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INFORMATION
TECHNOLOGY

Homeland Security
Needs to Improve
Entry Exit System
Expenditure Planning



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Highlights of [GAO-03-563](#), a report to the Senate and House Subcommittees on Homeland Security, Committees on Appropriations

INFORMATION TECHNOLOGY

Homeland Security Needs to Improve Entry Exit System Expenditure Planning

Why GAO Did This Study

Pursuant to legislative direction, the Immigration and Naturalization Service (INS), now part of the Department of Homeland Security, plans to acquire and deploy an entry exit system to assist in monitoring the flow of foreign nationals in and out of the United States. By separate legislative direction, INS must submit to the Senate and House Committees on Appropriations a plan for this system that meets certain conditions, including being reviewed by GAO, before funds can be obligated. This report satisfies GAO's mandated review obligation by (1) addressing whether the plan submitted by INS, along with related INS documentation and plans, meets required conditions and (2) providing observations about the plan and INS's management of the system.

What GAO Recommends

GAO recommends that the Secretary of Homeland Security (1) plan for and implement system investment and acquisition management controls and (2) ensure that future expenditure plans provide sufficient details to permit an understanding of (a) system capabilities, benefits, cost, and delivery date and (b) how the acquisition will be managed to meet these commitments. The department did not explicitly agree or disagree with GAO's conclusions and recommendations, but described actions it plans to take that are consistent with these recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-03-563.

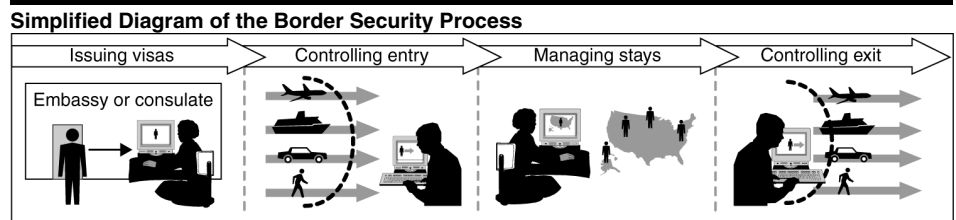
To view the full report, including the scope and methodology, click on the link above. For more information, contact Randolph C. Hite at (202) 512-3439 or hiter@gao.gov.

What GAO Found

INS's initial expenditure plan and associated system acquisition documentation and plans for the entry exit system partially meet the legislative conditions imposed by the Congress. That is, INS has implemented or has defined plans for implementing most of the legislatively mandated requirements for the plan's content, which include such areas as capital planning and investment control, acquisition, and systems acquisition management. However, key issues related to understanding and implementing system requirements, such as developing a system security plan and assessing system impact on the privacy of individuals, remain to be addressed. Moreover, INS reported that it had obligated some entry exit funding before it submitted the plan to the Appropriations Committees. Since then, INS officials told GAO that they have de-obligated and reclassified these obligations to other available funding sources.

GAO observed that INS has preliminary plans showing that it intends to acquire and deploy a system that has functional and performance capabilities that satisfy the general scope of capabilities required under various laws. These include the capability to (1) collect and match alien arrival and departure data electronically; (2) be accessible to the border management community (including consular officers, federal inspection agents, and law enforcement and intelligence agencies responsible for identifying and investigating foreign nationals); and (3) support machine-readable, tamper-resistant documents with biometric identifiers at ports of entry. Each of these capabilities is integral to supporting our nation's border security process (see figure).

However, GAO also observed that the initial plan does not provide sufficient information about INS commitments for the system, such as what specific system capabilities and benefits will be delivered, by when, and at what cost, and how INS intends to manage the acquisition to provide reasonable assurance that it will meet these commitments. Without sufficiently detailed information on system plans and progress, the Congress will be impeded in its efforts to oversee the system.



Sources: GAO (data), Nova Development Corp. (images).

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Abbreviations

ADIS	Arrival Departure Information System
APIS	Advance Passenger Information System
CCD	Consular Consolidated Database
CLASS	Consular Lookout and Support System
DHS	Department of Homeland Security
DMIA	Data Management Improvement Act
FAR	Federal Acquisition Regulation
IBIS	Interagency Border Inspection System
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INS	Immigration and Naturalization Service
IT	information technology
ITIM	Information Technology Investment Management
NCIC	National Crime Information Center
NIIS	Non-Immigrant Information System
NIST	National Institute of Standards and Technology
NSEERS	National Security Entry Exit Registration System
OMB	Office of Management and Budget
SA-CMM	Software Acquisition Capability Maturity Model
SEI	Software Engineering Institute
TSA	Transportation Security Administration
USA PATRIOT	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism
US VISIT	U.S. Visitor and Immigrant Status Indication Technology System
VWPPA	Visa Waiver Permanent Program Act

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United States General Accounting Office
Washington, DC 20548

June 9, 2003

The Honorable Thad Cochran
Chairman
The Honorable Robert C. Byrd
Ranking Minority Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable Harold Rogers
Chairman
The Honorable Martin Olav Sabo
Ranking Minority Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

The Congress has long recognized the need for a border security system that collects information about foreign nationals entering and exiting the United States and identifies those who have overstayed their visits. Seven years ago, the Congress passed legislation that directed the Immigration and Naturalization Service (INS)¹ to develop such an entry exit system.² More recently, the Congress has passed additional entry exit legislation,³ requiring, for example, that the system be integrated with other law

¹INS is no longer a distinct federal agency. Effective March 1, 2003, INS became part of at least three Department of Homeland Security component organizations. However, for purposes of this report, we continue to refer to INS, as appropriate, because INS is the focus of the legislative language that this report addresses.

²Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 (Sept. 30, 1996).

³Immigration and Naturalization Service Data Management Improvement Act of 2000, Public Law 106-215 (June 15, 2000); Visa Waiver Permanent Program Act, Public Law 106-396 (Oct. 30, 2000); Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56 (Oct. 26, 2001); and Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173 (May 14, 2002).

enforcement databases and that it use biometric technologies⁴ to better identify persons entering and exiting the United States.

To exercise close oversight over the entry exit system,⁵ the Congress also prohibited the INS from obligating funds for the system that were made available in fiscal year 2002 supplemental appropriations until the agency submitted to the Senate and House Committees on Appropriations an expenditure plan (1) that meets the capital planning and investment control review requirements established by the Office of Management and Budget (OMB), including Circular A-11, part 3; (2) that complies with the acquisition rules, requirements, and guidelines and systems acquisition management practices of the federal government; and (3) that is reviewed by GAO.⁶

This report responds to our legislative mandate to review INS's fiscal year 2002 entry exit system expenditure plan. On November 15, 2002, INS provided this plan to the Appropriations Committees, and on December 19, 2002, we received a copy of the plan. As agreed with your offices, our review objectives were to (1) determine whether the plan satisfied the legislative conditions and (2) provide observations about the expenditure plan and INS's management of the entry exit system. As agreed with your offices, our review focused not only on the plan, but also on related system documentation and plans. Our objectives, scope, and methodology are presented in detail in appendix I.

Results in Brief

INS's fiscal year 2002 expenditure plan, supplemented by related entry exit system acquisition documentation and plans, partially satisfied relevant legislative conditions governing INS's obligation of fiscal year 2002 funding. In particular, INS has either implemented or plans to implement most of OMB's capital planning and investment control review requirements, including those established by Circular A-11, part 3, but has

⁴Biometric technologies measure and analyze human physiological and behavioral characteristics for the purposes of personal identification. Biometric technologies include fingerprint recognition; hand geometry; and facial, retina, and iris recognition.

⁵On April 29, 2003, the Secretary of the Department of Homeland Security renamed the entry exit system the U.S. Visitor and Immigrant Status Indication Technology System (US VISIT). Because this name change does not affect the content of this report, we have not modified the text to change entry exit system to US VISIT.

⁶2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, Public Law 107-206 (Aug. 2, 2002).

not yet satisfied two OMB requirements—having a system security plan and assessing the system’s impact on the privacy of individuals—both of which are critical to understanding system requirements and ensuring that acquired system capabilities satisfy these requirements. INS’s plans and actions to date also are generally consistent with important federal acquisition rules, requirements, and guidelines and system acquisition management practices, as defined in such documents as INS’s life cycle management and investment management guidance and the Federal Acquisition Regulation. However, before submitting an expenditure plan to the Appropriations Committees, INS obligated for the system approximately \$9.8 million in fiscal year 2002 supplemental appropriations. Since then, INS officials told us that they have de-obligated over \$6.6 million that they had obligated after August 2, 2002,⁷ and reclassified those obligations to other available sources.

In addition, we observed that INS’s preliminary plans for the entry exit system show that it intends for the system to have functional and performance capabilities that the Congress specified in law. These capabilities include being able to collect and match alien arrival and departure data electronically, being accessible to the border management community, and being able to read tamper-resistant documents with biometric identifiers. However, we also observed that this first expenditure plan does not adequately disclose material information about the system, such as what system capabilities and benefits are to be delivered, by when, and at what cost. Without sufficiently detailed information on system plans and progress, the Congress will be impeded in its oversight efforts for the system.

To improve the content and utility of future entry exit system expenditure plans, we are making recommendations to the Secretary of Homeland Security (1) to plan for and implement important system investment and acquisition management controls and (2) to ensure that the plans provide sufficient detail about what system capabilities and benefits can be delivered, what these capabilities will cost, when they will be delivered, and how the acquisition will be managed to meet these commitments.

⁷On August 2, 2002, the Congress passed the supplemental appropriations law (P.L. 107-206), which prohibited INS from obligating funds for the entry exit system until the agency submitted an expenditure plan to the Appropriations Committees that satisfied the conditions under the law mentioned previously.

In written comments on a draft of our report signed by the department's Assistant Secretary, Bureau of Immigration and Customs Enforcement (reprinted in app. II, along with our responses), the department did not explicitly agree or disagree with our conclusions and recommendations. However, it described several actions that it plans to take that are consistent with our recommendations.

The department also provided other principal comments. Specifically, it stated that (1) we failed to consider that the expenditure plan's lack of specific detail is attributable to a number of pending policy decisions and that until these decisions are made it is impossible to provide a detailed plan; (2) the entry exit system security plan and privacy impact assessment are addressed in a draft document entitled *Technical Architecture and Security Requirements*; (3) we concluded that the entry exit program office is in compliance with INS's Information Technology Investment Management (ITIM) process, and therefore the entry exit system is in compliance with OMB requirements; and (4) we failed to consider and incorporate information regarding INS's obligation of supplemental appropriations.

We support the department's planned actions. However, we do not agree with the four other comments. First, as we state in our report, effective congressional oversight and informed decision-making require that the plan disclose a sufficient level and scope of information for the Congress to understand what system capabilities and benefits are to be delivered, by when, and at what cost. They also require that the plan address how these system capability, benefit, schedule, and cost commitments will be met. If this information was not known because of pending policy issues, this uncertainty should have been in the plan, along with a timetable for addressing it. Further, notwithstanding these undecided policy matters, the plan could still have provided more detailed information, such as addressing how the acquisition was to be managed. Second, the draft document that the department provided to us with its comments does not include either a security plan or a privacy impact assessment. Third, our report does not conclude that the entry exit program office is in full compliance with ITIM, and that therefore the entry exit system is in compliance with OMB requirements. Rather, it concludes that it is important for INS to focus on implementing the investment management controls provided for its plan and related documentation. Accordingly, we recommend in our report that the department fully implement planned investment management controls in accordance with relevant federal requirements and guidance. Fourth, we did not include information in our draft report regarding the department's obligation of the supplemental

appropriations because this information was contained in a letter to us dated April 7, 2003, which was 4 days after we provided the department with our draft report. We have since modified this report, as appropriate, to incorporate the information in the April 7, 2003, letter.

The department also provided additional technical comments, which we have incorporated as appropriate in our report.

Background

Securing our nation's borders is a formidable task. The United States shares over 7,500 miles of land border with Canada and Mexico, and it has approximately 95,000 miles of shoreline and navigable waterways to protect. All people and goods that legally enter the United States must come through one of about 300 land, air, or sea ports of entry and must undergo what is referred to as "primary inspection." In fiscal year 2002, INS reported that over 440 million persons passed through primary inspections; approximately 81 percent of these inspections were at land ports of entry (see table 1).

Table 1: Primary Inspections by U.S. Ports of Entry (Fiscal Year 2002)

Type of port	Inspections ^a		Number of foreign national inspections
	Number	Percent	
Sea	12,369,035	3	4,994,879
Air	69,679,190	16	36,678,082
Land	358,373,569	81	237,693,265
Total	440,421,794	100	279,366,226

Source: INS.

Note: GAO analysis of INS data.

^aIncludes U.S. citizens.

Following primary inspection, some persons seeking admission into the United States go through a more detailed, secondary inspection before they can be admitted. In fiscal year 2002, INS reported that about 8 million of the approximately 279 million foreign nationals entering the United States were admitted through secondary inspections (see table 2). INS reported that 738,396 were denied admission.

