



Testimony

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Management, and Accountability,
Committee on Homeland Security,
House of Representatives

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EQUAL EMPLOYMENT OPPORTUNITY

DHS Could Better Address Challenges to Ensuring EEO in Its Workforce

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Strategic Issues

Highlights of GAO-20-450T, a testimony before the Subcommittee on Oversight, Management, and Accountability, Committee on Homeland Security, House of Representatives

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. GAO reported in 2009 on DHS's opportunities to address barriers to EEO in its workforce and in 2019 on DHS's challenges to ensuring EEO in its workforce.

GAO was asked to testify on 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 components' EEO programs. To do so, GAO summarized the findings discussed in its July 2019 report on DHS's EEO efforts and reported on DHS's actions taken to address recommendations. To obtain updates on actions taken by DHS, GAO reviewed relevant documentation and interviewed DHS EEO officials.

What GAO Recommends

In its July 2019 report, GAO recommended that DHS take six actions, 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 the six recommendations and described actions the department plans to take to address them.

View GAO-20-450T. For more information, contact Yvonne D. Jones at (202) 512-6806 or jonesy@gao.gov, or Christopher P. Currie at (404) 679-1875 or curriec@gao.gov.

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What GAO Found

The Department of Homeland Security (DHS) uses multiple information sources to identify potential barriers to equal employment opportunity (EEO), but lacks performance metrics for tracking its progress towards eliminating identified barriers. DHS generally uses the information sources that the Equal Employment Opportunity Commission (EEOC) guidance recommends, such as employee survey results, to help identify potential barriers. While DHS reports some improvements in employee engagement and representation of minorities and women from fiscal years 2014 through 2018, it does not have complete performance metrics, such as the retention rate of women in law enforcement positions. Using performance metrics could help DHS 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 deficiencies. For example, in each of the fiscal years 2015 through 2018, DHS reported that senior managers at DHS components did not successfully implement EEO action plans and incorporate EEO action plan objectives into agency strategic plans. Further, DHS components lacked 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, as required by EEOC guidance. Developing policies and procedures to help ensure components' EEO programs have action plans for addressing deficiencies could help DHS components better comply with EEOC requirements.

In addition, developing and using formal staffing models—a tool to determine the number of staff required—for their EEO programs could help DHS and its components to identify, request, and obtain the staff they need. For example, DHS and its components reported that staffing challenges contributed to some of their program deficiencies, and acknowledged they did not have formal staffing models for their EEO programs.

DHS has plans to address nine areas of noncompliance in its EEO program identified by EEOC. In its July 2017 review of DHS compliance with EEOC requirements, EEOC found that DHS did not provide complete demographic data on new hires and promotions in its fiscal year 2016 report to EEOC. DHS reported to EEOC that it had collected and analyzed such demographic data beginning in fiscal year 2019.

DHS's EEO and human capital offices assist and support DHS components in identifying and addressing EEO barriers. However, DHS's 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.

Madam Chairwoman Torres Small, Ranking Member Crenshaw, and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss our work on the Department of Homeland Security's (DHS) efforts to ensure equal employment opportunity (EEO) in its workforce. Since DHS began operations in 2003, we designated implementing and transforming the agency 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. Equal Employment Opportunity Commission's (EEOC) Management Directive 715 (MD-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.¹

In 2009, we reported that DHS had opportunities to better identify and address barriers to EEO in its workforce.² 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 had responded to our recommendations by including a strategy to regularly use employee input to identify barriers, and by identifying

¹EEOC, *Equal Employment Opportunity*, Management Directive 715 (Oct. 1, 2003). EEOC 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.

²GAO, *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).

essential activities and establishing interim milestones to address barriers identified in its MD-715 reports.

This testimony is based primarily on our report that we recently issued entitled, *Equal Employment Opportunity: DHS Could Better Address Challenges to Ensuring EEO in Its Workforce*.³ It also includes selective updates we obtained in February 2020. I will discuss 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 components' EEO programs.⁴ For the report, we 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. We also reviewed EEOC's feedback on DHS's and its components' EEO programs, and interviewed EEOC officials. Our report contains a more detailed discussion of our objectives, scope, and methodology. For the updates, we reviewed documentation from DHS and interviewed Office for Civil Rights and Civil Liberties (CRCL) officials on the actions DHS has taken to implement the recommendations from our July 2019 report.⁵ We also added information from DHS's fiscal year 2018 MD-715 report to reflect the most current fiscal year data and status of the department's EEO efforts.⁶

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate

³GAO, *Equal Employment Opportunity: DHS Could Better Address Challenges to Ensuring EEO in Its Workforce*, GAO-19-573 (Washington, D.C.: July 24, 2019).

⁴As of fiscal year 2018, the nine 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.

⁵DHS's Office for Civil Rights and Civil Liberties, through the Deputy Officer for EEO and Diversity, is responsible for, among other things, establishing and maintaining EEO programs, and preparing and submitting DHS's annual MD-715 EEO program status report to EEOC.

