

GAO

Testimony before the Subcommittee on
Terrorism, Technology, and Homeland
Security, Committee on the Judiciary, U.S.
Senate

For Release on Delivery
Expected at 2:30 p.m. EST
Wednesday, January 31, 2007

BORDER SECURITY

US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry

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Homeland Security and Justice Issues



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Highlights

Highlights of [GAO-07-378T](#), a report to a testimony before the Subcommittee on Terrorism, Technology, and Homeland Security, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

This testimony summarizes a December 2006 GAO report on the Department of Homeland Security's (DHS) efforts to implement the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program at land ports of entry (POE). US-VISIT is designed to collect, maintain, and share data on selected foreign nationals entering and exiting the United States at air, sea, and land POEs. These data, including biometric identifiers like digital fingerprints, are to be used to screen persons against watch lists, verify identities, and record arrival and departure. This testimony addresses DHS's efforts to (1) implement US-VISIT entry capability, (2) implement US-VISIT exit capability, and (3) define how US-VISIT fits with other emerging border security initiatives. GAO analyzed DHS and US-VISIT documents, interviewed program officials, and visited 21 land POEs with varied traffic levels on both borders.

What GAO Recommends

GAO recommended that DHS improve management controls for US-VISIT; develop performance measures to assess the impact of US-VISIT at land POEs; and ensure that a statutorily mandated report describes how DHS will move to a biometric entry/exit capability and align US-VISIT with emerging land border security initiatives. DHS generally agreed and said that it has begun to or plans to implement GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-378T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Richard Stana at (202) 512-8777 or stanar@gao.gov.

BORDER SECURITY

US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry

What GAO Found

US-VISIT entry capability had been installed at 154 of the 170 land POEs. Officials at all 21 sites GAO visited reported that US-VISIT had improved their ability to process visitors and verify identities. DHS plans to further enhance US-VISIT's capabilities by, among other things, requiring new technology and equipment for scanning all 10 fingerprints (see photo, below left). While this may aid border security, installation could increase processing times and adversely affect operations at land POEs where space constraints, traffic congestion, and processing delays already exist. GAO's work indicated that management controls in place to identify such problems and evaluate operations were insufficient and inconsistently administered. For example, GAO identified computer processing problems at 12 sites visited; at 9 of these, the problems were not always reported. US-VISIT has developed performance measures, but measures to gauge factors that uniquely affect land POE operations were not developed; these would put US-VISIT officials in a better position to identify areas for improvement.

US-VISIT officials concluded that, for various reasons, a biometric US-VISIT exit capability cannot now be implemented without incurring a major impact on land POE facilities. An interim nonbiometric exit technology tested (see photo, below right) did not meet the statutory requirement for a biometric exit capability and thus cannot ensure that visitors who enter the country are those who leave. DHS had not yet reported to Congress on a required plan describing how it intended to fully implement a biometric entry/exit program or use nonbiometric solutions. Until this plan is finalized, neither DHS nor Congress is in a good position to prioritize and allocate program resources or plan for POE facilities modifications.

DHS had not articulated how US-VISIT is to align with other emerging land border security initiatives and mandates, and thus could not ensure that the program would meet strategic program goals and operate cost effectively at land POEs. Knowing how US-VISIT is to work with these initiatives, such as one requiring U.S. citizens, Canadians, and others to present passports or other documents at land POEs in 2009, is important for understanding the broader strategic context for US-VISIT and identifying resources, tools, and potential facility modifications needed to ensure success.

US-VISIT entry capability set up with computer and camera (left); nonbiometric exit identification readers mounted over highway (right)



Source: GAO.