Table 2: Foreign Nationals Admitted through Primary and Secondary Inspections (Fiscal Year 2002)

Type of inspection	Foreign nationals admitted	
	Number	Percent
Primary	270,371,310	97
Secondary	8,256,520	3
Total	278,627,830	100

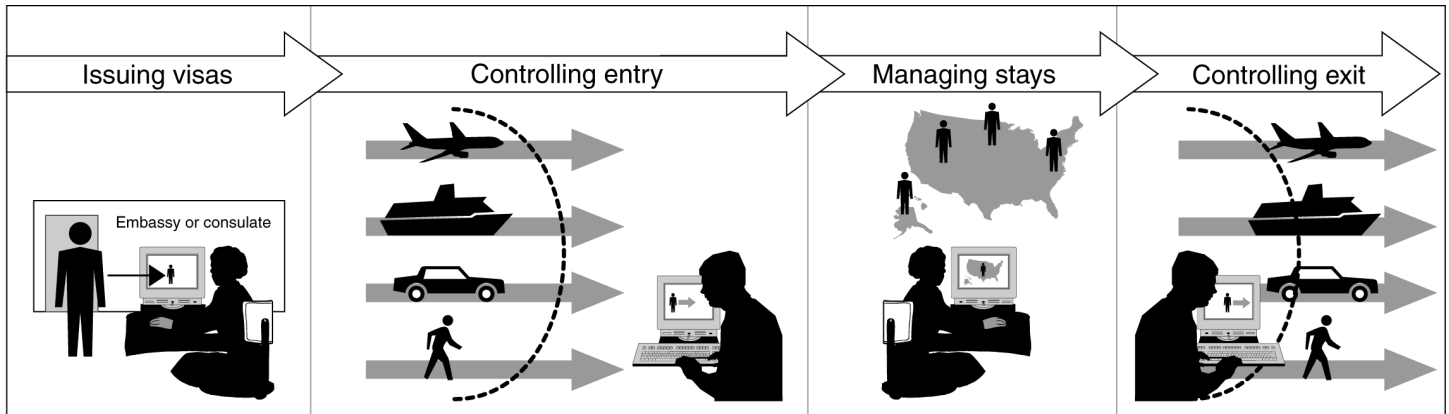
Source: INS.

Note: GAO analysis of INS data.

Overview of the Border Security Process

As we previously reported,⁸ our nation's current border security process for controlling the entry and exit of individuals generally consists of four primary functions: (1) issuing visas, (2) controlling entry, (3) managing stays, and (4) controlling exit. Figure 1 depicts these functions, each of which is described below.

Figure 1: Simplified Diagram of the Border Security Process



Sources: GAO (data), Nova Development Corp. (images).

⁸U.S. General Accounting Office, *Information Technology: Terrorist Watch Lists Should Be Consolidated to Promote Better Integration and Sharing*, [GAO-03-322](#) (Washington, D.C.: Apr. 15, 2003).

Issuing Visas

The visa issuance process begins with the Department of State, which issues immigrant and nonimmigrant visas⁹ to foreign nationals at more than 200 diplomatic consular posts in approximately 180 countries. Officials at these consular posts review visa applications, sometimes interviewing applicants, before issuing a visa. As part of their review of visa applications, the officials run the applicant's name through one of the State Department's watch lists,¹⁰ the Consular Lookout and Support System (CLASS),¹¹ and its Consular Consolidated Database (CCD).¹² If an application is approved, a visa is issued; if an application is rejected, the rejection is recorded in CLASS, and the person's name is electronically forwarded to the Interagency Border Inspection System (IBIS).¹³ The State Department reports that the majority of visa applications are for nonimmigrant travel. Canadian citizens and citizens of countries participating in the Visa Waiver Program¹⁴ who travel to the United States on business or pleasure for a period of 90 days or less¹⁵ are examples of

⁹A nonimmigrant visa authorizes a foreign national to apply for admission to the United States for a specific purpose and time period. Nonimmigrant visas are valid for 3 months to 10 years, depending on the applicant's citizenship and other factors.

¹⁰Watch lists, sometimes referred to as lookout, target, or tip-off systems, are databases that are supported by certain analytical capabilities. The databases contain a wide variety of data; most contain biographical data, such as name and date of birth, and a few contain biometric data, such as fingerprints.

¹¹CLASS is a name check system that contains records of people who may be ineligible to receive a passport or visa. It is populated from a variety of sources, including intelligence, immigration, and child support enforcement data. CLASS also includes information on passports and visas reported lost or stolen.

¹²The Consular Consolidated Database determines whether the applicant has previously applied for a visa or currently has a valid U.S. visa. This database stores information about visa applications, issuances, and refusals. It obtains information about visa cases every 5 to 10 minutes from each consular post and contains about 58 million visa records.

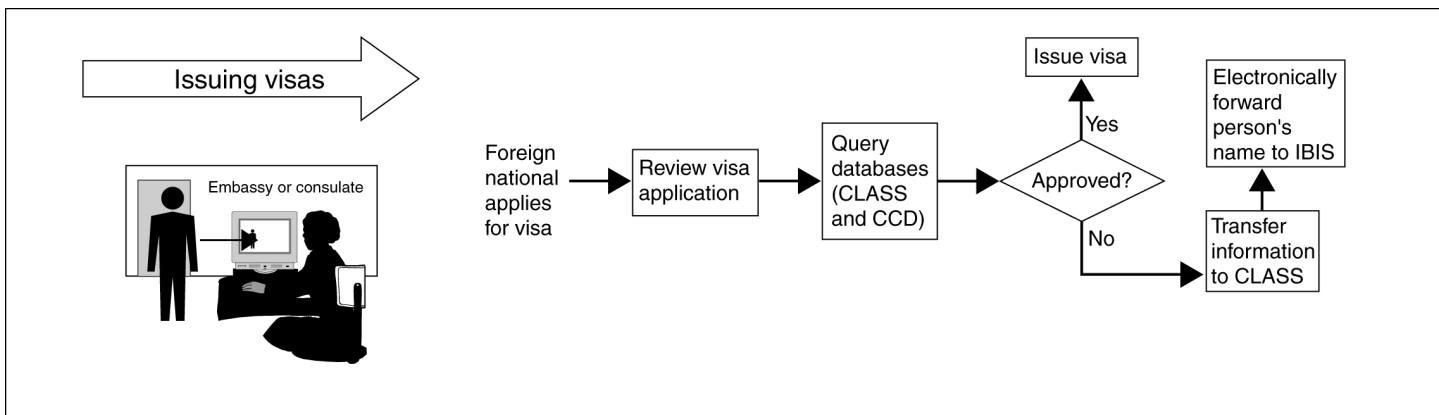
¹³IBIS is a multiagency database of lookout information that alerts inspectors of conditions that may make travelers inadmissible to the United States. It contains data from law enforcement and other agencies with inspection responsibilities at ports of entry, including the Drug Enforcement Administration and the Federal Bureau of Investigation.

¹⁴The Visa Waiver Program permits foreign nationals from designated countries to apply for admission to the United States for a maximum of 90 days as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa. Participating countries are Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

¹⁵Other classes of nonimmigrant aliens who are exempt from visa processing requirements can be found in 8 CFR 212.1.

two classes of noncitizens that are exempt from these processing requirements. Figure 2 depicts the visa issuance process.

Figure 2: Simplified Diagram of the Visa Issuance Process



Sources: GAO (data), Nova Development Corp. (images).

Controlling Entry

Foreign nationals seeking entry into the United States are screened for admission by INS or U.S. Customs Service inspectors at official air, land, or sea ports of entry. Generally, this screening consists of questioning each traveler regarding his or her identity and purpose of visit. The inspector is to review the person’s travel documents and query IBIS to determine whether there is a “lookout” for the person or vehicle. Once the inspector has the necessary information, an admission decision is made. If additional review is necessary, the person is referred to secondary inspection, where a more detailed review of the travel documents, further questioning, and queries of multiple systems are to occur.¹⁶ Travelers who are deemed inadmissible are detained, and they are subject to enforcement actions as required.

¹⁶Additional queries may include the following systems: the Non-Immigrant Information System; the Central Index System; the Computer Linked Application Information Management System; the National Automated Immigration Lookout System; the National Crime Information Center; the Treasury Enforcement Communications System; and the Automated Biometric Identification System, among others.

Arriving foreign nationals must also complete a paper Form I-94, which is an arrival/departure record.¹⁷ For each arrival, the inspector is to review the form for accuracy, and if the foreign national is deemed admissible, the inspector annotates the admission classification¹⁸ and stamps the “Admit Until” date on the form. The foreign national is then given the departure portion of the form for proof of status while in the United States. INS keeps the arrival portion for entry into the Non-Immigrant Information System (NIIS) database.¹⁹

The previously described inspection process may vary, depending on travelers’ nationalities. As of October 2002, the National Security Entry Exit Registration System (NSEERS) program required nonimmigrant foreign nationals over the age of 16 from certain countries to register with INS.²⁰ At the port of entry, these persons are to be fingerprinted, photographed, and interviewed under oath at the time they apply for entry into the United States. The inspector also annotates the Form I-94 with a Fingerprint Identification Number to show that the person has registered. (App. III provides more information on NSEERS, as well as the Visa Waiver Support System, which according to INS officials, are recently implemented systems that will be integrated into the entry exit system.)

The entry control process also varies by type of port of entry. At air and sea ports of entry, commercial carriers are required to submit passenger and crew manifests before arrival. Manifest data are submitted to the

¹⁷The Form I-94 is divided into two parts. The first is an arrival portion, which includes, for example, the nonimmigrant’s name, date of birth, passport number, airline and flight number (if applicable), country of citizenship, and address while in the United States. The second is a departure portion, which includes the name, date of birth, and country of citizenship. Each form contains a unique number printed on both portions of the form for the purposes of recording and matching the arrival and departure records of nonimmigrants.

¹⁸Classifications include passengers under the Visa Waiver Program, passengers in transit, and passengers on a nonimmigrant visa.

¹⁹The Non-Immigrant Information System collects arrival and departure Form I-94 data and reports information on confirmed overstays.

²⁰Temporary foreign visitors (nonimmigrant aliens) who come from certain countries or who meet a combination of intelligence-based criteria are fingerprinted and photographed when they enter the United States and are required to report periodically to INS if their stay exceeds 30 days. Countries currently included under the NSEERS program are Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

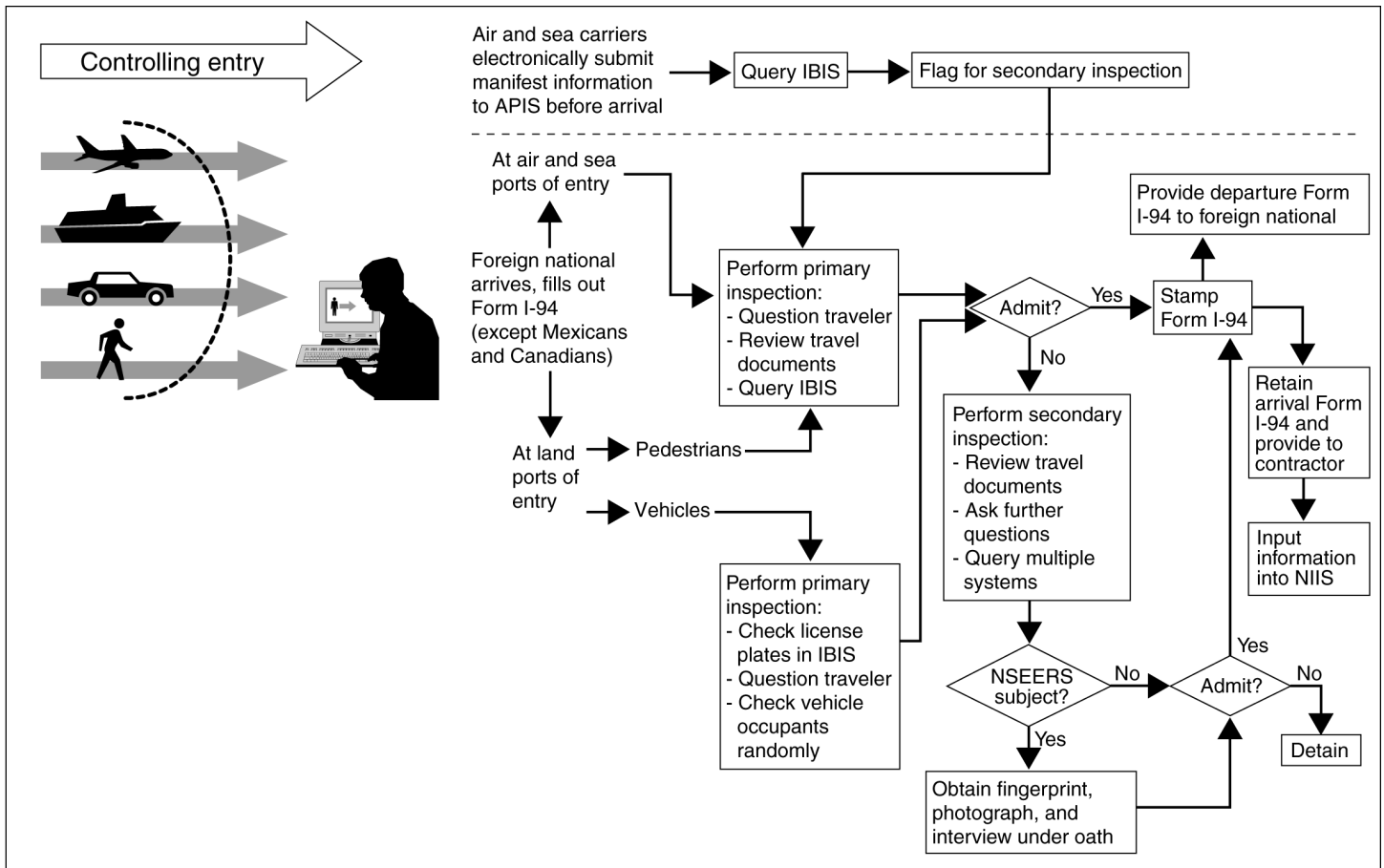
Advance Passenger Information System (APIS)²¹ and include (among other things) the person's full name, date of birth, nationality, and passport number. Using the manifest data, INS inspectors conduct a name check through IBIS before the persons arrive, identifying those who will be subject to secondary inspection.

