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June 13, 2006

The Honorable John N. Hostettler
Chairman
The Honorable Sheila Jackson-Lee
Ranking Minority Member
Subcommittee on Immigration,
Border Security, and Claims
Committee on the Judiciary
House of Representatives

Subject: Information on Immigration Enforcement and Supervisory Promotions in the Department of Homeland Security's Immigration and Customs Enforcement and Customs and Border Protection

After the creation of the Department of Homeland Security (DHS) in March 2003, two legacy enforcement agencies—the former Immigration and Naturalization Service (INS) and the U.S. Customs Service (USCS)—were among the 22 federal agencies brought together within DHS.¹ This transformation in turn merged the legacy INS and USCS investigators² into the U.S. Immigration and Customs Enforcement (ICE) Office of Investigations (OI), and legacy INS and USCS inspectors,³ among others, into Customs and Border Protection (CBP). It has been nearly 3 years since the merger and efforts to integrate thousands of federal employees within ICE and CBP continue. You raised questions about ongoing human capital challenges brought about by the integration of legacy enforcement employees within ICE and CBP. In prior work, we have reported on the management and human capital challenges DHS faces as it merges the workforces of legacy agencies, including the need to clarify the roles and

¹ Prior to the merger, INS was part of the Department of Justice and USCS was part of the Department of the Treasury.

² Investigators in legacy INS conducted investigations into immigration-related cases, such as alien smuggling, while legacy USCS investigators conducted investigations into customs-related cases, such as international money laundering and the import and export of illegal drugs. ICE investigators conduct investigations of both immigration and customs-related cases.

³ Inspectors in legacy INS primarily conducted immigration-related inspections at ports of entry, such as inspections of persons entering the country for admissibility. Legacy USCS inspectors primarily conducted customs-related inspections at ports of entry, such as inspections for the entry of goods and merchandise into the country. CBP officers conduct both immigration and customs-related inspections at ports of entry.

responsibilities of the new agencies, the difficulty of legacy staff operating from separate locations, and how it decides to allocate investigative resources.⁴

This report addresses the following objectives:

1. How many investigative work years were dedicated to immigration enforcement activities for fiscal years 1999 through 2005?
2. What factors does ICE use as the basis for allocating its investigative resources?
3. What assessments do ICE and CBP use as a basis for making decisions on supervisory promotions?
4. Have ICE and CBP supervisory promotions been distributed between legacy INS and USCS staff in proportion to the supervisory staff each legacy agency brought to ICE and CBP?

To obtain information on investigative work years on immigration enforcement, we compared investigative resource use data from legacy INS for fiscal years 1999 through 2003 from its Performance Analysis System⁵ to similar data for ICE for fiscal years 2004 and 2005 using the investigative case categories added to its Treasury Enforcement Communication System (TECS) after the formation of ICE.⁶ We define immigration enforcement as the number of work years⁷ spent on investigations by legacy INS and ICE investigative staff of criminal aliens (aliens who were arrested for criminal activity unrelated to their immigration status), human smuggling (the surreptitious entry of people into the United States for profit by a third party in violation of immigration laws) and trafficking (the surreptitious entry of people into the United States for profit by a third party in violation of immigration laws that involves the threat of force or coercion), employers of unauthorized workers (improper employment of undocumented workers), identity and benefit fraud (willful misrepresentation of material fact on the petition or application for an immigration benefit and the manufacturing, counterfeiting, alteration, sale and use of fraudulent documents to circumvent immigration laws and/or for other criminal activity), and other immigration violations.

To determine the factors ICE uses to allocate investigative resources, we used our previous 2006 report that examined how ICE allocates its investigative resources.⁸ To

⁴ GAO, *Homeland Security: Management Challenges Remain in Transforming Immigration Programs*, GAO-05-81 (Washington, D.C.: October 2004). GAO, *Homeland Security: Better Management Practices Could Enhance DHS's Ability to Allocate Investigative Resources*, GAO-06-48SU (Washington, D.C.: December 2005).

