expect that its transition to results-oriented management will be easy or quick. However, we believe that the Department's early planning efforts have helped focus its attention on significant challenges and how to resolve them. As the Department develops its annual performance plans over the coming years, we expect to monitor its progress in implementing the Results Act.

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Related GAO Products

INS Management Challenges

INS Management: Follow-up on Selected Problems (GAO/GGD-97-132, July 22, 1997).

Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems (GAO/GGD-91-28, Jan. 23, 1991).

Challenges With Implementation of INS Programs

Criminal Aliens: INS' Efforts to Remove Imprisoned Aliens Continue to Need Improvement (GAO/GGD-99-3, Oct. 16, 1998).

Naturalized Aliens: Efforts to Determine If INS Improperly Naturalized Some Aliens (GAO/GGD-98-62, Mar. 23, 1998).

Illegal Immigration: Southwest Border Strategy Results Inconclusive; More Evaluation Needed (GAO/GGD-98-21, Dec. 11, 1997).

Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Need To Be Improved (GAO/T-GGD-97-154, July 15, 1997).

Naturalization of Aliens: Assessment of the Extent to Which Aliens Were Improperly Naturalized (GAO/T-GGD-97-51, Mar. 5, 1997).

Significant Departmental Financial Management Weaknesses

Information Security: Serious Weaknesses Place Critical Federal Operations and Assets at Risk (GAO/AIMD-98-92, Sept. 23, 1998).

Embezzlements and Financial Management Control Weaknesses at the Drug Enforcement Administration

Financial Management: Control Weaknesses Reported at the Drug Enforcement Administration (GAO/AIMD-98-271R, Sept. 11, 1998).

Challenges in Seized Asset Management

High-Risk Program: Information on Selected High-Risk Areas (GAO/HR-97-30, May 16, 1997).

High-Risk Series: Quick Reference Guide (GAO/HR-97-2, Feb. 1997).

Review of SADF Disbursements (GAO/AIMD-96-114R, June 26, 1996).

Asset Forfeiture: Historical Perspective on Asset Forfeiture Issues (GAO/T-GGD-96-40, Mar. 19, 1996).

High-Risk Series: Asset Forfeiture Programs (GAO/HR-95-7, Feb. 1995).

Implementation of the Results Act Provides a Vehicle for Addressing Management and Performance Issues

Results Act: Comments on Justice's August Draft Strategic Plan (GAO/T-GGD-97-184, Sept. 30, 1997).

Observations on the Department of Justice's Fiscal Year 1999 Performance Plan (GAO/GGD-98-134R, May 29, 1998).

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