Land ports of entry differ from air and sea ports of entry in that no requirements for passenger or crew manifests are imposed on commercial carriers. Further, the procedures differ for pedestrians and occupants of vehicles. As a general rule, pedestrians have all travel documents checked, and if IBIS is available, a name search is conducted. (Exceptions to this rule are Canadians, who are not required to have a passport when entering a land port, and Mexicans with a border-crossing card,²² who are not required to present a Mexican passport or a U.S. visa.) For vehicles, license plates are checked through IBIS, and documents and names of the vehicle's occupants are checked randomly or when an inspector has reason to be suspicious. Figure 3 depicts the entry control process.

²¹APIS is designed to electronically collect arrival and departure manifests from commercial carriers.

²²A border-crossing card permits the holder to enter for business or pleasure, stay in the United States for 72 hours or less, and go no farther than 25 miles from the border.

Figure 3: Simplified Diagram of the Entry Control Process



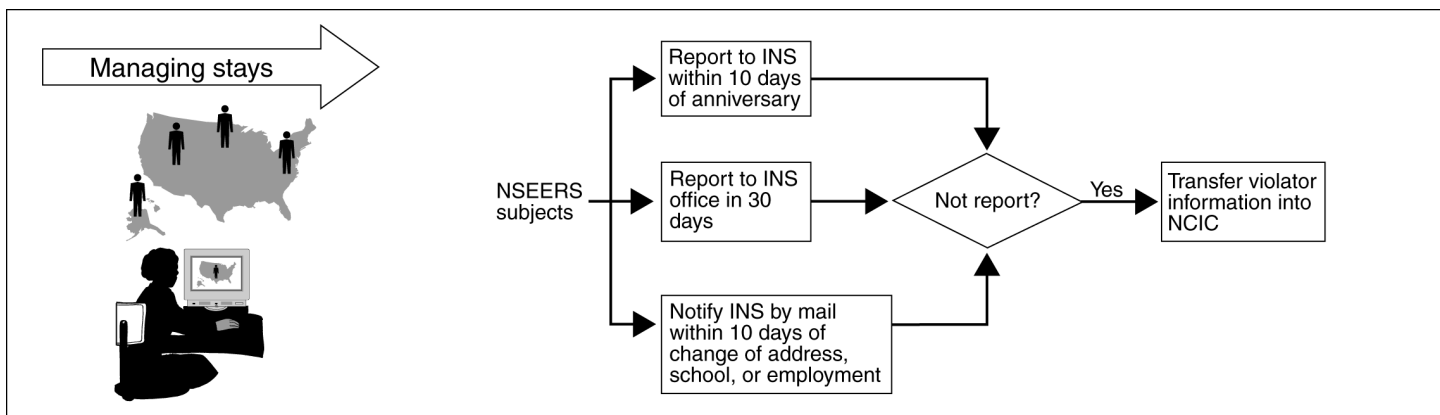
Sources: GAO (data), Nova Development Corp. (images).

Managing Stays

Until recently, foreign nationals admitted into the United States were not actively monitored. However, with the implementation of NSEERS, certain foreign national males over the age of 16 are now required, within 30 days of arrival, to report to an INS office and register, a process that includes providing information consistent with their visas, such as proof of residence and proof of employment. If the foreign national stays in the United States for more than 1 year, he must also report to a designated INS location within 10 days of each registration anniversary. If the foreign national changes his address, school, or employer, he is required to notify INS by mail within 10 days. Those who violate these rules will have their photographs, fingerprints, and other information added to the National

Crime Information Center (NCIC) “wants and warrants” list for enforcement purposes.²³ NSEERS violators who are caught by police are transferred to INS custody for removal or criminal prosecution. Figure 4 depicts the stay management process.

Figure 4: Simplified Diagram of the Stay Management Process



Sources: GAO (data), Nova Development Corp. (images).

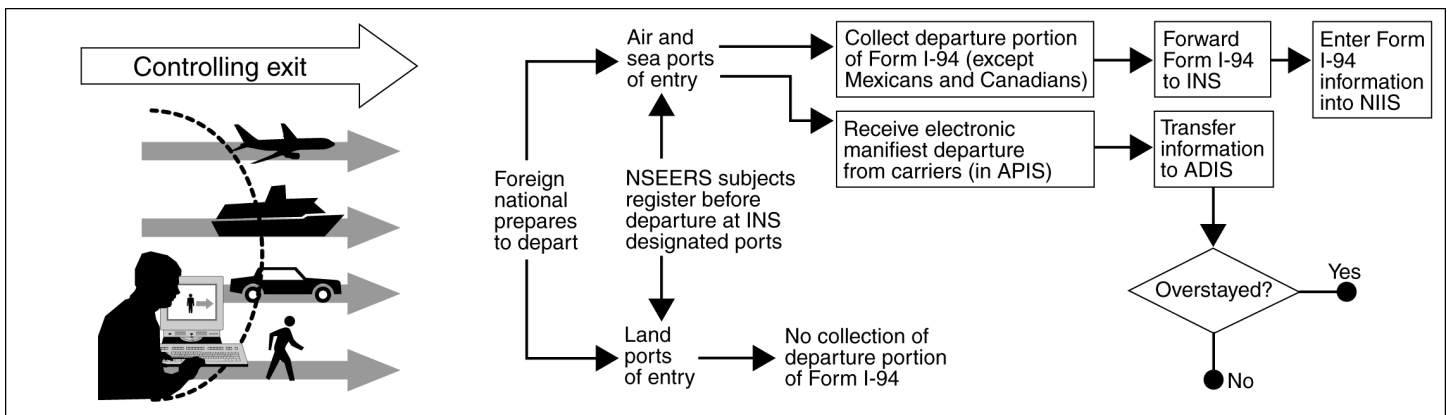
Controlling Exit

At air and sea ports of entry, carriers are responsible for collecting from exiting foreign nationals the departure portions of the Form I-94 and for forwarding them to INS, which in turn sends them to a data entry contractor for manual input into the Non-Immigrant Information System. Carriers are also required to electronically submit to APIS manifest information of passengers leaving the United States from an air or sea port of entry. The departure manifest information is transmitted from APIS to the Arrival Departure Information System (ADIS), which uses name-matching algorithms to match the arrival and departure records and identify persons who have overstayed their authorized visits. At land ports of entry, there is no collection point for the departure portion of the Form I-94. The foreign national is responsible for returning the departure portion, although there is no penalty for not doing so, unless the person is subject to NSEERS requirements. Persons subject to NSEERS must depart the United States from an INS-designated port of entry and report to an INS agent for examination and endorsement of departure. If these persons

²³The National Crime Information Center provides information on wanted persons and criminal histories. Law enforcement officers throughout the United States check this database regularly in the course of traffic stops and routine encounters.

do not report their exit, they become ineligible to return to the United States. The exit control process is depicted in figure 5.

Figure 5: Simplified Diagram of the Exit Control Process



Sources: GAO (data), Nova Development Corp. (images).

Congress Has Specified Entry Exit System Capabilities in Legislation

Legislation defines the capabilities that the entry exit system is to have. The “pre-9/11” laws defining these capabilities are the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA),²⁴ the Immigration and Naturalization Service Data Management Improvement Act of 2000,²⁵ and the Visa Waiver Permanent Program Act.²⁶ The “post-9/11” laws are the USA PATRIOT Act,²⁷ the Aviation and Transportation Security Act,²⁸ and the Enhanced Border Security and Visa Entry Reform Act of 2002.²⁹

Among other things, Section 110 of IIRIRA directed the Attorney General to develop an automated entry exit control system to collect records of departure from every alien leaving the United States and match it with the

²⁴Public Law 104-208 (Sept. 30, 1996).

²⁵Public Law 106-215 (June 15, 2000).

²⁶Public Law 106-396 (Oct. 30, 2000).

²⁷Public Law 107-56 (Oct. 26, 2001).

²⁸Public Law 107-71 (Nov. 19, 2001).

²⁹Public Law 107-173 (May 14, 2002).

alien's record of arrival. It also required that the system provide on-line searching procedures to identify each lawfully admitted nonimmigrant who remains in the United States beyond his or her authorized period.

The Immigration and Naturalization Service Data Management Improvement Act amended Section 110 of IIRIRA by replacing it in its entirety. This act, among other things, requires that the entry exit system integrate arrival and departure information on aliens required under IIRIRA and contained in Department of Justice (including INS) and State Department databases. Further, the act specifies that the system be implemented at all airports and seaports by December 31, 2003; the 50 busiest land ports by December 31, 2004; and all remaining ports no later than December 31, 2005.

The Visa Waiver Permanent Program Act, among other things, requires the Attorney General, no later than October 1, 2001, to develop and implement at airports and seaports a fully automated system to control entry and exit of aliens who enter the United States under the Visa Waiver Program. The act also requires that, by October 1, 2002, inspectors at the ports of entry have access to any State Department or INS photograph and information on whether the alien has been determined to be ineligible to be admitted to the United States or receive a visa. Further, the act requires that visa waiver applicants be checked against lookout (i.e., watch list) systems, and that by October 1, 2007, aliens applying for a visa waiver have a machine-readable passport.

Since September 11, 2001, three additional laws address, among other things, an alien entry exit control system. The USA PATRIOT Act mandates that this system be capable of interfacing with other law enforcement agencies, and that it use biometric technology and tamper-resistant documents. The Aviation and Transportation Security Act requires air carriers to electronically transmit manifest information for all international flight passengers and crew members before landing at a U.S. airport. The Enhanced Border Security and Visa Entry Reform Act further requires the use of biometrics in travel documents by October 26, 2004; it expands the passenger arrival manifest requirement in the Aviation and Transportation Security Act to sea carriers and to air and sea departures; and it requires compliance for both no later than January 1, 2003. Appendix IV provides more information on the legislatively mandated capabilities for an entry exit system.

Overview of the President's Homeland Security Strategy and Department of Homeland Security

In July 2002, the administration issued a national strategy for homeland security.³⁰ This strategy, among other things, aligns and focuses homeland security functions into six mission areas, one of which is border and transportation security.³¹ To better address the issues of border and transportation security, the strategy identifies several initiatives, including

- creating “smart borders” to provide greater security, including the development and deployment of the statutorily mandated entry exit system; and
- ensuring accountability in border and transportation security by consolidating the current border and transportation security agencies under a new department of homeland security.

In November 2002, the Congress passed and the President signed the Homeland Security Act of 2002,³² which established this new Department of Homeland Security (DHS) to provide greater accountability over critical homeland security missions and unity of purpose among the agencies responsible for them.

The administration's national strategy also proposed having a single entity to manage who and what enters the United States. Under the new department, this single entity is the Border and Transportation Security Directorate. Before this, responsibility and accountability for border security were vested primarily with INS, which was part of the Justice Department; the Customs Service, which was part of the Department of the Treasury; the Transportation Security Administration (TSA), which was part of the Department of Transportation; and the Bureau of Consular Affairs, which is part of the State Department. Effective March 1, 2003, DHS merged within its Border and Transportation Security Directorate three of these four agencies—INS, Customs, and TSA. The goal in doing so is to better manage and coordinate port of entry activities, lead efforts to create a border of the future, and secure our nation's transportation systems. Also, the Secretary of Homeland Security has the authority to

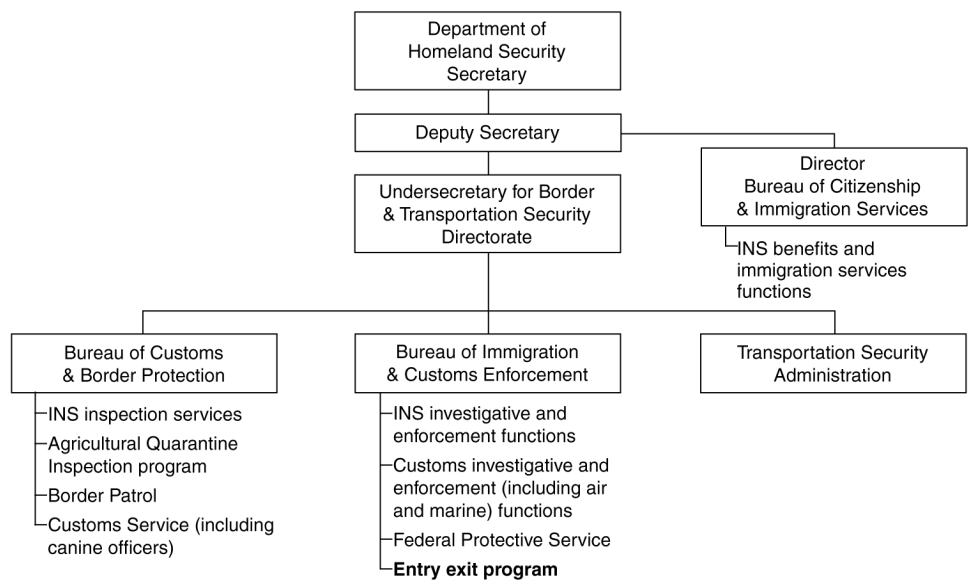
³⁰Office of Homeland Security, *National Strategy for Homeland Security* (Washington, D.C.: July 2002).