Chairman Feinstein and Members of the Subcommittee:

I appreciate the opportunity to be here today to provide a summary of our December 2006 report¹ on the challenges facing the Department of Homeland Security (DHS) as it implements United States Visitor and Immigrant Status Indicator Technology (US-VISIT) at land ports of entry (POE).²

In the years since the 2001 terrorist attacks, the need to secure U.S. borders has taken on added importance and has received increasing attention from Congress and the public. In an effort to avoid repetition of such attacks, and improve overall national security, Congress and the Administration have sought better ways to record and track the entry and departure of foreign visitors who pass through U.S. POEs by air, land, or sea; to verify their identities; and to authenticate their travel documentation. Pursuant to several statutory mandates, DHS, in consultation with the Department of State, established an automated visitor system to integrate information on the entry and exit from the United States of foreign nationals, called the US-VISIT Program. According to DHS, the purpose of US-VISIT is to enhance the security of U.S. citizens and visitors, facilitate legitimate travel and trade, ensure the integrity of the U.S. immigration system, and protect visitors' privacy. The program is managed by the US-VISIT Program Office, which is headed by the US-VISIT Director, who currently reports to the DHS Deputy Secretary. US-VISIT is used in the field by officers with U.S. Customs and Border Protection (CBP), a separate DHS component.

US-VISIT is designed to use biographic information (e.g., name, nationality, and date of birth) and biometric information (e.g., digital fingerprint scans and photographs) to verify the identity of those covered by the program. The program applies to certain visitors whether they hold

¹ GAO, *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, [GAO-07-248](#) (Washington, D.C.: December 2006), which is the publicly available version of our report entitled *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, [GAO-07-56SU](#) (Washington, D.C.: November 2006).

² A port of entry is generally a physical location, such as a pedestrian walkway and/or a vehicle plaza with booths, and associated inspection and administration buildings, at a land border crossing point, or a restricted area inside an airport or seaport, where entry into the country by persons and cargo arriving by air, land, or sea is controlled by U.S. Customs and Border Protection.

a nonimmigrant visa or are traveling from a country that has a visa waiver agreement with the United States under the Visa Waiver Program.³ U.S. citizens, lawful permanent residents, and most Canadian and Mexican⁴ citizens are currently exempt from being processed under US-VISIT upon entering and exiting the country.⁵ When foreign nationals subject to US-VISIT arrive at a land POE, they are directed by CBP officers from the primary inspection area to the secondary inspection area for further processing. Visitors covered by US-VISIT who are determined to be admissible are issued an I-94 arrival/departure form, which, among other things, records their date of arrival and the date their authorized period of admission expires. The requirement that arriving nonimmigrants admitted to the United States, unless otherwise exempted, be issued a Form I-94 as evidence of the terms of their admission predates implementation of US-VISIT and was incorporated into US-VISIT processing.⁶

Many aspects of US-VISIT program implementation have been driven or defined by various legislative mandates. These include a 2001 statutory requirement to focus particularly on the use of biometric technology in developing the integrated entry-exit system subsequently named US-VISIT; a 2002 statutory requirement to develop biometric identifier standards to be used to verify the identity of persons seeking to enter the United States at POEs; and a requirement to install at all POEs equipment and software

³ The Visa Waiver Program enables nationals of certain countries to travel to the United States for tourism or business for stays of 90 days or less without obtaining a visa. Most western European countries participate in this program, along with Japan, Singapore, Australia, Brunei, and New Zealand.

⁴ To visit the United States, Mexican citizens generally need either a Mexican passport and U.S. visa, or a Border Crossing Card (BCC), which is issued to Mexican visitors who wish to enter the country for business or pleasure for no more than 6 months. The BCC contains machine-readable biographic and biometric information. Mexican citizens with BCCs who are traveling within 25 miles of the border, (75 miles in Arizona, if entering through certain POEs near Tucson) and who plan to stay no more than 30 days, are generally not subject to US-VISIT processing upon entry. A Mexican citizen is subject to US-VISIT requirements, however, if a CBP officer determines that the entrant intends to stay more than 30 days or travel beyond the 25- or 75-mile limit.

⁵ On July 27, 2006, DHS issued a Notice of Proposed Rulemaking that, if finalized, would expand the scope of US-VISIT to include, among others, lawful permanent residents, aliens seeking admission on immigrant visas, refugees and asylees, and certain categories of Canadians. DHS did not report how many additional persons would be covered by US-VISIT if the rule was adopted.