⁵ PAS is the system INS used to record the time it devoted to immigration activities, including investigations.

⁶ TECS is a management information system used by legacy USCS to document its investigative activities. Before the formation of ICE, TECS contained investigative case categories to capture activity for Customs-related investigations. In fiscal year 2004, additional case categories for immigration investigative activities were added to these.

⁷ Work years equal total investigative hours divided by 2,080, the number of hours in a standard work year.

⁸ See GAO-06-48SU.

determine the assessments ICE and CBP use to make supervisory promotion decisions, we interviewed ICE and CBP human capital and program officials who were knowledgeable about human capital policies and actions and reviewed documentation concerning these policies and actions. Finally, to determine if ICE and CBP supervisory promotions have been distributed between legacy INS and USCS staff in proportion to the supervisory staff each legacy agency brought to ICE and CBP, we analyzed ICE and CBP personnel and supervisory promotion decisions. We did not independently review any ICE or CBP promotion decisions.

To assess the reliability of the investigative resource and human capital data, we discussed the data collection methods and internal control processes for ensuring data quality with responsible officials and staff and reviewed the data for reasonableness. To test the human capital data for reasonableness, we used the data to compute frequencies and other summary analyses, examined the data and summary analyses for outliers (large values that are inconsistent with other data), and compared the data/analyses to other known agency documentation. We found that the data we used for our analyses were sufficiently reliable for the purposes of this report.

In April 2006, we briefed your offices on the results of our work. This report conveys the information provided during those discussions with some additional detail (see enclosure).

We performed our work from January 2006 through May 2006 in accordance with generally accepted government auditing standards.

Summary

- Investigative work years for immigration enforcement were generally declining under INS, but have increased since ICE was formed in 2003. Specifically, investigative work years for immigration enforcement under INS decreased by about 14 percent from fiscal years 1999 through 2002, and increased in fiscal year 2003. From fiscal year 1999 through fiscal year 2001, INS was having difficulty recruiting and retaining staff and INS experienced about an 8 to 9 percent annual attrition in investigative staff, which in part explains the decrease in work years during the 1999 through 2002 period. The number of investigative work years spent on immigration enforcement investigations rose by 2 percent in fiscal year 2004 and by 16 percent in fiscal year 2005.

- ICE uses a combination of factors to allocate its investigative resources, including whether an investigation indicates a potential threat to national security, the execution of special programs run out of headquarters divisions and units like Operation Community Shield, which targets violent street gang members, and carry-over legacy activities, such as support for implementation of the national drug control strategy. About half of ICE investigative resources were used for drug, financial (the criminal or civil violation of financial laws enforced by ICE, such as money laundering), and general alien (the varied criminal and administrative cases where the subject's alienage is a requirement of the offense) investigations in fiscal years 2004 and 2005.
- ICE and CBP supervisory promotion decisions are based on weighted assessments measuring supervisory skills as well as knowledge of investigative and inspectional procedures and laws. Assessments common to ICE and CBP that do not require specialized legacy agency knowledge and are evaluated through testing are Critical Thinking (logic and problem solving), Managerial Writing (written communication), and an In-basket Job Simulation (ability to prioritize and manage). The Job Knowledge Test in ICE measures knowledge of customs and immigration laws and general investigative procedures across the range of ICE investigative activities and is divided into equally weighted sections testing knowledge of smuggling and public safety, financial investigations, investigative services, national security investigations, and general criminal investigations techniques. CBP's Career Experience Inventory measures knowledge of customs and immigration laws and inspectional procedures as well as experience performing supervisory and management functions. We did not verify these assessments or test how well they measure the knowledge and skills they address.
- For one promotion cycle in ICE, legacy INS staff received about two-thirds of the total supervisory promotions to GS grades 14 and 15. In fiscal year 2004, ICE noncompetitively promoted more than 200 legacy INS GS-13 supervisors to GS-14 to bring about parity with legacy USCS supervisory investigators who were at the GS-14 grade level. Promotions were more proportional to existing on board distributions of legacy supervisory personnel in fiscal year 2005, that is, legacy INS supervisors constituted 34 percent of the GS-14 and -15 supervisors and received 36 percent of the promotions that year. At CBP, the distribution of GS-12 to -15 supervisory promotions for fiscal years 2004 through 2006 was generally proportional to the distribution of legacy staff in those positions at the start of each fiscal year. For example, in fiscal year 2004, legacy INS staff constituted 34 percent of the on board supervisors and received 30 percent of the promotions, while legacy USCS staff constituted 66 percent of the on board supervisors and received 70 percent of the promotions.