³¹The other critical mission areas are intelligence and warning, domestic counterterrorism, protecting critical infrastructure, defending against catastrophic terrorism, and emergency preparedness and response.

³²Homeland Security Act of 2002, Public Law 107-296 (Nov. 25, 2002).

issue regulations regarding the issuance of visas. The regulations will be implemented through the State Department. (See fig. 6 for a partial organization chart of the Border and Transportation Security Directorate.)

Figure 6: Partial DHS Organization Chart Identifying the Border and Transportation Security Directorate



Source: GAO.

Brief Description of the Entry Exit Program

The entry exit program was established to integrate the people, processes, and technologies needed to satisfy the legislative mandates. The program includes each of the four border security process functions: issuing visas, controlling entry, managing stays, and controlling exit. Additionally, the program is intended to cover the people responsible for implementing the process, the technology to support the process, and the physical infrastructure (e.g., vehicle and pedestrian traffic lanes and facilities) needed to support the process.

For fiscal year 2002, the conference report for the first supplemental appropriations act³³ recommended that INS use \$13.3 million in appropriations for the development of an automated entry exit system. The Congress prohibited INS from obligating these funds for the system

³³H.R. Conf. Rep. No. 107-350, at 416 (2001).

until the agency submitted to the Appropriations Committees an expenditure plan (1) that meets the capital planning and investment control review requirements established by OMB, including Circular A-11, part 3; (2) that complies with the acquisition rules, requirements, and guidelines and systems acquisition management practices of the federal government; and (3) that is reviewed by GAO.

On November 15, 2002, INS submitted to its Senate and House Appropriations Subcommittees a one-page plan for spending the \$13.3 million for the entry exit system. In summary, the plan allocated the \$13.3 million to 10 areas, the largest area being contract support for program management activities (\$5.6 million). Other major areas included the design, development, and deployment of the Visa Waiver Permanent Program Act Support System (\$2.1 million); the assessment of facilities at every port of entry along the Mexican and Canadian borders (\$1.4 million); and the development of standards for biometrics identifiers³⁴ (\$2.1 million). Table 3 summarizes INS's entry exit system expenditure plan.

³⁴The National Institute of Standards and Technology (NIST) is to test biometrics and assist in developing standards for biometric identifiers, as required by legislation. The Office of Science and Technology Policy is to assist and advise INS on possible biometric identifiers.

Table 3: Summary of INS's Fiscal Year 2002 Entry Exit System Expenditure Plan

Area of expenditure	Amount
1. Entry exit support contract activities (e.g., evaluating the proposals; developing the concept of operations, business case, and request for proposal)	\$5,554,000
2. Design, development, and deployment of the Visa Waiver Support System	2,050,000
3. Assessment of the current facilities at every land border port along the Canadian and Mexican borders	1,425,000
4. Development of biometrics standards and testing of possible biometric identifiers	2,060,000
5. Prototyping of proposed systems at various ports of entry	863,000
6. IBIS support activities	560,000
7. Joint TSA/Customs/State/INS/Department of Agriculture project with United Airlines to develop an expedited process to inspect returning U.S. citizens	400,000
8. Travel	210,800
9. Entry exit program office operations	159,000
10. Livescan fingerprint units	18,200
Total	\$13,300,000

Source: INS.

Note: GAO analysis of INS data.

In fiscal year 2003, Justice requested \$380 million for the entry exit program—\$362 million in new funding and \$18 million provided in fiscal year 2003 base resources.³⁵ According to INS officials, \$334 million of this amount will be used for facility improvements. In conjunction with the Consolidated Appropriations Resolution, 2003,³⁶ the conference report³⁷ recommended \$362 million for the entry exit program in fiscal year 2003 funds.

In March 2002, INS chartered an Entry Exit Program Team consisting of representatives from INS, Customs, TSA, and the Bureau of Consular Affairs, with INS serving as the program lead; the team reports to an

³⁵According to Justice and OMB officials, the \$18 million requested in base resources reflects prior year funding to INS for several smaller initiatives related to the entry exit system.

³⁶Public Law 108-7 (Feb. 20, 2003).

³⁷H.R. Conf. Rep. No. 108-10, at 623 (2003).

interagency board comprising senior leadership from these four agencies.³⁸
The team is responsible for

- managing program resources (i.e., budgetary planning, formulation, execution, and control);
- reporting to the Congress and other key stakeholders, as necessary; and
- managing the acquisition, including defining and establishing program management controls, developing program plans and baselines, and managing all aspects of the entry exit system life cycle.

As currently envisioned, the program will be placed organizationally within DHS's Bureau of Immigration and Customs Enforcement, which is part of the department's Border and Transportation Security Directorate (see fig. 6), previously mentioned. With the transition to the new department, the program manager also stated that the program's governance and management structure is undergoing change.

As previously noted, the entry exit system is one of three parts of the whole entry exit program—the technologies—the other two parts being people and processes. As planned, the system is to provide automated support in identifying and preventing unlawful persons from entering the United States, as well as managing the stay and exit of those lawfully admitted. To do this, plans indicate that the system is to share vital border control information so as to alert border officials of national security threats. It is also to help coordinate the enforcement of immigration laws for alien overstays.

DHS's Bureau of Immigration and Customs Enforcement plans to acquire the entry exit system through a two-phase competitive acquisition process. The first phase is referred to as a pilot demonstration. In this phase, two or more contractors are to be awarded contracts to develop and pilot test system solutions. Following an evaluation of each pilot system, a contract is to be awarded to the winning contractor for full-scale development and implementation of the entry exit system. According to the entry exit program manager, INS has developed costs and milestones for the system

³⁸ According to the entry exit program manager, the Homeland Security Council's Principals and Deputies Committees make up the external governing body for the entry exit program. The Principals Committee is made up of the major department secretaries, while the deputy secretaries of the departments make up the Deputies Committee.

acquisition. However, INS did not respond to our requests for this information, citing the sensitive nature of the information as its reason.

Fiscal Year 2002 Expenditure Plan Partially Satisfied Legislative Mandate

The Congress limited INS's ability to obligate fiscal year 2002 appropriated funds for the entry exit system until INS submitted to the Appropriations Committees an expenditure plan (1) that meets the capital planning and investment control review requirements established by OMB, including Circular A-11, part 3; (2) that complies with the acquisition rules, requirements, and guidelines and systems acquisition management practices of the federal government; and (3) that is reviewed by us.

INS submitted an expenditure plan to its Senate and House Appropriations Subcommittees on November 15, 2002. This plan and related documentation partially satisfied the first condition and generally satisfied the second condition, and we have satisfied the third with this report. According to the entry exit program manager, INS's efforts to satisfy the two conditions are a by-product of its policies and practices for acquiring information technology (IT) systems, which it is following, and which are aligned with federal capital planning and acquisition requirements and guidance.

However, INS has obligated at least part of the \$13.3 million recommended for the entry exit system before submitting the plan. Since then, INS officials told us that they have de-obligated over \$6.6 million that they had obligated after August 2, 2002,³⁹ and reclassified those obligations to other available sources of base "Enforcement and Border Affairs" fiscal year 2002 funding.

³⁹On August 2, 2002, the Congress passed the supplemental appropriations law (P.L. 107-206), which prohibited INS from obligating funds for the entry exit system until the agency submitted an expenditure plan to the Appropriations Committees that satisfied the conditions under the law mentioned previously.

INS Satisfied Most, but Not All, of OMB's Capital Planning and Investment Control Review Requirements

OMB's IT capital planning and investment control review policies are intended to help agencies achieve performance goals and objectives with minimal risk, lowest life cycle costs, and greatest benefits to the agency's business.⁴⁰ OMB requires, among other things, that agencies establish a process that defines how the agency (1) selects projects included in its IT portfolio; (2) controls these projects to achieve the intended cost, schedule, and performance outcomes; and (3) evaluates IT projects' performance to maintain a positive return on investment. OMB also requires that agencies (1) develop a system acquisition strategy; (2) conduct an alternatives analysis that, among other things, addresses replaced systems savings and a savings recovery schedule; (3) comply with agencies' enterprise architectures⁴¹ in developing and acquiring IT systems; and (4) use a performance-based management system to monitor progress against established project performance goals. Additionally, OMB requires that IT projects (1) ensure that a system security plan is developed and implemented, so that appropriate controls are defined, established, and continually assessed for effectiveness, and (2) perform a system privacy impact assessment, so that relevant privacy issues and needs are understood and appropriately addressed early and continuously in the system life cycle.

While the expenditure plan does not explicitly address OMB's requirements, related INS documents and plans satisfy most, but not all, of the requirements. For example, INS has established a capital planning and investment control process that defines how INS selects, controls, and evaluates its IT projects. This process describes (1) controls used to create the IT portfolio; (2) procedures for measuring projects against their costs, schedule, and benefits; and (3) measures used to determine the IT

⁴⁰OMB Circular A-130, *Management of Federal Information Resources* (Washington, D.C.: Nov. 28, 2000); OMB Circular A-11, part 3, *Planning, Budgeting, and Acquisition of Capital Assets* (Washington, D.C.: July 2000).

⁴¹An enterprise architecture is an essential tool for effectively and efficiently engineering business processes and for implementing and evolving their supporting systems. It consists of systematically derived and captured descriptions—in useful models, diagrams, and narrative—of the mode of operation for a given enterprise. The architecture describes the enterprise's operations in both (1) logical terms, such as interrelated business processes and business rules, information needs and flows, and work locations and users; and (2) technical terms, such as hardware, software, data, communications, and security attributes and performance standards. It provides these perspectives both for the enterprise's current or "as is" environment and for its target or "to be" environment, as well as a transition plan for moving from the "as is" to the "to be" environment. See U.S. General Accounting Office, *Information Technology: Enterprise Architecture Use Across the Federal Government Can Be Improved*, [GAO-02-6](#) (Washington, D.C.: Feb. 19, 2002).

projects' actual return on investment. The process also identifies several decision points for review and approval. For example, approval by INS's Investment Approval Board⁴² of the business case (cost/benefit analysis, risk analysis, and alternatives analysis) is required before the project team defines system requirements. INS has not yet developed a business case for the entry exit program.

Further, INS has developed an entry exit system acquisition strategy. Under this strategy, INS intends to acquire the system in two phases. In the first phase, it plans to award contracts to multiple vendors to develop prototype versions of the system and to demonstrate their capabilities against requirements, on a pilot basis, at a simulated port of entry. In the second phase, INS plans to award a contract to develop, integrate, and implement an operational entry exit system. Additionally, it has developed an alternatives analysis, and, according to the entry exit program manager, INS's fiscal year 2004 Exhibit 300⁴³ for the entry exit program addresses the potential savings associated with replacing existing systems and a schedule for achieving those savings. In addition, preliminary planning documents indicate that INS plans to comply with its enterprise architecture, and that it intends to apply earned value management standards and techniques to monitor and control costs and to measure progress against established performance goals.

However, INS has yet to develop a security plan and privacy impact assessment for the entry exit system, both of which are important to understanding system requirements and ensuring that the proper safeguards are in place to protect system data and resources. According to INS officials, the agency has not developed a security plan and privacy impact assessment because it is too early in the system development life cycle to do so. This is not consistent with system acquisition best practices and federal guidance, which advocate understanding and defining security and privacy requirements both early and continuously in a system's life cycle. Until these important requirements are satisfied, the basis for

⁴²The board serves as the decision-making authority for all investment decision points, serves as the review authority for projects, and oversees the implementation of and adherence to the INS investment process.

⁴³Exhibit 300 is designed to assist OMB during budget review. It includes information that demonstrates compliance with capital planning and investment control policies, and it justifies new or continued funding for major acquisitions by demonstrating, among other things, acquisition planning, risk mitigation and management planning, and measurable benefits.

further entry exit system definition and acquisition will be limited, thereby introducing the risk that security and privacy will not be effectively and efficiently addressed.