⁶ Visitors traveling on nonimmigrant visas are issued Form I-94 and visitors from Visa Waiver Program countries are issued Form I-94W. Both forms show the date of arrival, port of entry, and date the authorized period of admission expires.

to allow biometric comparison and authentication of U.S. visas and other travel and entry documents issued to aliens, as well as Visa Waiver Program participant passports. In addition, by law, an integrated entry and exit data system was to be implemented at all U.S. POEs, including land POEs, by December 31, 2005, but there was no specific requirement to collect any new data on foreign nationals departing at land POEs by that date. The Intelligence Reform and Terrorism Prevention Act of 2004, on the other hand, did require the collection of biometric exit data for all individuals subject to US-VISIT, but it did not set a deadline for implementation of this requirement.

This statement presents a summary of our December 2006 report on the US-VISIT program, which was requested by the Chairman and Ranking Minority Member of the House Homeland Security Committee and Congressmen Filner, Grijalva, Hinojosa, Ortiz, and Reyes. My testimony today provides a summary of our report and will focus on the following issues:

- what the US-VISIT Program Office has done to implement US-VISIT entry capabilities at land POEs and what impact US-VISIT has had on these facilities,
- the status of US-VISIT Program Office efforts to implement a US-VISIT exit capability at land POE facilities, and
- what DHS has done to define how US-VISIT fits with other emerging border security initiatives.

Summary

US-VISIT entry capability had been installed, as of November 2006, at 154 of the 170 land POEs. Officials at all 21 sites we visited reported that US-VISIT had improved their ability to process visitors and verify identities. DHS plans to further enhance US-VISIT's capabilities by, among other things, requiring new technology and equipment for scanning all 10 fingerprints. While this may aid border security, installation could increase processing times and adversely affect operations at land POEs where space constraints, traffic congestion, and processing delays already exist. We found that management controls in place to identify such problems and evaluate operations were insufficient and inconsistently administered. For example, we identified computer processing problems at 12 sites visited; at 9 of these, the problems were not always reported to CBP's computer help desk, as required by CBP guidelines. US-VISIT has developed performance measures, but measures to gauge factors that

uniquely affect land POE operations were not developed; these would put US-VISIT officials in a better position to identify areas for improvement.

Our December 2006 report also stated that US-VISIT officials had concluded that, for various reasons, a biometric US-VISIT exit capability cannot be implemented without incurring a major impact on land POE facilities. According to these officials, implementing a biometrically based exit recording system like that used to record those entering or re-entering the country is potentially costly (an estimated \$3 billion in 2003), would require new infrastructure, and would produce major traffic congestion because travelers would have to stop their vehicles upon exit to be processed—an option officials consider unacceptable. US-VISIT officials stated that they believe technological advances over the next 5 to 10 years will enable the biometric verification of persons exiting the country without a major impact on facilities. The US-VISIT Program Office has tested radio frequency identification (RFID) technology as a nonbiometric means of recording visitors as they exit. RFID technology can be used to electronically identify and gather information contained on a tag—in this case, a unique identifying number embedded in a tag on a visitor's arrival/departure form—which an electronic reader at the POE is intended to detect. While RFID technology required few facility and infrastructure changes, US-VISIT's initial testing and analysis of this technology identified numerous performance and reliability problems, such as the failure of RFID readers to detect a majority of travelers' tags during testing. Furthermore, the RFID solution did not meet the statutory requirement for a biometric exit capability because the technology as tested cannot meet a key goal of US-VISIT—ensuring that visitors who enter the country are the same ones who leave. Specifically, the RFID tag in the visitor's arrival/departure form cannot be physically tied to an individual, which means that while a document may be detected as leaving the country, the person to whom it was issued at time of entry may be somewhere else. By statute, DHS was to have reported to Congress by June 2005 on how it intended to fully implement a comprehensive, biometric entry/exit program, but DHS had not yet reported how it intended to do so, or use nonbiometric solutions. Until this plan is finalized, neither DHS nor Congress is in a good position to prioritize and allocate program resources, including funds for any facility modifications that might be needed, plan for the program's future, or consider trade-offs between traveler convenience and security.