Agency Comments

We requested comments on a draft of this report from the Department of Homeland Security. The Department of Homeland Security responded that it had no comments.

As we agreed with your office, we will send copies to the Department of Homeland Security, and other interested congressional committees.

If your office or staff has any questions concerning this report, please contact me at (202) 512-8816 or by e-mail at Stanar@gao.gov or Michael Dino, Assistant Director, at (213) 830-1150 or Dinom@gao.gov. Key contributors to this report were Amy Bernstein, Tony DeFrank, Curtis Groves, Wilfred Holloway, Wendy Johnson, Mimi Nguyen, and Jeremy Sebest.



Richard M. Stana, Director
Homeland Security and Justice Issues

Enclosure

Enclosure I



Homeland Security: Immigration Enforcement and Supervisory Promotions Under ICE and CBP

Briefing to the House Subcommittee on
Immigration, Border Security, and Claims, Committee
on the Judiciary



Introduction

- When the Department of Homeland Security (DHS) was established in March 2003, Immigration and Naturalization Service (INS) and U.S. Customs Service (USCS), along with other agencies, were merged into DHS. Investigators from legacy INS and USCS became part of the newly created U.S. Immigration and Customs Enforcement (ICE) Office of Investigations (OI) and legacy INS and USCS inspectors became part of the newly created Customs and Border Protection (CBP) which serve as the investigative and border security agencies of DHS.
- Merging these legacy enforcement agencies has raised concerns about human capital challenges that DHS faces as it merges the workforces of legacy agencies, including the need to clarify the roles and responsibilities of the new agencies, the difficulty of legacy staff operating from different locations, and how it decides to allocate investigative resources.¹
- This briefing addresses the levels of immigration enforcement activity conducted by legacy INS and ICE for certain years, and the human capital issues related to supervisory promotions in ICE and CBP.

¹GAO, *Homeland Security: Management Challenges Remain in Transforming Immigration Programs*, GAO-05-81 (Washington, D.C.: October 2004).
GAO, *Homeland Security: Better Management Practices Could Enhance DHS's Ability to Allocate Investigative Resources*, GAO-06-48SU (Washington, D.C.: December 2005).



Objectives

- 1) How many investigative work years were dedicated to immigration enforcement activities for fiscal years 1999-2005?
- 2) What factors does ICE use as the basis for allocating its investigative resources?
- 3) What assessments do ICE and CBP use as a basis for making decisions on supervisory promotions?
- 4) Have ICE and CBP supervisory promotions been distributed between legacy INS and USCS staff in proportion to the supervisory staff each legacy agency brought to ICE and CBP?



Scope & Methodology

- Compared investigative resource use data from legacy INS and ICE.
- Reviewed previous GAO work that examined how ICE allocates its investigative resources.²
- Interviewed ICE and CBP staff knowledgeable about human capital policies and actions, and reviewed documentation concerning these policies and actions.
- Reviewed ICE and CBP promotion criteria that included their assessment test study guides and CBP's career experience inventory for promotion decisions.
- Analyzed ICE and CBP personnel and promotion data by pay grade.³
- We performed our work in accordance with generally accepted government auditing standards from January 2006 through May 2006.