INS Generally Satisfied Key Federal Acquisition Rules, Requirements, and Guidelines and Systems Acquisition Management Practices

Federal acquisition rules, requirements, guidelines, and management practices provide an acquisition management framework that is based on the use of rigorous and disciplined processes for planning, managing, and controlling the acquisition of IT resources.⁴⁴ These acquisition management processes are also embodied in published best practices models, such as the Software Acquisition Capability Maturity Model[®] developed by Carnegie Mellon University's Software Engineering Institute (SEI).⁴⁵ SEI's model explicitly defines acquisition process management controls that are recognized hallmarks of successful organizations and that, if implemented effectively, can greatly increase the chances of acquiring software-intensive systems that provide promised capabilities on time and within budget. Key processes include the following:

- *Acquisition planning.* Ensures that reasonable planning for the acquisition is conducted and that all aspects of the total acquisition effort are included in these plans.
- *Solicitation.* Ensures that a request for proposal that delineates a project's requirements is prepared and, consistent with relevant solicitation laws and regulations, that a contractor is selected that can most cost-effectively satisfy these requirements.
- *Requirements development and management.* Establishes and maintains a common and unambiguous definition of software requirements among the acquisition team, the system users, and the development contractor.
- *Project management.* Provides for management of the activities within the project office and supporting contractors to ensure a timely, efficient, and cost-effective acquisition.
- *Contract tracking and oversight.* Ensures that the development contractor performs according to the terms of the contract; needed

⁴⁴See, for example, the Clinger-Cohen Act of 1996 (P.L. 104-106), OMB Circular A-130, and the Federal Acquisition Regulation.

⁴⁵Carnegie Mellon Software Engineering Institute, *Software Acquisition Capability Maturity Model (SA-CMM)*[®], Version 1.03 (March 2002).

contract changes are identified, negotiated, and incorporated into the contract; and contractor performance issues are identified early, when they are easier to address.

- *Evaluation.* Determines whether the acquired products and services satisfy contract requirements before acceptance.

Within these key processes, SEI identifies practices that are needed to effectively execute each process. Among others, these practices include (1) having a written policy, (2) assigning responsibility for the acquisition, (3) developing and adhering to a plan, (4) performing management review activities, and (5) measuring the status of key activities and using these measurements to make decisions.

INS plans generally satisfy SEI's acquisition processes and practices. For example, INS's governing acquisition policy and supporting procedures for acquiring and implementing the entry exit system are provided by INS's Systems Development Life Cycle,⁴⁶ its Information Technology Investment Management process,⁴⁷ and the Federal Acquisition Regulation,⁴⁸ which our analysis shows are generally consistent with SEI's acquisition model. (See app. I for a description of our analysis.) Further, responsibility for acquiring and implementing the entry exit system was assigned to INS (and now to DHS's Bureau of Immigration and Customs Enforcement). INS has developed an acquisition plan that outlines its approach and strategy for acquiring the entry exit system. Additionally, INS has issued a request for information to solicit input from development contractors on the capabilities of their respective commercial products and services to assist in developing system requirements, and it has developed procedures and criteria for evaluating contractor proposals and selecting a contractor to develop the entry exit system. Further, through its Information Technology Investment Management process, INS plans to measure the

⁴⁶The Systems Development Life Cycle specifies development activities to be performed, the products to be generated, and the decision points to determine whether the project is ready for the next phase.

⁴⁷The Information Technology Investment Management process specifies the process and activities for management oversight of IT projects, including decision points for measuring and monitoring progress on IT projects to ensure that they are meeting cost, schedule, and performance goals.

⁴⁸The Federal Acquisition Regulation specifies acquisition activities to be performed and products to be generated.

status and progress of acquisition activities and use this information for investment decision-making.

According to the entry exit program manager, INS has made a commitment to following rigorous and disciplined processes and practices in acquiring the entry exit system because this is what its governing policy and procedures require. If implemented effectively, such processes and practices can minimize the acquisition and deployment risks associated with the entry exit system.

GAO Reviewed Expenditure Plan

On December 19, 2002, we received a copy of the initial expenditure plan that INS submitted to the Congress, and on January 17, 2003, INS provided us with most of the supporting acquisition management documentation we requested. We reviewed the plan and documentation, and the results of our review are provided in this report.

Expenditure Plan Submitted to the Congress after Funds Were Obligated

In addition to requiring the expenditure plan to satisfy the above three conditions, the Congress also limited INS's ability to obligate funds for the entry exit system until INS submitted the plan to the Appropriations Committees. However, INS obligated entry exit system funding before submitting the plan. Specifically, as part of a January 6, 2003, briefing on planned fiscal year 2003 entry exit spending, INS reported to its House Appropriations Subcommittee that, as of September 30, 2002, it had obligated approximately \$9.8 million of the \$13.3 million recommended for the entry exit system to perform tasks described in its expenditure plan. Since then, INS officials told us that they have de-obligated over \$6.6 million that they had obligated after August 2, 2002,⁴⁹ and reclassified those obligations to other available sources of base "Enforcement and Border Affairs" fiscal year 2002 funding.

⁴⁹On August 2, 2002, the Congress passed the supplemental appropriations law (P.L. 107-206), which prohibited INS from obligating funds for the entry exit system until the agency submitted an expenditure plan to the Appropriations Committees that satisfied the conditions under the law mentioned previously.

**Other Observations:
Planned Entry Exit
Capabilities Are
Aligned with
Legislation, but
Future Expenditure
Plans Need to Be
Improved**

Recent legislation has defined the capabilities that the entry exit system is to provide, and INS's preliminary plans show that it intends for the system to provide these capabilities. However, INS's first entry exit system expenditure plan does not adequately disclose material information about the system. Without sufficiently detailed information on system plans and progress, the Congress will be impeded in its efforts to oversee the system and constrained in its ability to provide timely guidance and release of funding.

**Preliminary Plans Provide
for Implementing System
Capabilities Cited in
Legislation**

As discussed in the Background section of this report, various laws have defined the types of capabilities that the entry exit system is to provide. (See app. IV for a more detailed summary of the legislation.) For example, the system must, among other things, (1) collect and match alien arrival and departure data electronically; (2) be accessible to the border management community, including consular officers, federal inspection agents, and law enforcement and intelligence agencies responsible for the identification and investigation of foreign nationals; and (3) support machine-readable, tamper-resistant documents containing biometric identifiers at U.S. ports of entry.

Initial INS plans for the entry exit system are generally aligned with these legislatively directed system capabilities. For example, the operational capabilities for the planned system include, among other things, (1) electronically recording and matching arrivals and departures for the purpose of identifying visa overstays; (2) interoperating with other entities involved in border management, including law enforcement and intelligence agencies; and (3) implementing a biometric standard on all travel documents issued on or after October 26, 2004.⁵⁰ Table 4 provides a list of the high-level operational requirements defined in preliminary system plans, and table 5 provides a detailed comparison to the key legislative requirements.

⁵⁰The biometric standard will be selected by NIST. The USA PATRIOT Act, as amended by the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173 (May 14, 2002), requires NIST to develop and certify a technology standard that can be used to verify the identity of persons applying for a U.S. visa or using a visa to enter the United States.

Table 4. Planned Operational Requirements for Entry Exit System

Requirement number	Description of requirement
1	Record pertinent information before the arrival of persons to the United States, such as visas and immigration petitions and applications.
2	Record the arrival and departure of aliens; record changes in a visitor's status; identify those persons who have remained in the United States beyond their authorized period; and enable the reporting of overstay statistics to Congress.
3	Facilitate identification of lawfully admitted non-U.S. citizens.
4	Enable the biometric standard selected by the National Institute for Standards and Technology and consistent with the International Civil Aviation Organization's standards.
5	Include the biometric standard on all travel documents issued on or after October 26, 2004.
6	Develop a unified workflow that integrates the activities of all agencies supporting border management.
7	Be interoperable with other entities as appropriate, including law enforcement and intelligence agencies.
8	Provide access to, exchange, and integrate alien arrival and departure information that is in an electronic format in the databases of the Departments of Justice and State.
9	Develop a capability to exchange information between existing and future systems among border management agencies (within the requirement of the law) regardless of what agency owns the system.
10	Notify appropriate authorities as required.
11	Provide improved decision support to inspectors, adjudicators, consular officers, and other appropriate personnel, including access to fully integrated lookout information, comprehensive travel document information (including immediate access to nonimmigrant visa and immigrant visa data), and alien overstay alerts.

Source: INS.

Table 5: Key System Capabilities Specified by Legislation Compared with INS’s Planned Operational Requirements

Legislative requirement for entry exit system	INS operational requirement in table 4
The term “integrated entry and exit data system” means an electronic system that <ul style="list-style-type: none"> • provides access to and integrates alien arrival and departure data that are (1) authorized or required to be created or collected under law; (2) in an electronic format; and (3) in a Justice or State Department database, including those created or used at ports of entry and at consular offices; • produces a report of arriving and departing aliens by country of nationality, classification as an immigrant or nonimmigrant, and date of arrival in and departure from the United States; • matches an alien’s available arrival data with the alien’s available departure data; • identifies lawfully admitted nonimmigrants who may have remained in the United States beyond the period authorized by the Attorney General; and • uses available data to permit the Attorney General to generate reports, including (1) number of departure records collected by nationality; (2) number of departure records that were successfully matched to records of arrival, by nationality and classification as an immigrant or nonimmigrant; (3) number of aliens who arrived pursuant to a nonimmigrant visa or the Visa Waiver Program, for whom no matching departure data have been obtained as of the end of the alien’s authorized period of stay, by nationality and arrival date in the United States; and (4) number of lawfully admitted nonimmigrants identified as visa overstays, by nationality. 	2, 3, 8, 11
The entry exit system will be implemented at airports and seaports by December 31, 2003; at the 50 busiest land border ports of entry by December 31, 2004; and at all remaining ports by December 31, 2005.	2, 11
By October 1, 2001, the Attorney General shall develop and implement a fully automated entry exit control system to collect a record of arrival and departure for every alien who arrives and departs by sea or air at a U.S. port of entry and is provided a waiver under the Visa Waiver Program.	2, 3
By October 1, 2002, the system shall enable immigration officers conducting inspections at ports of entry to obtain, with respect to aliens seeking a waiver under the Visa Waiver Program, (1) any photograph of the alien that is contained in the records of the State Department or INS and (2) information on whether the alien has ever been determined to be ineligible to receive a visa or be admitted to the United States.	1, 8, 11
On or after October 1, 2007, an alien applying for U.S. entrance under the Visa Waiver Program must have a valid unexpired passport that meets internationally accepted standards for machine readability.	3
Countries designated to participate in the Visa Waiver Program before May 1, 2000, shall issue machine-readable passports no later than October 1, 2003.	3
By October 1, 2002, no visa waiver may be provided to an alien arriving by air or sea at a port of entry on a carrier unless the carrier is electronically transmitting passenger data to the entry exit system.	2, 3
All Visa Waiver Program applicants must be checked against lookout systems.	1, 3, 7
Not less than 1 hour before arrival at port of entry, signatory aircraft transporting Visa Waiver Program aliens must electronically furnish the passenger data required by regulations.	2, 3
The system shall contain sufficient data to permit the Attorney General to calculate, for each Visa Waiver Program country and each fiscal year, the portion of nationals of that country who arrive under the program at air and sea ports of entry but for whom no record of departure exists, expressed as a percentage of the total number of such visa waiver aliens for the particular country.	2
System shall maintain, for a minimum of 10 years, information about each application for admission made by an alien seeking a waiver under the Visa Waiver Program.	1, 11
Focus of system development shall be (1) on the use of biometric technology and (2) on tamper-resistant documents readable at ports of entry.	4, 5

Legislative requirement for entry exit system	INS operational requirement in table 4
System must be accessible to (1) all consular officers responsible for visa issuance, (2) all federal inspection agents at all U.S. border inspection points, and (3) all law enforcement and intelligence responsible for investigation or identification of aliens.	1, 6, 7, 9, 10, 11
The entry exit system must be able to interface with law enforcement databases for use by federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States.	7, 9, 10
No later than October 26, 2004, the Secretary of State and the Attorney General shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometrics.	4, 5, 8
In addition to the requirement for biometric identifiers, name-search capacity and support must also be implemented between 18 months and 4.5 years of enactment.	2, 11
Not later than October 26, 2004, the Attorney General and the Secretary of State shall install at all U.S. ports of entry equipment and software to allow biometric comparison and authentication of all U.S. visas and other travel and entry documents issued to aliens.	4, 5, 8
Not later than January 1, 2003, arrival and departure manifests must be electronically provided for each passenger (including crew members and any other occupants) for air and sea carriers at port of entry. The manifest shall include (1) complete name; (2) date of birth; (3) citizenship; (4) sex; (5) passport number and country of issuance; (6) country of residence; (7) U.S. visa number, date, and place of issuance, where applicable; (8) alien registration number, where applicable; (9) U.S. address while in the United States; and (10) other information the Attorney General and the Secretaries of State and the Treasury determine necessary for the identification of persons, for the enforcement of immigration laws, and to protect safety and national security.	2, 3, 6, 11
Upon request, information provided to the Department of Transportation or the U.S. Customs Service may be shared with other federal agencies for the purpose of protecting national security.	6, 7, 8, 9, 10, 11

Sources: Section 110, Public Law 104-208 (Sept. 30, 1996); Public Law 106-215 (June 15, 2000); Public Law 106-396 (Oct. 30, 2000); Public Law 107-56 (Oct. 26, 2001); Public Law 107-71 (Nov. 19, 2001); and Public Law 107-173 (May 14, 2002).

Note: GAO analysis of cited legislation and INS entry exit system operational requirements.