DHS had not articulated how US-VISIT is to strategically fit with other land border security initiatives and mandates and could not ensure that these programs work in harmony to meet mission goals and operate cost

effectively. As we reported 3 years ago, agency programs need to properly fit within a common strategic context governing key aspects of program operations, such as what functions are to be performed, what facility or infrastructure changes will be needed to ensure that they operate in harmony and as intended, and what standards govern the use of technology.⁷ DHS had drafted a strategic plan defining an overall immigration and border management strategy, but had not yet approved it, and did not provide it to us for review. Meanwhile, new border security initiatives or mandates are planned or under way that could potentially have an impact on US-VISIT operations and facilities at land POEs. For example, no later than June 2009, U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico who enter the United States at land POEs from within the Western Hemisphere will be required, for the first time, to present a passport or other documents deemed sufficient to show identity and citizenship. It is not yet known what types of documents, other than passports, may be permitted at land POEs, or whether these documents and the equipment required to read them can be aligned with US-VISIT technologies. Until decisions for this and other initiatives are made, it remains unclear how this program will be integrated with US-VISIT, if at all—raising the possibility that CBP would be faced with managing differing technology platforms and border inspection processes at each land POE. Knowing how US-VISIT is to work in concert with other border security and homeland security initiatives and what facility or facility modifications might be needed could help Congress, DHS, and others better understand what resources and tools are needed to ensure success and ensure that land POE facilities are positioned to accommodate them.

We made three recommendations to enhance the US-VISIT program at land POEs. Specifically, with respect to entry capability our report recommended that DHS (1) improve existing controls for identifying and reporting computer processing and other operational problems to help ensure that these controls are consistently administered and (2) develop performance measures specifically for assessing the impact of US-VISIT operations at land POEs. With respect to the mandated report to Congress, we recommended that the Secretary take steps to ensure that it includes, among other things, (1) information on the costs, benefits, and feasibility of deploying biometric and nonbiometric exit capabilities at land POEs; and (2) a description of how DHS plans to align US-VISIT with other

⁷ GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed*, [GAO-03-1083](#) (Washington, D.C.: Sept. 19, 2003).

emerging land border security initiatives to ensure that different technologies and processes work in harmony. DHS generally agreed and said that it has already begun or plans to implement our recommendations.

Background

US-VISIT is a large, complex governmentwide program intended to

- collect, maintain, and share information on certain foreign nationals who enter and exit the United States;
- identify foreign nationals who (1) have overstayed or violated the terms of their visit; (2) can receive, extend, or adjust their immigration status; or (3) should be apprehended or detained by law enforcement officials;
- detect fraudulent travel documents, verify visitor identity, and determine visitor admissibility through the use of biometrics (digital fingerprints and a digital photograph); and
- facilitate information sharing and coordination within the immigration and border management community.

The US-VISIT Program Office has responsibility for managing the acquisition, deployment, operation, and sustainment of US-VISIT and has been delivering US-VISIT capability incrementally based, in part, on statutory deadlines for implementing specific portions of US-VISIT. For example, the statutory deadline for implementing US-VISIT at the 50 busiest land POEs was December 31, 2004, and at the remaining POEs, December 31, 2005.⁸ From fiscal year 2003 through fiscal year 2007, total funding for the US-VISIT program has been about \$1.7 billion.

In reports on US-VISIT over the last 3 years, we have identified numerous challenges that DHS faces in delivering program capabilities and benefits on time and within budget. In September 2003, we reported that the US-VISIT program is a risky endeavor, both because of the type of program it is (large, complex, and potentially costly) and because of the way that it was being managed.⁹ We reported, for example, that the program's acquisition management process had not been established, and that US-

⁸ See appendix I for a legislative overview of the US-VISIT program.

⁹ [GAO-03-1083](#).

VISIT lacked a governance structure. In March 2004, we testified that DHS faces a major challenge maintaining border security while still welcoming visitors. Preventing the entry of persons who pose a threat to the United States cannot be guaranteed, and the missed entry of just one can have severe consequences. Also, US-VISIT is to achieve the important law enforcement goal of identifying those who overstay or otherwise violate the terms of their visas. Complicating the achievement of these security and law enforcement goals are other key US-VISIT goals: facilitating trade and travel through POEs and providing for enforcement of U.S. privacy laws and regulations.¹⁰ Subsequently, in May 2004, we reported that DHS had not employed the kind of rigorous and disciplined management controls typically associated with successful programs.¹¹ Moreover, in February 2006, we reported that while DHS had taken steps to implement most of the recommendations from our 2003 and 2004 reports, progress in critical areas had been slow.¹² As of February 2006, of 18 recommendations we made since 2003, only 2 had been fully implemented, 11 had been partially implemented, and 5 were in the process of being implemented, although the extent to which they would be fully carried out is not yet known.