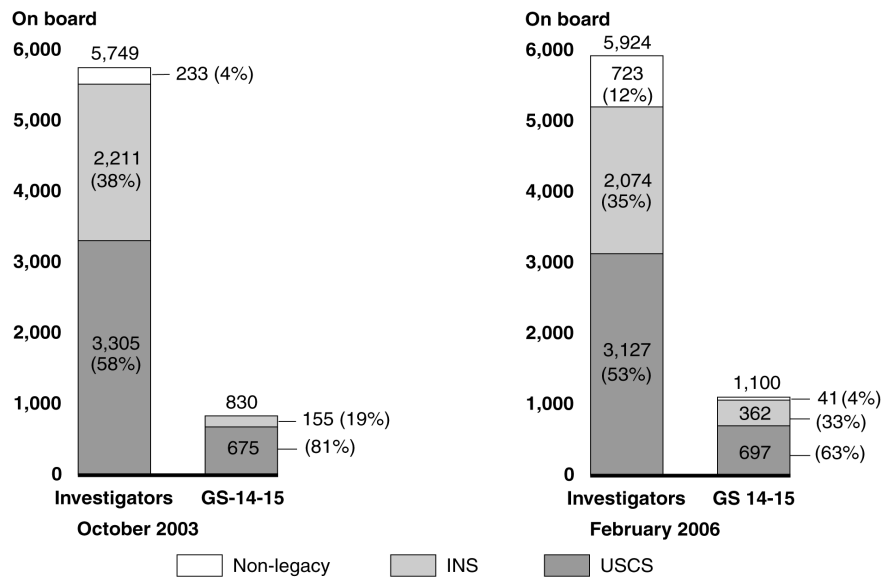
² See GAO-06-48SU.

³ Pay grades are defined in the Office of Personnel Management's General Schedule (GS).



Background
ICE Investigators and Supervisors (GS 14-15)

**ICE Investigators and GS 14-15 Supervisors On Board as of
October 2003 and February 2006, by Legacy Agency**

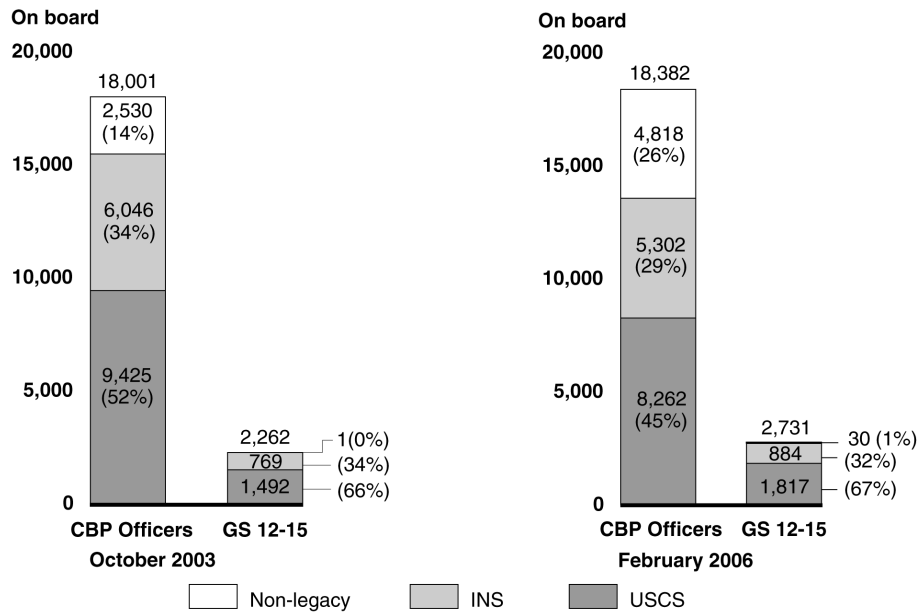


Source: GAO analysis of ICE personnel data.