System Acquisition Commitments and Progress Need to Be Addressed in Future Expenditure Plans

The legislative requirement to submit an expenditure plan for the entry exit system to the Appropriations Committees is intended to provide lawmakers with a sufficient understanding of the system acquisition to permit effective oversight and to allow for informed decision-making about the use of appropriated funds. For this to occur, however, our prior experience in working with the Congress and other agencies in developing and implementing expenditure plans shows that these plans need to disclose a sufficient level and scope of information for the Congress to understand what system capabilities and benefits are to be delivered, by when, and at what cost, and what progress is being made against the commitments that were made in prior expenditure plans. Further, our experience shows that the plans should disclose how the acquisition will be managed to provide reasonable assurance that system capability, benefit, schedule, and cost commitments will be met. In effect, the expenditure plans can be viewed as contractual arrangements with the committees. Such treatment is consistent with expenditure planning

precedents set with the Internal Revenue Service and the former U.S. Customs Service on their respective system modernization programs.⁵¹

INS's first expenditure plan does not contain the level and scope of information needed for the Congress to understand its plans and commitments relative to system capabilities, benefits, schedules, and costs. More specifically, this first plan only identifies general "areas of expenditure" and associated funding amounts (see table 6 for the verbatim text of the plan as submitted). According to INS officials, this is because the expenditure plan was developed on the basis of Justice Department guidance, which did not require more detailed information. However, they said that future plans will include more detailed and complete information on system capabilities, benefits, schedules, and costs, but they did not provide supporting documentation or specific details. Without this level of detail, the Congress will be denied the information needed to allow it to oversee plans and progress on the system.

Table 6: Verbatim Text of INS Entry Exit System Expenditure Plan as Submitted to the Congress

Name	Funding	Spend plan	Description
CT Supplemental	\$13,300,000		
Entry Exit Support Contract		\$5,554,000	Entry Exit Support Contract—A contractor will assist the INS in developing the Request for Proposal (RFP) for the Entry Exit System. The contractor will also assist INS in evaluating the proposals, developing the Concept of Operations and the Business Case, and all requirements under Office of Management and Budget Circular A-11, Part 7. The contractor will also assist the INS in overseeing the design and development of the Entry Exit System.
Interagency Agreement with the National Institute for Standards and Technology (NIST)		\$1,000,000	Interagency Agreement (IAA) with the National Institute for Standards and Technology (NIST)—This IAA requires NIST to test biometrics and to assist the Attorney General and Secretary of State to develop standards for biometrics identifiers as required by the PATRIOT Act and the Enhanced Border Security Act.
Interagency Agreement with the White House Office of Science and Technology (Biometrics)		\$1,060,000	IAA with the White House Office of Science and Technology—This IAA is to contract with a biometrics expert to assist and advise the Entry Exit Office on possible biometrics identifiers.
Travel		\$210,800	

⁵¹See, for example, U.S. General Accounting Office, *Customs Service Modernization: Third Expenditure Plan Meets Legislative Conditions, but Cost Estimating Improvements Needed*, [GAO-02-908](#) (Washington, D.C.: Aug. 9, 2002) and *Business Systems Modernization: IRS Needs to Better Balance Management Capacity with Systems Acquisition Workload*, [GAO-02-356](#) (Washington, D.C.: Feb. 28, 2002).

Name	Funding	Spend plan	Description
CT Supplemental	\$13,300,000		
Facility Port Assessment		\$1,425,000	Port Facility Assessment—This is an assessment of the current facilities present at every land border port along the Canadian and Mexican borders.
Entry Exit Program Office Operations		\$159,000	
Visa Waiver Permanent Program Act (VWPPA) Task		\$2,050,000	Visa Waiver Permanent Program At (VWPPA) Task—This is the design, development and deployment of the system that will record the arrival and departure of all Visa Waiver visitors arriving and departing through air and sea ports-of-entry.
Interagency Agreement with U.S. Customs Service (USCS)—(IBIS)		\$560,000	
Livescan Fingerprint Units		\$18,200	
Entry/Exit System Prototyping		\$863,000	E/E System Prototyping—This is the prototyping of proposed systems at various ports-of-entry that will culminate in the award of a vendor to build the entry exit system.
Transportation Security Administration (TSA) Prototype test at Dulles International Airport (IAD)		\$400,000	Transportation Security Administration (TSA) Prototype Test—This is a joint TSA/USCS/Department of State/INS/Department of Agriculture project with United Airlines to develop an expedited process to inspect returning US citizens.
Total	\$13,300,000	\$13,300,000	

The Entry Exit Program Manager states that to the best of his knowledge INS has complied with all acquisition rules, requirements, guidelines, and system acquisition management practices of the Federal Government.

Source: INS.

Conclusions

The immense importance of the entry exit system to the security of our nation’s borders is undeniable, as is the need to acquire and implement this system effectively and efficiently. This criticality is a major reason that the Congress placed limitations on the use of entry exit system funding until the Congress has been assured, through the submission of a high-quality plan, that the system is being managed effectively.

INS partially met the legislative conditions that the Congress placed on its use of fiscal year 2002 entry exit system funding. However, it is important that DHS promptly address certain capital planning and investment control issues—security and privacy—and that the Congress be given the opportunity to exercise its intended level of expenditure plan oversight before funds are obligated. It is equally important that future expenditure plans disclose sufficient information to permit meaningful congressional understanding and oversight of the system. While this lack of detail is a material limitation in the first plan, it will become even more problematic in the future: as the magnitude and complexity of the entry exit system acquisition increases in fiscal year 2003 and beyond, so will the importance of creating plans with the appropriate level and scope of information.

Of particular significance going forward will be how effectively DHS implements the system investment and acquisition controls provided for in the first plan and related documentation. Therefore, it is important that future plans disclose project information of sufficient level and scope about (1) what system capabilities and benefits are to be delivered, by when, and at what cost; (2) how well DHS is progressing against the commitments that it made in prior expenditure plans; and (3) how the acquisition is being managed to provide reasonable assurance that the system capability, benefit, schedule, and cost commitments will be met. This approach to expenditure planning for congressional oversight has worked successfully with other federal agencies and the Congress.

Recommendations for Executive Action

To help ensure the effective management and acquisition of the entry exit system, we recommend that the Secretary of Homeland Security, through whatever entry exit program governance structure is established, direct the entry exit program manager to ensure that planned investment and acquisition management controls, including the development of a business case, are fully implemented in accordance with recognized best practices and relevant federal requirements and guidance. At a minimum, we recommend that the Secretary's direction include having the entry exit program manager immediately develop and begin implementing a system security plan. At the same time, we recommend that the Secretary have the program manager perform a privacy impact analysis and use the results of this analysis in near-term and subsequent system acquisition decision-making. Further, in light of INS's recent transition to the new department and potential changes to system investment and acquisition controls provided for in the first plan, we recommend that controls in the areas of acquisition planning, solicitation, requirements management, project management, contract tracking and oversight, and evaluation be implemented in accordance with SEI guidance.

Additionally, we recommend that the Secretary ensure that future expenditure plans (1) be provided to the department's Senate and House Appropriations Subcommittees in advance of entry exit system funds being obligated and (2) fully disclose what entry exit system capabilities and benefits are to be delivered, by when, and at what cost, and how it intends to manage the acquisition to provide reasonable assurance that these system capability, benefit, schedule, and cost commitments will be met.

Agency Comments and Our Evaluation

In written comments on a draft of our report signed by DHS's Assistant Secretary, Bureau of Immigration and Customs Enforcement (reprinted in app. II, along with our responses), the department did not explicitly agree or disagree with our conclusions and recommendations. However, the department described actions that it plans to take that are consistent with our recommendations, including developing and implementing a system security plan, developing system management controls, providing future expenditure plans to the Appropriations Subcommittees before obligating any funds, and specifying system capabilities and benefits in future plans. We support these planned actions.

The department provided other principal comments. First, it stated that we failed to consider that the lack of specific detail in the fiscal year 2002 expenditure plan is attributable to a number of pending policy decisions. Second, it stated that it had addressed the development of a system security plan and privacy impact assessment and provided a draft document entitled *Technical Architecture and Security Requirements* that it said addressed these issues. Third, it commented that we concluded that the entry exit program office is in compliance with INS's ITIM, and therefore the entry exit system is in compliance with OMB requirements. Fourth, it said we failed to consider and incorporate information regarding its obligation of supplemental appropriations.

We do not agree with these four comments. First, as we state in this report, the legislative requirement to develop an expenditure plan is intended to provide lawmakers with a sufficient understanding of the system acquisition to permit effective oversight and informed decision-making about the use of appropriated funds. For this to occur, the plan needs to disclose a sufficient level and scope of information for the Congress to understand what system capabilities and benefits are to be delivered, by when, and at what cost. The plan also needs to disclose what progress is being made against the commitments that were made in prior expenditure plans, as well as how the acquisition will be managed to provide reasonable assurance that system capability, benefit, schedule, and cost commitments will be met. To the extent that this information was not known because of pending policy issues, these issues should have been explained and a timetable for addressing them included in the plan. Notwithstanding these undecided policy matters, the plan could have provided more detailed information. For example, it could have addressed how the acquisition was to be managed.

Second, the draft document that the department provided with its comments does not satisfy relevant federal guidance governing a security

plan and a privacy impact assessment.⁵² While the document acknowledges the need to develop the plan and conduct the assessment, and the document describes high-level security requirements, it does not include, for example, rules of behavior for individuals who access the system and the consequences for violating those rules; methods for identifying, appropriately limiting, and controlling interconnections with other systems; and procedures for periodically reviewing the effectiveness of security controls. Similarly, the document does not include an assessment of the privacy implications of personal information to be collected and maintained by the system.

Third, while we state in this report that INS's ITIM process generally satisfies OMB's requirement to establish a process that defines how the agency selects, controls, and evaluates its IT projects, we do not state that the program office is in full compliance with the ITIM process, and that therefore the entry exit system is in compliance with OMB requirements. Rather, we conclude that, in going forward, it is important that INS focus on implementing the investment management controls provided for the plan and related documentation. Accordingly, we recommend that DHS fully implement planned investment management controls in accordance with relevant federal requirements and guidance.

Fourth, we did not include in our draft report the information that the department provided regarding its obligation of the supplemental appropriations because the department provided this information to us in a letter dated April 7, 2003. We sent our draft report to the department for comment on April 3, 2003, before we received the department's letter. We have since modified this report, as appropriate, to incorporate the information in the April 7, 2003, letter.

The department also provided additional technical comments, which we have incorporated as appropriate into this report.

⁵²OMB Circular A-130, Revised (Transmittal Memorandum No. 4), Appendix III, "Security of Federal Automated Information Resources" (Nov. 28, 2000); National Institute of Standards and Technology, *Guide for Developing Security Plans for Information Technology Systems*, NIST Special Publication 800-18 (December 1998); OMB Circular A-11, part 3, *Planning, Budgeting and Acquisition of Capital Assets* (Washington, D.C.: July 2000).

We are sending copies of this report to interested congressional committees. We are also sending copies to the Secretary of Homeland Security, the Director of the Office of Management and Budget, and the Secretary of State. We will also send copies to others upon request. In addition, copies will be available at no charge on our Web site at www.gao.gov.

Should you or your offices have questions on matters discussed in this report, please contact me at (202) 512-3439. I can also be reached by E-mail at hiter@gao.gov. An additional GAO contact and staff acknowledgments are listed in appendix V.

A handwritten signature in black ink that reads "Randolph C. Hite". The signature is fluid and cursive, with the first name being the most prominent.

Randolph C. Hite
Director, Information Technology Architecture
and Systems Issues

Appendix I: Objectives, Scope, and Methodology

The Congress limited the ability of the Immigration and Naturalization Service (INS) to obligate funds for the entry exit system until INS submitted an expenditure plan (1) that meets the capital planning and investment control review requirements established by the Office of Management and Budget (OMB), including Circular A-11, part 3; (2) that complies with the acquisition rules, requirements, and guidelines and systems acquisition management practices of the federal government; and (3) that is reviewed by us.¹ To satisfy our legislative mandate, our objectives were to review INS's expenditure plan to (1) determine whether the plan satisfied the legislative conditions and (2) provide observations about the expenditure plan and INS's management of the entry exit system. Our review focused not only on the plan, but also on related system documentation and plans.

To determine whether INS's expenditure plan satisfied the legislative conditions, we first identified and analyzed relevant federal guidance, such as OMB's investment control review requirements and guidelines² and the Federal Acquisition Regulation (FAR). We then reviewed INS's expenditure plan and related documentation, such as entry exit planning documents (i.e., concept paper, concept of operations, business case, cost-effectiveness study, and feasibility study); visa waiver support system functional requirements, system design, and interface control documents; and the concept of operations for the National Security Entry Exit Registration System (NSEERS). We also interviewed the entry exit program team program manager and other INS and Department of Justice officials to determine what INS is doing to satisfy the legislative conditions. To specifically address the legislative conditions, we did the following:

- To determine whether INS's expenditure plan met OMB's capital planning and investment control review requirements, we reviewed entry exit planning documents and INS's procedures for managing information technology (IT) investments.³ We then compared the planning documents

¹2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States, Public Law 107-206 (Aug. 2, 2002).

²OMB Circular A-130, *Management of Federal Information Resources* (Washington, D.C.: Nov. 28, 2000) and OMB Circular A-11, part 3, *Planning, Budgeting, and Acquisition of Capital Assets* (Washington, D.C.: July 2000).