US-VISIT Scope, Operations, and Processing at Land POEs

Currently, US-VISIT's scope includes the pre-entry, entry, status, and exit of hundreds of millions of foreign national travelers who enter and leave the United States at over 300 air, sea, and land POEs. However, most land border crossers—including U.S. citizens, lawful permanent residents, and most Canadian and Mexican citizens—are, by regulation or statute, not

¹⁰ GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed*, [GAO-04-569T](#) (Washington, D.C.: March 2004).

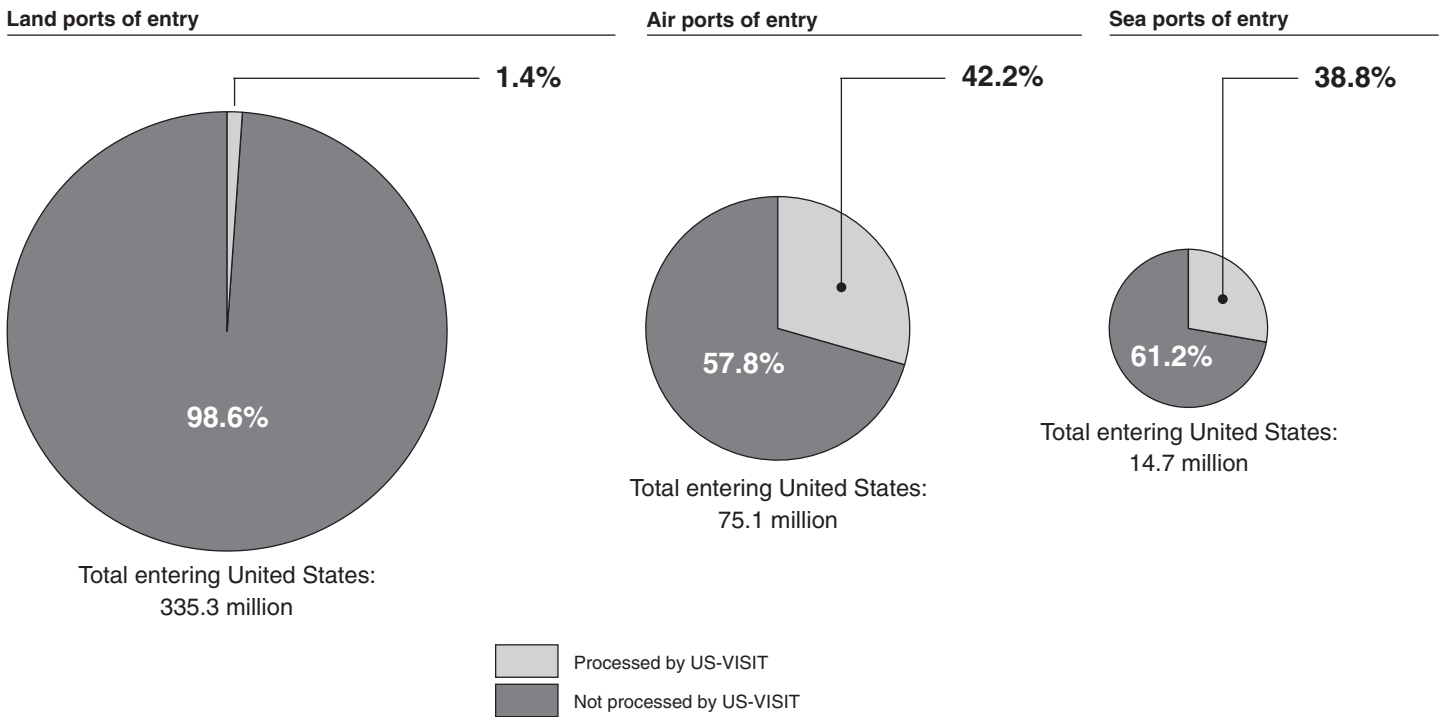
¹¹ GAO, *Homeland Security: First Phase of Visitor and Immigration Status Program Operating, but Improvements Needed*, [GAO-04-586](#) (Washington, D.C.: May 2004).