Background
CBP Officers and Supervisors (GS12-15)

**CBP Officers and GS 12-15 Supervisors On Board as of
October 2003 and February 2006, by Legacy Agency**



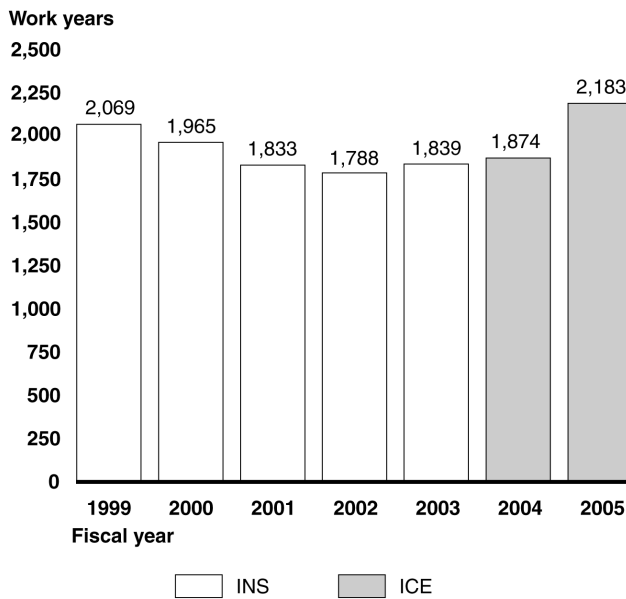
Source: GAO analysis of CBP personnel data.



Objective 1

Investigative work years dedicated to immigration enforcement activities for fiscal years 1999-2005

Investigative Work Years for Immigration Enforcement Were Declining under INS, but Have Increased since ICE Was Formed⁴



Source: GAO analysis of INS (1999-2003) and ICE (2004-2005) investigative data.

⁴According to INS data, the INS had about 8%-9% annual attrition in investigative staff for FY 1999 through FY 2001, and was having difficulty recruiting and retaining staff INS-wide. Investigative work years are calculated by dividing the number of investigative hours in immigration case categories by 2,080—the number of work hours in a standard work year.



Objective 2

ICE allocation of investigative resources

Resource Allocation in ICE Is Determined by Priorities Set by Local Special Agents-in-Charge (SAC), with Headquarters Direction and Carryover Legacy Activities Playing a Role

- Local SACs take various factors into account when making resource allocation decisions, such as whether the investigations under consideration indicate threats to national security.
- Divisions and units within ICE headquarters develop and manage special programs like Operation Community Shield, a program targeting violent street gangs, that are implemented in multiple SAC offices.
- Carryover legacy activities, such as implementing the national drug control strategy, also drive resource use. About half of investigative resources were used for drug, financial, and general alien investigations in fiscal years 2004 and 2005.
- As we have reported, ICE does not have a formal risk management process for prioritizing and allocating resources.⁵

⁵GAO-06-48SU.



Objective 3

Assessments used by ICE and CBP as a basis for supervisory and management promotions

ICE and CBP Promotions Based on Competencies and Assessments Measuring Supervisory Skills as well as Knowledge of Investigative or Inspectional Procedures and Laws

Promotion competencies (management, leadership, thinking, and communication) and assessments developed by subject matter and human capital experts. The assessments include the following components:

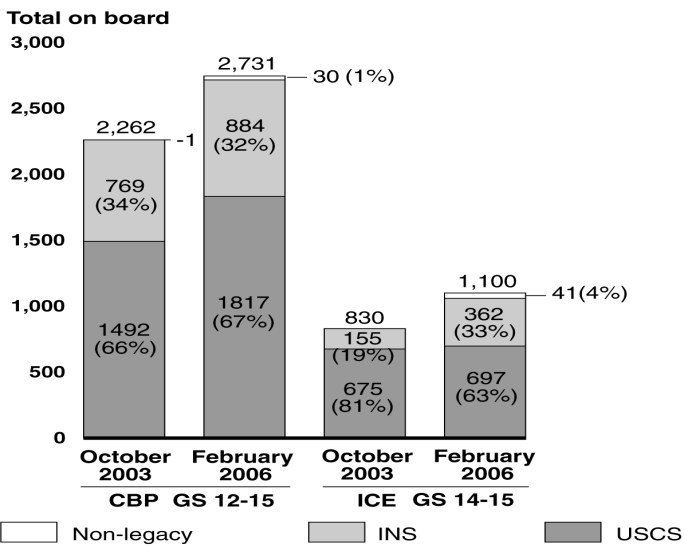
- Job knowledge test (JKT) - ICE
 - Career experience inventory (CEI) - CBP
 - Critical thinking skills test - ICE and CBP
 - Managerial writing test - ICE and CBP
 - In-basket job simulation test - ICE and CBP
 - Structured Oral Interview - ICE
-
- ICE and CBP promotion assessments are not tied exclusively to agency knowledge. The ICE JKT measures knowledge of immigration and customs laws and investigative procedures, and CBP's CEI measures knowledge of immigration and customs laws and inspectional procedures in addition to capturing the quantity and quality of legacy agency and managerial experience.
 - We did not verify these assessments or test how well they measure the knowledge and skills they address.



Objective 4

CBP and ICE promotion distributions for legacy staff

For CBP, the Percentage of GS-12 through GS-15 Supervisors from Legacy INS and USCS Stayed About the Same, While at ICE the Percentage of Legacy INS GS-14 and GS-15 Supervisory Investigators Increased⁶



Source: GAO analysis of CBP and ICE personnel data.

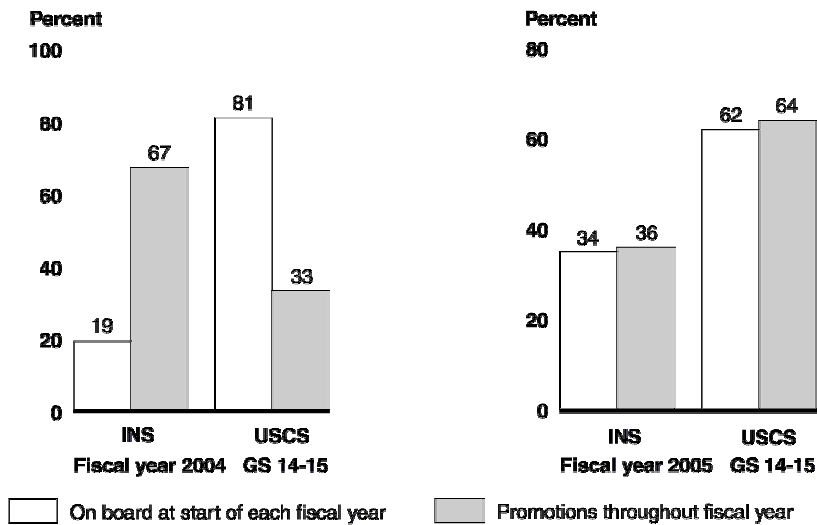
⁶In June 2004, over 200 GS-13 legacy INS supervisors received promotions to GS-14. These promotions constituted over 75 percent of legacy INS supervisory promotions that year.



Objective 4

Supervisory promotion distributions for legacy staff in ICE

In Fiscal Year 2004, the Majority of Supervisory Promotions to GS 14-15 Went to Legacy INS Staff; in Fiscal Year 2005, the Percentage of Promotions was About Equal to the Percentage of On Board Supervisors in GS 14-15 for Legacy INS and USCS

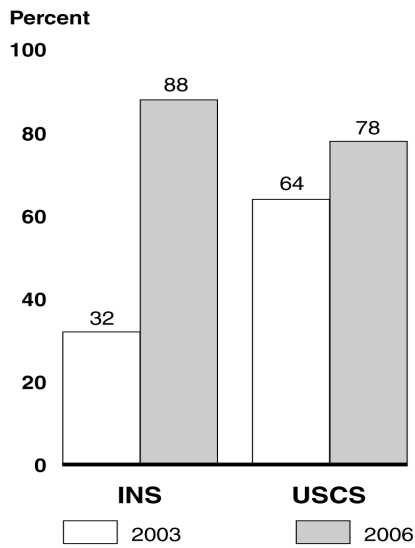


Source: GAO analysis of ICE personnel data.