³INS, *Information Technology Investment Management Process and Procedure Guide*, Version 1.0 (December 2001).

with OMB requirements to identify whether any variances existed. We discussed reasons for variances with the entry exit program manager.

- To determine whether INS's plan complies with federal acquisition rules, requirements, and guidelines and systems acquisition management practices, we reviewed INS's policies and procedures for governing system acquisition efforts, such as its System Development Life Cycle⁴ and IT investment management guidelines. We then identified and reviewed the acquisition management best practices model⁵ developed by the Software Engineering Institute (SEI), which many federal agencies have adopted as a benchmarking tool for acquiring software-intensive systems in a manner that comports with federal acquisition rules, requirements, and guidelines. Next, we compared the primary components of INS's System Development Life Cycle and its investment management procedures with the components of SEI's model to determine whether any variances existed. The components addressed in SEI's model were acquisition planning, solicitation, requirements development and management, project management, contract tracking and oversight, and evaluation. Because the entry exit program manager stated that INS was following the requirements of the FAR in acquiring the entry exit system, we also compared selected sections of the FAR⁶ (e.g., acquisition planning, and contract negotiation and administration) with SEI's model. Our comparative analysis focused on whether key components of the SEI model were provided for in the policies and procedures that INS was following or intended to follow; it did not include evaluating the quality of INS's policies and procedures.

To identify observations about the expenditure plan and INS's management of the entry exit system, we first identified system

⁴INS, *Systems Development Life Cycle Manual*, Version 6.0 (Apr. 5, 2002).

⁵Carnegie Mellon Software Engineering Institute, *Software Acquisition Capability Maturity Model (SA-CMM[®])*, Version 1.03 (March 2002).

⁶Specifically, we reviewed Part 1 (Federal Acquisition Regulations System), Part 7 (Acquisition Planning), Part 11 (Describing Agency Needs), Part 15 (Contracting by Negotiation), and Part 42 (Contract Administration and Audit Services).

capabilities mandated in the applicable legislation.⁷ Next, we identified and reviewed the entry exit system's planned operational requirements and mapped the planned requirements to the legislatively mandated system capabilities to identify any variances. We also compared INS's expenditure plan with those of two other agencies that have been required to submit expenditure plans to the Congress (the Internal Revenue Service and the U.S. Customs Service). We interviewed INS officials about plans for providing information regarding the system's benefits, schedules, and costs in future expenditure plans.

The scope of our work was based on INS's policies and procedures before the transition to the Department of Homeland Security.

We conducted our work at INS headquarters in Washington, D.C., from September 2002 through March 2003 in accordance with generally accepted government auditing standards.

⁷Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208 (Sept. 30, 1996); Immigration and Naturalization Service Data Management Improvement Act of 2000, Public Law 106-215 (June 15, 2000); Visa Waiver Permanent Program Act, Public Law 106-396 (Oct. 30, 2000); Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56 (Oct. 26, 2001); Aviation and Transportation Security Act, Public Law 107-71 (Nov. 19, 2001); and Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107-173 (May 14, 2002).

Appendix II: Comments from the Department of Homeland Security

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Homeland Security
Bureau of Immigration and Customs Enforcement

HQOIA 110/8.2-C

Office of the Assistant Secretary

425 I Street NW
Washington, DC 20536

MAY 07 2003

Randolph C. Hite
Director, Information Technology Architecture
and Systems Issues
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Hite:

On April 3, 2003 the General Accounting Office (GAO) presented the Bureau of Immigration and Customs Enforcement (ICE) with its draft report GAO-03-563, entitled *Information Technology: Homeland Security Needs to Improve Entry Exit System Expenditure Planning*. As of April 29, 2003, the Entry Exit System was renamed U.S. Visitor and Immigrant Status Indication Technology system (U.S. VISIT), as such this letter will refer to the former Entry Exit System by its current name U.S. VISIT. ICE appreciates the opportunity to comment on the draft report

In a joint effort with the Department of State, the Department of Transportation, and the Department of the Treasury, the Department of Homeland Security is vigorously pursuing the implementation of the U.S. VISIT. The U.S. VISIT was designed to assist in monitoring the arrivals and departures of foreign nationals to the United States. Our efforts in establishing a U.S. VISIT program are an important element of controlling our borders and collecting information on the movement of aliens in, through, and out of the United States. ICE has discussed these efforts at length with the GAO representatives.

This letter serves as ICE's response to certain contextual, technical, historical, and conceptual issues that were portrayed inaccurately in the draft report. The comments are as follows:

During the course of the GAO review, the Department of Homeland Security (DHS), formerly the Immigration and Naturalization Service (INS) under the Department of Justice, was in the planning stages of developing a business case, concept of operations, risk assessment, and other necessary requirements for the capital investment planning related to U.S. VISIT. According to the GAO draft report, the INS has not satisfied two Office of Management and Budget (OMB) requirements: (1) having a system security plan for U.S. VISIT, and (2) assessing

See comment 1.

Mr. Randolph C. Hite
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the system's impact on the privacy of individuals. The development of a system security plan, along with assessing the privacy impact of the system, are significant matters to DHS. Consequently, the U.S. VISIT program office has prepared a draft document entitled *Technical Architecture and Security Requirements*, addressing those specific issues. (see attachment)

ICE will complete a system security plan for U.S. VISIT in accordance with the requirements for capital investment planning. The USA PATRIOT Act, Pub L. 107-56 (2001), states that "[t]he entry exit system must be able to interface with law enforcement databases to be used by federal law enforcement" To meet this statutory requirement, the program office plans to integrate several existing databases within DHS. Since all of these existing databases have been operational for several years, each one has a system security plan already in place. In framing the system security plan for U.S. VISIT, the program office intends to integrate these various existing system security plans. The program office recognizes that the development of the system security plan for U.S. VISIT not only involves integrating these existing systems, but also includes making certain modifications to ensure that the system's requirements and capabilities are met.

In addition to developing and implementing a system security plan, controls in the areas of acquisition planning, project management, contract oversight, and evaluation will follow the Software Acquisition Capability Maturity Mode (SA-CMMI). The program office will provide the appropriate House and Senate appropriation subcommittees with U.S. VISIT capabilities and benefits that are anticipated to be delivered by the system. The program office will also ensure that expenditure plans are furnished to these subcommittees in advance of obligating entry exit funds.

According to the GAO draft report, the INS' first U.S. VISIT expenditure plan does not adequately describe detailed material information about the system, which consequently will impede Congressional efforts to oversee the system, provide timely guidance, and release funding for the project. In reaching this conclusion, the draft report fails to consider that the lack of specific detail is attributable to a number of policy decisions that are pending, all of which directly impact the features of the system. Some of these pending issues include whether biometrics will be captured and used for all persons entering and exiting the United States; whether official travel or identity documents will be required for all persons who enter and exit the country, including citizens of Canada and the United States; and whether exit control will consist of law enforcement queries and capturing biographic data, or rather consist of biometrics and direct observation to confirm that the individual physically departs the United States. Until these policy decisions are made, it is not possible to provide a specifically detailed expenditure plan. Once these decisions have been made, the expenditure plan will contain the necessary specific material information.

The GAO draft report states that INS has either implemented or plans to implement most of the OMB capital planning and investment control review requirements. This finding is based on the reasoning that the former INS' Information Technology Investment Management (ITIM)

See comment 2.

See comment 3.

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See comment 4.

process meets OMB requirements, and since the program office is in compliance with ITIM process, U.S. VISIT must be in conformity with OMB requirements. The ITIM process is managed by Strategic Information and Technology Development (SITD). The SITD office provides guidance and development for the Exhibit 300, business case, and other ITIM requirements. While SITD staff members have provided input and guidance on the development of the Exhibit 300 and business case, an entry exit business case has *not* been submitted to the Investment Approval Board (IAB) for consideration. The Exhibit 300 that the program office submitted for OMB review does not constitute an ITIM business case. Thus, at the present time, the entry exit business case has not been submitted through the ITIM process. Once the entry exit business case and other relevant documents are finalized, the program office will submit these documents through the ITIM process.

See comment 5.

The ITIM records do reflect that documentation pertaining to the two related systems initiatives referenced in the draft report, the Visa Waiver Permanent Program Act Support System and the National Security Entry Exit Registration System, were submitted to the IAB and received various approvals through the ITIM expedited counter-terrorism process.

See comment 6.

The GAO draft report contains inaccurate information relating to the legislation impacting U.S. VISIT. According to the GAO draft report, DHS is required to meet the legislative mandates contained in the original version of section 110 of Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104-208 (1996). Specifically, section 110 required an automated entry exit system that recorded the arrival and departure of "every alien." This version of section 110 is no longer valid law. The Data Management Improvement Act (DMIA) of 2000, Pub. L. 106-215 (2000), replaced section 110 in its entirety. DMIA focuses principally on the requirement to integrate all existing alien arrival and departure data that is maintained in Department of Justice and Department of State systems. The requirement that every alien's arrival and departure must be recorded is no longer applicable. As a matter of policy, DHS is examining the possibility and manner in which additional alien arrival and departure data can be collected.

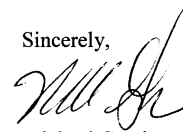
See comment 7.

Additionally, the draft report fails to consider and incorporate the information in the DHS/ICE letter to GAO counsel dated April 7, 2003, regarding the obligation of appropriations from the first Counter-Terrorism (CT) Supplemental Appropriations Act, Pub. L. 107-117. As drafted, the report states different figures for the total amounts obligated than described in the letter to GAO. The report also indicates that all of the CT obligations were de-obligated. This information is inaccurate. As explained in the April 7, 2003 letter, only approximately \$6.6 million was de-obligated and reclassified. This is the amount of funds that were obligated or expended after August 2, 2002, the date that the legislative conditions on the Entry Exit CT funding became effective in Pub. L. 107-8206 (2002).

Mr. Randolph C. Hite
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Thank you again for the opportunity to respond to the draft report. Should you have any questions, please contact Kathleen Stanley, Audit Liaison, at (202) 514-8800.

Sincerely,



Michael Garcia
Assistant Secretary
Bureau of Immigration and
Customs Enforcement

The following are GAO's comments on the Department of Homeland Security's letter dated May 7, 2003.

GAO Comments

1. We agree that the development of a system security plan and privacy impact assessment of the system is a significant matter. We also acknowledge that on May 6, 2003, the department provided us with a draft document entitled *Technical Architecture and Security Requirements*. However, we reviewed the document and found that it does not include information consistent with a security plan and privacy impact assessment. The Office of Management and Budget (OMB) and the National Institute of Standards and Technology (NIST) have issued security planning guidance.¹ In general, this guidance calls for developing risk-based security plans that (1) provide an overview of system security requirements, (2) describe the controls in place or planned for meeting requirements, and (3) define responsibilities and expected behavior for all individuals who access the system. The draft document provided by the department acknowledges the need to address but does not include many of these security plan elements, such as rules of behavior for individuals who access the system and the consequences for violating those rules; methods for identifying, appropriately limiting, and controlling interconnections with other systems; and procedures for periodically reviewing the effectiveness of security controls. In addition, it does not, for example, describe the specific controls in place or planned to address requirements or delineate responsibilities and the expected behavior of individuals who access the system. Similarly, the document does not include an assessment of the privacy implications of personal information to be collected and maintained by the entry exit system.
2. We disagree that we failed to consider that the lack of specific detail in the fiscal year 2002 expenditure plan is attributable to a number of policy decisions that are pending. As we state in this report, the legislative requirement to develop an expenditure plan is intended to provide lawmakers with a sufficient understanding of the system acquisition to permit effective oversight and to allow for informed decision-making about the use of appropriated funds. For this to

¹Office of Management and Budget Circular Number A-130, Revised (Transmittal Memorandum No. 4), Appendix III, "Security of Federal Automated Information Resources" (Nov. 28, 2000); National Institute of Standards and Technology, *Guide for Developing Security Plans for Information Technology Systems*, NIST Special Publication 800-18 (December 1998).

occur, the plan needs to disclose a sufficient level and scope of information for the Congress to understand what system capabilities and benefits are to be delivered, by when, and at what cost, and what progress is being made against the commitments that were made in prior expenditure plans. Further, the plan should disclose how the acquisition will be managed to provide reasonable assurance that system capability, benefit, schedule, and cost commitments will be met. Consequently, pending policy decisions that affect plans for the entry exit program are precisely the kind of detail missing in this expenditure plan that should be disclosed. To the extent that detailed planning information is not known, this should be explained and a timetable for obtaining this information included in the plan.

3. We agree that we concluded in this report that INS's Information Technology Investment Management (ITIM) process generally satisfies OMB's requirement to establish a process that defines how the agency (1) selects projects included in its information technology portfolio; (2) controls these projects to achieve the intended cost, schedule, and performance outcomes; and (3) evaluates information technology projects' performance to maintain a positive return on investment. We do not, however, state that the program office is in full compliance with the ITIM process, and therefore the entry exit system is in compliance with OMB requirements. Further, we concluded that of particular significance going forward will be how effectively the department implements the investment management controls provided for its plan and related documentation. Accordingly, we recommended that the department fully implement planned investment management controls in accordance with relevant federal requirements and guidance.
4. We have modified this report to recognize that an entry exit system business case has yet to be developed, and we have added a recommendation that the department develop a business case as part of implementing planned investment management controls.
5. We do not question the department's statement, because this was not within the scope of our review.
6. We agree and have modified this report.
7. We sent our draft report to the department on April 3, 2003, which was 4 days before we received the department's letter dated April 7, 2003. We have since modified this report to reflect the information in the April 7 letter.