⁶U.S. Department of Homeland Security, *EEOC Management Directive 715 Equal Employment Opportunity Program Status Report, Fiscal Year 2018* (Washington, D.C.: July 31, 2019). This is DHS's most recent MD-715 report.

evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

DHS Uses Multiple Information Sources to Identify Potential EEO Barriers

DHS generally uses the information sources that EEOC guidance recommends 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 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 and DHS's employee exit survey results to help identify and address barriers.⁷

To further help identify barriers, EEOC guidance states that agencies must solicit input from agency employee and advocacy groups, and union officials. 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 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.⁸ 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.

⁷The Federal Employee Viewpoint Survey is a tool offered by the U.S. 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.

⁸According 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.

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

DHS reports some improvements in employee engagement and representation of minorities and women. DHS's employee engagement scores in the Federal Employee Viewpoint Survey increased from 54 percent in 2014 to 62 percent in 2019.⁹ In addition, 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 2014.¹⁰ Further, DHS officials told us that minority representation was up 3 percent and female representation was up 2 percent from 2015 to February 2019.

According to EEOC, one important tool in examining the fairness and inclusiveness of an agency's recruitment efforts is applicant flow data.¹¹ 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 DHS that the agency's applicant flow data were incomplete, which makes it difficult to pinpoint barriers. DHS has reported challenges in collecting department-wide data because the department 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).

CRCL officials told us that 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. In its fiscal year 2018 MD-715 report, DHS reported that it continues to work towards developing a central repository for all applicant flow data. As a

⁹According 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. As we reported in January 2020, while DHS has made progress in improving its scores, in 2019, it remained six points below the government-wide average for employee engagement. GAO, *Department of Homeland Security: Employee Morale Survey Scores Highlight Progress and Continued Challenges*, GAO-20-349T (Washington, D.C.: Jan. 14, 2020).

¹⁰Individuals with disabilities are employees in the workforce who have indicated having a disability. EEOC defines targeted disabilities as deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.

¹¹EEOC defines applicant flow data as information reflecting characteristics of the pool of individuals applying for an employment opportunity, including race, national origin, gender, disability status, and the disposition of all applications.

work-around, DHS officials said that it obtains these data directly from each component that uses Monster Government Solutions.¹² In its fiscal year 2018 MD-715 report, DHS reported that it used applicant flow data to complete analyses, but it also reported a number of limitations, including that data were not available. In February 2020, CRCL officials told us that they plan to report complete applicant flow data in DHS's fiscal year 2019 MD-715 report.¹³

DHS does not have complete performance metrics or mechanisms for tracking progress towards eliminating its identified EEO barriers, 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. However, *Standards for Internal Control in the Federal Government* states that management should establish specific and measurable objectives, and ways to assess progress including performance metrics and milestones.¹⁴ Further, EEOC guidance states that agencies are not prevented from establishing additional practices that exceed its requirements. Implementing performance metrics could help DHS assess its progress in eliminating EEO barriers.

Accordingly, our July 2019 report included a recommendation that the Secretary of Homeland Security should develop performance metrics for the department's EEO program including a mechanism for tracking progress towards eliminating barriers. DHS concurred with the recommendation and stated that it would implement it by April 30, 2020. In February 2020, CRCL officials told us they are working with DHS's Management Directorate to develop a potential overarching performance metric that, if approved, would be implemented beginning in fiscal year 2021.

¹²In its fiscal year 2018 MD-715 report, DHS reported that it extracted applicant flow data from USA Staffing to present them in the report.

¹³In January 2020, EEOC extended the deadline for submitting fiscal year 2019 MD-715 reports to April 3, 2020.

¹⁴GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

DHS and Its Components Have Identified Various Deficiencies in Their EEO Programs, but in Some Cases Lack Action Plans to Address Them

Our analysis of DHS's MD-715 reports found that the department-wide EEO program did not meet about a quarter of the compliance measures for a model EEO program for each fiscal year from 2014 through 2017.¹⁵ For example, in each of the fiscal years 2015 through 2018, DHS reported that senior managers at DHS components did not successfully implement EEO action plans and incorporate EEO action plan objectives into agency strategic plans. In addition, our analysis of components' MD-715 reports showed that component EEO programs did not meet 9 percent of the compliance measures for a model EEO program from fiscal years 2014 through 2017.

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. EEOC guidance requires that for each deficient measure, agencies are to develop an action plan for correcting the deficiency.

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. Developing policies and procedures to help ensure components' EEO programs have action plans for addressing deficiencies could help DHS components better comply with EEOC requirements.

DHS and its components lack adequate staffing to address EEO program deficiencies, in part, because CRCL and component EEO officials told us that they do not have formal staffing models to assess appropriate staffing of their EEO program sections.¹⁶ CRCL officials said 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. However, EEOC MD-715 guidance states that an agency must provide its

¹⁵The 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.

¹⁶In DHS's fiscal year 2018 MD-715 report, three DHS components self-identified insufficient budget and staffing to support the success of aspects of their EEO programs.

EEO program with sufficient budget and staffing to be able to successfully implement various activities.¹⁷ Developing and utilizing formal staffing models—a tool to determine the number of staff required—for their EEO programs could help DHS and its components to identify, request, and obtain the staff they need.