¹² GAO, *Homeland Security: Recommendations to Improve Key Border Security Programs Need to Be Implemented*, [GAO-06-296](#) (Washington, D.C.: February 2006).

required to enroll into US-VISIT.¹³ In fiscal year 2004, for example, U.S. citizens and lawful permanent residents constituted about 57 percent of land border crossers; Canadian and Mexican citizens constituted about 41 percent; and less than 2 percent were US-VISIT enrollees. Figure 1 shows the number and percentage of persons processed under US-VISIT as a percentage of all border crossings at land, air, and sea POEs in fiscal year 2004.

¹³ Since the statute governing US-VISIT applies to foreign national arrival and departure data only, U.S. citizens do not fall within the scope of the program and therefore are exempt from US-VISIT screening. Also, in general, regardless of whether they are to be processed into US-VISIT, Mexican citizens must present either a passport and visa or a BCC when seeking admission to the United States, while Canadian citizens generally do not need such documents at this time (Canadian visitors at land POEs may need passports as early as January 2008, however, under regulations implementing a new statutory provision on passport requirements). According to US-VISIT, when a Mexican receives a BCC, the data on the individual entered into U.S. databases at the time of their visa application are accessible by US-VISIT—if they are to be processed into it for any reason.

Figure 1: Persons Processed under US-VISIT as a Percentage of All Border Crossings at Land, Air, and Sea Ports of Entry, Fiscal Year 2004



Source: GAO analysts of DHS data.

Note: Persons processed by US-VISIT may include foreign nationals who were also issued an I-94 valid for multiple entries and who have re-entered multiple times. Total entering the United States includes U.S. citizens who may have re-entered the country multiple times and foreign nationals, including those not issued I-94s, such as Canadian citizens and Mexicans with BCCs, and those issued multiple entry I-94s who also may have re-entered multiple times. U.S. citizens do not fall within the statutory scope of US-VISIT and therefore are exempt from US-VISIT screening.

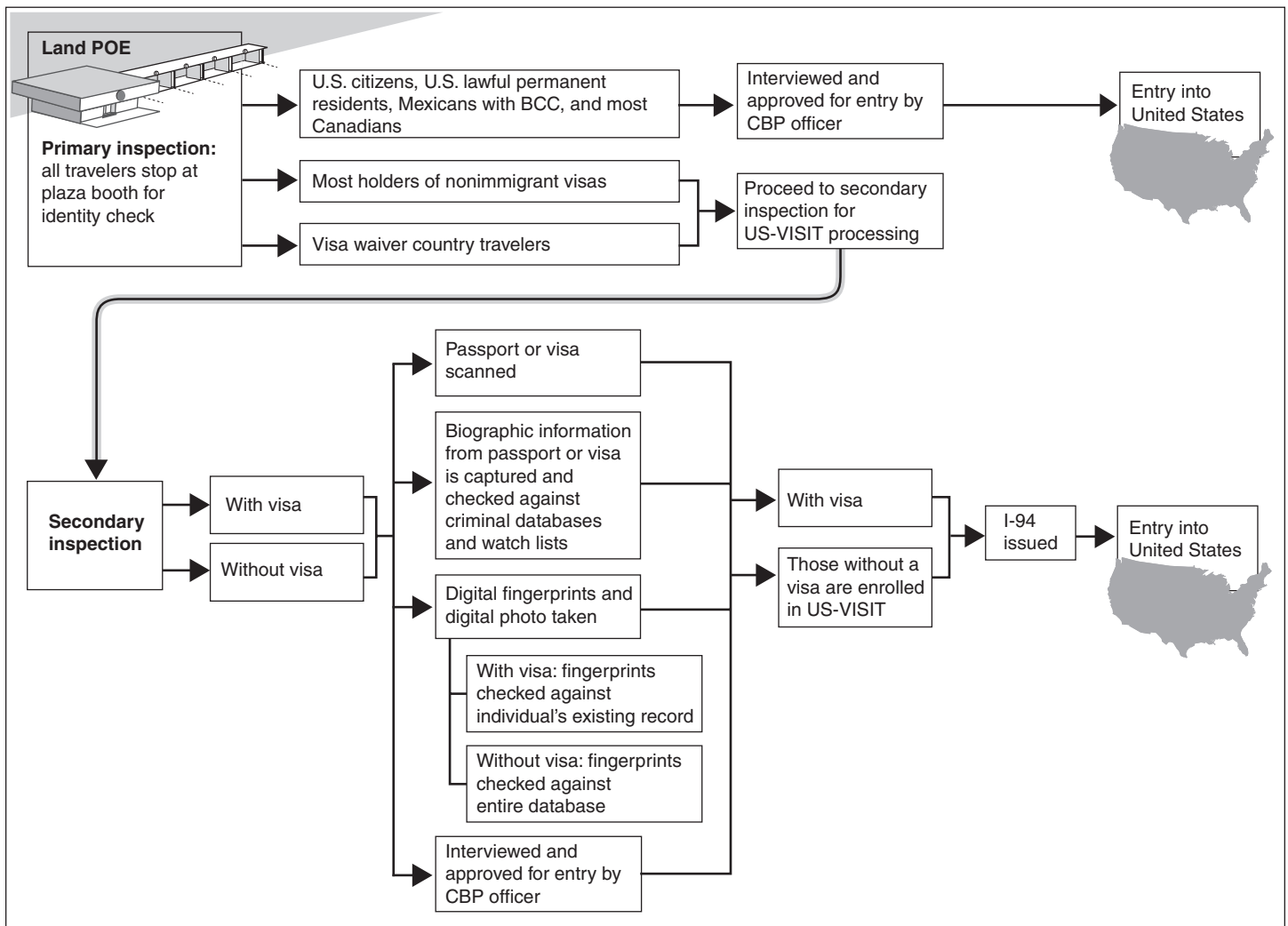
Foreign nationals subject to US-VISIT who intend to enter the country encounter different inspection processes at different types of POEs depending on their mode of travel. Those who intend to enter the United States at an air or sea POE are to be processed, for purposes of US-VISIT, in the primary inspection area upon arrival. Generally, these visitors are subject to prescreening, before they arrive, via passenger manifests, which are forwarded to CBP by commercial air or sea carrier in advance of