Appendix III: Summary of Entry Exit Related Systems

Over the last year, INS has implemented two systems that are intended to provide certain near-term border security capabilities until the entry exit system is acquired and implemented. These two systems are the Visa Waiver Permanent Program Act Support System and the National Security Entry Exit Registration System (NSEERS). According to the entry exit program manager, both systems will be integrated into the entry exit system.

Visa Waiver Permanent Program Act Support System

On October 1, 2002, INS implemented the Visa Waiver Permanent Program Act Support System. This system electronically collects arrival and departure information for all passengers and crew members who are provided a waiver and who arrive and depart U.S. airports and seaports. It modifies two existing systems—Customs' Advance Passenger Information System (APIS) and INS's Arrival Departure Information System (ADIS)¹—in collecting information.

- *Arrival:* Before entering an air or sea port of entry, commercial carriers must electronically submit manifest information (e.g., for each passenger and crew member, the person's name, address, country of residence, and passport number) to APIS. This information is queried against several databases, including the Interagency Border Inspection System (IBIS) Consolidated Lookout Database and the Datashare Immigrant Visa database.² Receiving the manifest data before carriers arrive allows INS to review the data beforehand and identify passengers who will require referral to secondary inspection. The inspector also inputs the "Admit Until" date into IBIS, which establishes the foreign national's length of stay. Both the manifest data and the approved length of stay are transmitted to ADIS.
- *Departure:* Carriers are also required to electronically submit to APIS manifest information of passengers leaving the United States from an air or sea port. The departure manifest information is transmitted from APIS

¹The ADIS system was originally developed as part of the Automated Form I-94 system. The Automated Form I-94 system was developed to electronically collect Form I-94 arrival and departure data. However, INS determined that the electronic system was not meeting its mission needs and retired the system in February 2002. The Form I-94 data continue to be collected manually.

²Through the DataShare Program, information on nonimmigrant visa applications is passed electronically between the Department of State and INS. The National Visa Center receives INS petition data electronically and, in turn, electronically transfers cases to U.S. embassies and consulates.

to ADIS, which uses name-matching algorithms to match the arrival and departure records. The matching results are used to identify persons who have overstayed their authorized visits.

According to the entry exit program manager, INS has been able to match 98 percent of received departure records to arrival records. The program manager also estimated that there are currently 16 million outstanding (i.e., unmatched) arrival records. He also estimated that INS receives about 350,000 arrival records per day.

National Security Entry Exit Registration System

On June 5, 2002, the Attorney General established the NSEERS program to capture information about certain foreign nationals entering, staying in, and exiting the United States. In brief, NSEERS consists of (1) a modified version of an existing INS system used to collect and record enforcement data, the Enforcement Case Tracking System;³ (2) more deployments of an existing INS biometric capture/analysis system, the Automated Biometric Identification System;⁴ and (3) updated business processes/rules covering the registration of certain nonimmigrants.⁵ Under the updated business processes/rules, existing registration requirements⁶ were changed to require certain nonimmigrant aliens to report to INS upon arrival; approximately 30 days after arrival; every 12 months after arrival; upon certain events (e.g., change of address, employment, or school); and at the

³The Enforcement Case Tracking System is a case management system, which supports INS's apprehension and booking process for illegal aliens. Capabilities include interfacing with systems external to INS (e.g., Customs Service inspection lookout systems, state prison information systems, and State Department information systems).

⁴The Automated Biometric Identification System is an INS database of more than 4.5 million foreign visitors' fingerprints. The system includes a two-print biometric identification functionality that collects fingerprints and photos.

⁵8 CFR 214.1(f) and 264.1(f), published in the *Federal Register*, Volume 67, No. 155 (Aug. 12, 2002)—Registration and monitoring of certain nonimmigrants, which include nationals from Iran, Iraq, Libya, and Sudan. Justice has subsequently identified other countries to be subject to the special registration requirements; making these identifications is now the responsibility of the Department of Homeland Security. As of March 2003, the department reported that 25 countries are subject to these special registration requirements.

⁶Section 263 of the Immigration and Nationality Act (ch. 477, 66 stat. 163, 224 (1952)) authorizes the Attorney General, at his discretion, to prescribe special registration requirements for certain nonimmigrants admitted to the United States. Existing regulations require INS to register nonimmigrants using Form I-94 (Arrival-Departure Record), but contain general provisions waiving the fingerprinting requirement for many nonimmigrants (8 CFR 264.1(e)). Section 262 of the act gives the Attorney General additional general registration authority.

time of departure from the United States. Registration requirements also now include photographing and fingerprinting the alien and matching both against criminal and terrorist watch lists. According to INS, NSEERS was deployed to a limited number of sites on September 11, 2002, and became fully operational at 238 INS locations on October 1, 2002.

Appendix IV: Summary of Legislation Regarding Entry Exit System Capabilities

Legislation	Provisions
<p>Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Public Law 104-208 September 30, 1996</p>	<p>By September 30, 1998, the Attorney General shall develop an automated entry exit control system that—</p> <p>(1) collects a record of departure for every alien departing the United States and matches it with the corresponding arrival record and</p> <p>(2) identifies, through on-line searching procedures, lawfully admitted aliens who overstay their visas.</p> <p>Overstay information identified through the system shall be integrated into appropriate databases of the Immigration and Naturalization Service (INS) and the Department of State, including those used at ports of entry and at consular offices.</p> <p>Notwithstanding any other provision of federal, state, or local law, a federal, state, or local government entity or official may not prohibit or in any way restrict any government entity or official from sending to or receiving from INS information regarding the citizenship or immigration status, lawful or unlawful, of any individual.</p>
<p>INS Data Management Improvement Act of 2000 Public Law 106-215 June 15, 2000</p>	<p>For the purposes of this section, the term “integrated entry and exit data system” means an electronic system that—</p> <p>(1) provides access to, and integrates, alien arrival and departure data that are (a) authorized or required to be created or collected under law; (b) in an electronic format; and (c) in a database of the Department of Justice or the Department of State, including those created or used at ports of entry and at consular offices;</p> <p>(2) uses available data described above to produce a report of arriving and departing aliens by country of nationality, classification as an immigrant or nonimmigrant, and date of arrival in and departure from the United States;</p> <p>(3) matches an alien’s available arrival data with the alien’s available departure data;</p> <p>(4) identifies, through on-line searching procedures, lawfully admitted nonimmigrants who may have remained in the United States beyond the period authorized by the Attorney General; and</p> <p>(5) otherwise uses available alien arrival and departure data described in paragraph (1) above to permit the Attorney General to make the reports required under 8 U.S.C. section 1365a(e):</p> <ul style="list-style-type: none"> • Number of departure records collected, with an accounting by nationality. • Number of departure records that were successfully matched to records of arrival, with an accounting by nationality and classification as an immigrant or nonimmigrant. • Number of aliens who arrived pursuant to a nonimmigrant visa, or the Visa Waiver Program, for whom no matching departure data have been obtained through the system or by other means as of the end of the alien’s authorized period of stay, with an accounting by nationality and arrival date in the United States. • Number of lawfully admitted nonimmigrants identified as visa overstays, with an accounting by nationality. <p>The Attorney General shall implement the integrated entry exit system at airports and seaports by December 31, 2003. System requirements:</p> <ul style="list-style-type: none"> • include available arrival/departure data, • ensure that the arrival/departure data, when collected or created by an immigration officer, are entered into the system and can be accessed by other officers at other air/seaports. <p>The Attorney General must implement the system at the 50 busiest land border ports of entry by December 31, 2004. System requirements:</p> <ul style="list-style-type: none"> • Same as specified above • Arrival/departure data on aliens shall be accessible at other high-traffic land border ports of entry. <p>The system shall be fully implemented at all remaining ports of entry by December 31, 2005.</p>

**Appendix IV: Summary of Legislation
Regarding Entry Exit System Capabilities**

Legislation	Provisions
Visa Waiver Permanent Program Act Public Law 106-396 October 30, 2000	<p>Not later than October 1, 2001, the Attorney General shall develop and implement a fully automated entry exit control system that will collect a record of arrival and departure for every alien who arrives and departs by sea or air at a port of entry in the United States and is provided a waiver.</p> <p>Not later than October 1, 2002, the system shall enable immigration officers conducting inspections at ports of entry to obtain from the system, with respect to aliens seeking a waiver, (1) any photograph of the alien that may be contained in the records of the State Department or INS; and (2) information on whether the alien has ever been determined to be ineligible to receive a visa or be admitted to the United States.</p> <p>The system shall maintain, for a minimum of 10 years, information about each application for admission made by an alien seeking a waiver.</p> <p>On and after October 1, 2007, the alien at the time of application for admission must have a valid unexpired machine-readable passport that satisfies the internationally accepted standard for machine readability.</p> <p>Countries designated to participate before May 1, 2000, shall issue machine-readable passports no later than October 1, 2003.</p> <p>All Visa Waiver Program (VWP) applicants are to be checked against lookout systems. By October 1, 2002, no waiver may be provided to an alien arriving by air or sea at a port of entry on a carrier unless the carrier is electronically transmitting passenger data to the entry exit system.</p> <p>Not less than 1 hour before arrival at port of entry, signatory aircraft transporting VWP aliens must electronically furnish the passenger data required by the Attorney General in regulations.</p> <p>The system shall contain sufficient data to permit the Attorney General to calculate, for each program country and each fiscal year, the portion of nationals of that country who arrive under VWP at air and sea ports of entry but for whom no record of departure exists, expressed as a percentage of the total number of such VWP aliens for the particular country.</p>
USA PATRIOT Act Public Law 107-56 October 26, 2001	<p>Focus of system development shall be on (a) utilization of biometric technology and (b) tamper-resistant documents readable at ports of entry.</p> <p>The system must be accessible to (a) all consular officers responsible for visa issuance, (b) all federal inspection agents at all U.S. border inspection points, and (c) all law enforcement and intelligence responsible for investigation or identification of aliens.</p> <p>The entry exit system must be able to interface with law enforcement databases to be used by federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States.</p>
Aviation and Transportation Security Act Public Law 107-71 November 19, 2001	<p>(1) Not later than 60 days after the date of enactment, each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States shall provide to the Commissioner of Customs by electronic transmission a passenger and crew manifest containing the following information:</p> <ul style="list-style-type: none"> • The full name of each passenger and crew member. • The date of birth and citizenship of each passenger and crew member. • The sex of each passenger and crew member. • The passport number and country of issuance of each passenger and crew member if required for travel. • The U.S. visa number or resident alien card number of each passenger and crew member, as applicable. • Such other information as the Under Secretary of Transportation for Security, in consultation with the Commissioner of Customs, determines is reasonably necessary to ensure aviation safety. <p>Carriers may use the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide the information required by the preceding sentence.</p>

**Appendix IV: Summary of Legislation
Regarding Entry Exit System Capabilities**

Legislation	Provisions
Enhanced Border Security and Visa Entry Reform Act of 2002 Public Law 107-173 May 14, 2002	<p>(2) Passenger name records—The carriers shall make passenger name record information available to the Customs Service upon request.</p> <p>(3) Transmission of manifest—a passenger and crew manifest required for a flight under paragraph (1) above shall be transmitted to the Customs Service in advance of the aircraft landing in the United States in such manner, time, and form as the Customs Service prescribes.</p> <p>(4) Transmission of manifests to other federal agencies—Upon request, information provided to the Under Secretary or the Customs Service under this subsection may be shared with other federal agencies for the purpose of protecting national security.</p> <p>No later than October 26, 2004, the Secretary of State and the Attorney General shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometrics.</p> <p>In addition to the requirement for biometric identifiers, name-search capacity and support must also be implemented between 18 months and 4.5 years after the date of enactment. Not later than October 26, 2004, the Attorney General and Secretary of State shall install at all U.S. ports of entry equipment and software to allow biometric comparison and authentication of all U.S. visas and other travel and entry documents issued to aliens. Not later than January 1, 2003, arrival and departure manifests must be electronically provided to appropriate immigration officers for each passenger (including crew members and any other occupants) of air and sea carriers at port of entry.</p> <p>The information to be provided with respect to each person listed on a manifest shall include (1) complete name; (2) date of birth; (3) citizenship; (4) sex; (5) passport number and country of issuance; (6) country of residence; (7) U.S. visa number, date, and place of issuance, where applicable; (8) alien registration number, where applicable; (9) U.S. address while in the United States; and (10) such other information that the Attorney General, in consultation with the Secretaries of State and the Treasury, determines as being necessary for the identification of the persons transported and for the enforcement of the immigration laws and to protect safety and national security.</p>

Sources: Cited legislation.

Appendix V: GAO Contacts and Staff Acknowledgments

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Staff Acknowledgments

In addition to the person named above, other key contributors were Carol Cha, Barbara Collier, Neil Doherty, Ashfaq Huda, Richard Hung, Franklin Jackson, Tammi Nguyen, and Jamelyn Smith.

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