Objective 4
Overall distributions for legacy investigator staff
in ICE

Among ICE Criminal Investigator Staff, a Greater percentage of Legacy INS and USCS Agents were at GS-13 or Higher in February 2006 than in October 2003⁷



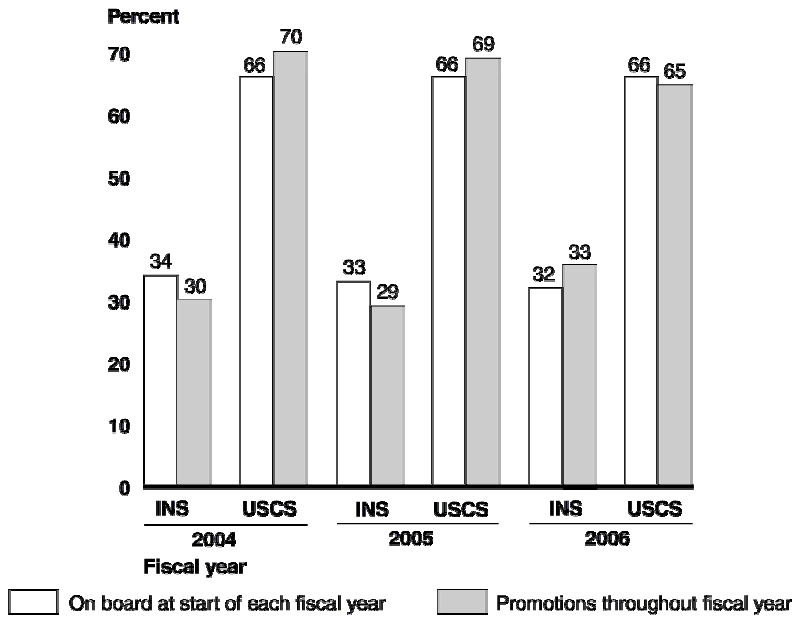
Source: GAO analysis of ICE personnel data.

⁷In fiscal year 2004, over 1200 legacy INS GS-12 investigators were promoted to GS-13 to give them parity with legacy USCS investigators.



Objective 4
Supervisory promotion distributions for legacy staff in CBP

CBP Supervisory Promotions to GS-12 through GS-15 for FY04-06 were Generally Proportional to Distributions of Legacy Staff in Those Positions at the Start of Each Fiscal Year

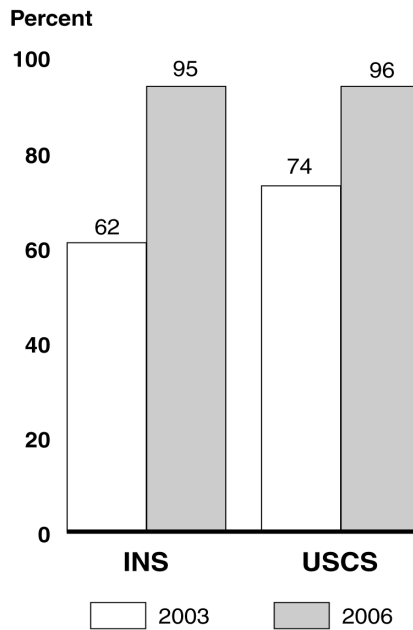


Source: GAO analysis of CBP personnel data.



Objective 4
Overall distributions for legacy staff in CBP

**A Greater Percentage of Legacy INS and USCS CBP Officers
Were at GS-11 or Higher in February 2006 than in October 2003**



Source: GAO analysis of CBP personnel data.

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