Thus, in our recently issued report, we recommended that (1) 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, and (2) the Deputy Officer for EEO and Diversity should develop a formal staffing model for its EEO program.¹⁸ DHS concurred with the recommendations and stated that it would implement them by April 30, 2020. In February 2020, CRCL officials told us that they are developing policies and procedures for components to consider. They also told us that they are collaborating with the DHS Management Directorate to develop a formal staffing model for DHS's department-wide EEO program.

In addition, we recommended that DHS component EEO Directors, in collaboration with the Deputy Officer for EEO and Diversity, develop component formal staffing models. DHS concurred with the recommendation and stated that it would implement it by July 31, 2020. In February 2020, CRCL officials told us that the DHS Management Directorate plans to work with components to develop formal staffing models for their individual EEO programs after the agency develops a formal staffing model for the department-wide EEO program.

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

DHS has plans to address the nine areas of noncompliance in its EEO program identified by EEOC. For example, in its July 2017 review of DHS compliance with EEOC requirements, EEOC identified that DHS did not provide complete demographic data on new hires and promotions in its fiscal year 2016 report to EEOC. In April 2019, DHS officials told us that the department plans to report the data by collecting complete data from DHS components in fiscal year 2019. In its fiscal year 2018 MD-715

¹⁷EEOC, *Equal Employment Opportunity*, Management Directive 715 (Oct. 1, 2003).

¹⁸CRCL's Deputy Officer for EEO and Diversity is the principal DHS official responsible for DHS's EEO activities. The Deputy Officer for EEO and Diversity, along with the Secretary of Homeland Security (or its designee), is to certify DHS's MD-715 report before CRCL sends the report to EEOC.

DHS's EEO and Human Capital Offices Use a Variety of Means to Oversee and Support Components in Identifying and Addressing EEO Barriers, but Need to Strengthen Oversight Efforts

report, which DHS sent to EEOC in July 2019, DHS stated that it had collected and analyzed demographic data on new hires and promotions.

DHS's EEO and human capital offices assist and support DHS components in identifying and addressing EEO barriers. For example, CRCL meets with each component to obtain updates on their EEO efforts and provide verbal feedback as they develop their MD-715 reports. DHS components told us that they are generally satisfied with CRCL's collaboration practices to identify and address EEO barriers. For example, all nine components required to submit MD-715 reports told us that CRCL regularly meets with them and provides guidance on identifying and addressing barriers.

From fiscal years 2014 through 2017, EEOC found areas of noncompliance in DHS and its components' EEO programs. We found that DHS components had not responded timely and completely to areas of noncompliance identified in EEOC feedback letters.¹⁹ According to CRCL officials, CRCL does not have policies and procedures to ensure that components have addressed EEOC's feedback letters in a complete and timely manner. However, EEOC MD-715 guidance states that an agency's EEO Director ultimately is responsible for ensuring equal opportunity throughout the entire agency. In addition, *Standards for Internal Control in the Federal Government* states that management should implement control activities through policies.²⁰ Developing policies and procedures for responding completely and timely to EEOC's feedback letters may help the department comply with EEOC guidance.

CRCL officials said they lack authority to ensure components' compliance with EEOC requirements. *Standards for Internal Control in the Federal Government* states that an effective management practice includes periodically evaluating the agency's organizational structure to ensure that it meets its objectives.²¹ DHS has not taken steps—in consultation with EEOC and other agencies as relevant—to analyze options to address EEO program management weaknesses. Specifically, it has not analyzed alternatives for granting additional authorities to the Deputy Officer for EEO and Diversity to ensure DHS components comply with

¹⁹EEOC 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.

²⁰[GAO-14-704G](#).

²¹[GAO-14-704G](#).

MD-715 guidance, or assessed benefits and trade-offs of each alternative. Without addressing these issues, DHS may not be effectively positioned to manage its EEO program.

In our report, we recommended that the (1) Deputy Officer for EEO and Diversity develop policies and procedures for responding in a complete and timely manner to EEOC's feedback letters, and (2) 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.

DHS concurred with the recommendations and stated that it plans to implement them by April 30, 2020. In February 2020, CRCL officials told us they are developing policies and procedures for responding in a complete and timely manner to EEOC's feedback letters. They also told us that a cross-component working group, with input from EEOC subject-matter experts, is developing a report benchmarking best practices at similar federal agencies that it expects to complete by the end of March 2020.

In conclusion, 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 such as (1) monetary expenses borne by the agency in connection with workplace disputes and (2) decreased morale and productivity resulting from ineffective and inefficient use of human capital resources. We found areas for improvement in DHS and its components' EEO programs that could help ensure success and compliance with MD-715. 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.

Madam Chairwoman Torres Small, Ranking Member Crenshaw, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions you may have at this time.

GAO Contacts and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact Yvonne D. Jones 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 statement. Individuals making key contributions to this testimony include Clifton G. Douglas, Jr. (Assistant Director), Luis E. Rodriguez (Analyst-in-Charge), Andrew Howard, Kate Lenane, Steven Putansu, and Rachel Whitaker.

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