arrival.¹⁴ By contrast, foreign nationals intending to enter the United States at land POEs are generally not subject to prescreening because they arrive in private vehicles or on foot and there is no manifest to record their pending arrival. Thus, when foreign nationals subject to US-VISIT arrive at a land POE in vehicles, they initially enter the primary inspection area where CBP officers, often located in booths, are to visually inspect travel documents and query the visitors about such matters as their place of birth and proposed destination. Visitors arriving as pedestrians enter an equivalent primary inspection area, generally inside a CBP building. If the CBP officer believes a more detailed inspection is needed or if the visitors are required to be processed under US-VISIT,¹⁵ the visitors are to be referred to the secondary inspection area—an area away from the primary inspection area—which is generally inside a facility. The secondary inspection area inside the facility generally contains office space, waiting areas, and space to process visitors, including US-VISIT enrollees. Equipment used for US-VISIT processing includes a computer, printer, digital camera, and a two-fingerprint scanner. Figure 2 shows how U.S. citizens and most Mexicans, Canadians, and foreign nationals subject to US-VISIT are to be processed at land POEs.

¹⁴ Under the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. No. 107-173, § 402(a), 116 Stat. 543, 557-59), commercial air and sea carriers are to transmit crew and passenger manifests to appropriate immigration officials before arrival of an aircraft or vessel in the United States. These manifests are transmitted to CBP through the Advanced Passenger Information System (APIS), which helps officers identify (1) those arrivals for which biometric data are available and (2) foreign nationals who need to be scrutinized more closely.

¹⁵ At land border POEs, the Form I-94 issued to foreign nationals covered by US-VISIT who are deemed admissible is considered issued for multiple entries, unless specifically annotated otherwise. A multiple entry I-94 permits them to re-enter the country, generally for up to 6 months, without additional US-VISIT processing during the period covered by the I-94.

Figure 2: Overview of US-VISIT Processing at Land POEs for Visitors with and without Visas Entering the Country



Sources: GAO (analysis), MapArt (map).

As of August 2006, there were 170 land POEs that are geographically dispersed along the nation's more than 7,500 miles of borders with Canada and Mexico. Some are located in rural areas (such as Alexandria Bay, New York, and Blaine-Pacific Highway, Washington) and others in cities (such as Detroit) or in U.S. cities across from Mexican cities, such as Laredo and El Paso, Texas. The volume of visitor traffic at these POEs varied widely, with the busiest four POEs characterized by CBP, in fiscal year 2005, as

San Ysidro, Calexico, and Otay Mesa, California, and Bridge of the Americas in El Paso, Texas.

DHS Had Installed US-VISIT Biometric Entry Capability at Nearly All Land POEs, but Faces Challenges Identifying and Monitoring the Operational Impacts on POE Facilities

My statement will now focus on what the US-VISIT Program Office had done to implement US-VISIT entry capabilities at land POEs and what impact US-VISIT has had on these facilities.

At the time of our review, DHS had installed the entry portion of US-VISIT at 154 of the nation's 170 land POEs,¹⁶ usually with minimal new construction or changes to existing facilities. As required by law, the US-VISIT entry capability includes biometric features—such as digital scans of 2 fingerprints—to help verify the identity of visitors. CBP officials at all 21 land POEs we visited told us that US-VISIT's entry capability has generally enhanced their ability to process visitors subject to US-VISIT by providing assurance that visitors' identities can be confirmed through biometric identifiers and by automating the paperwork associated with processing I-94 arrival/departure forms.

Going forward, DHS plans to introduce changes and enhancements to US-VISIT at land POEs intended to further bolster CBP's ability to verify the identity of individuals entering the country, including a transition from digitally scanning 2 fingerprints to scanning 10. While such changes are intended to further enhance border security, deploying them may have an impact on aging and space-constrained land POE facilities because they could increase inspection times and adversely affect POE operations. Our site visits, interviews with US-VISIT and CBP officials, and the work of others suggest that both before and after US-VISIT entry capability was installed at land POEs, these facilities faced a number of challenges—operational and physical—including space constraints complicated by the logistics of processing high volumes of visitors and associated traffic congestion. Moreover, our work over the past 3 years showed that the US-VISIT program office had not taken necessary steps to help ensure that US-VISIT entry capability operates as intended. For example, in February 2006 we reported that the approach taken by the US-VISIT Program Office to evaluate the impact of US-VISIT on land POE facilities focused on changes in I-94 processing time at 5 POEs and did not examine other

¹⁶ US-VISIT was not installed at 14 of the 16 other POEs because visitors subject to US-VISIT are not permitted to enter the country at those locations; at the other 2 POEs, DHS lacked the infrastructure needed to install the equipment.

operational factors, such as US-VISIT's impact on physical facilities or work force requirements.¹⁷ As a result, program officials did not always have the information they needed to anticipate problems that occurred, such as problems processing high volumes of visitors in space-constrained facilities.

Turning to another aspect of our work on US-VISIT entry capability, our December 2006 report stated that management controls did not always alert US-VISIT and CBP to operational problems. Our standards for internal controls in the federal government state that it is important for agencies to have controls in place to help ensure that policies and procedures are applied and that managers be made aware of problems so that they can be addressed and resolved in a timely fashion.¹⁸ CBP officials at 12 of 21 land POE sites we visited told us about US-VISIT-related computer slowdowns and freezes that adversely affected visitor processing and inspection times, and at 9 of the 12 sites, computer processing problems were not always reported to CBP's computer help desk, as required by CBP guidelines. Although various controls are in place to alert US-VISIT and CBP officials to problems as they occur, these controls did not alert officials to all problems, given that they had been unaware of the problems we identified before we brought them to their attention. These computer processing problems have the potential to not only inconvenience travelers because of the increased time needed to complete the inspection process, but to compromise security, particularly if CBP officers are unable to perform biometric checks—one of the critical reasons US-VISIT was installed at POEs.

Our internal control standards also call for agencies to establish performance measures throughout the organization so that actual performance can be compared to expected results. While the US-VISIT Program Office established performance measures for fiscal years 2005 and 2006 intended to gauge performance of various aspects of US-VISIT at air, sea, and land POEs in the aggregate, performance measures specifically for land POEs had not been developed. It is important to do so, given that there are significant operational and facility differences among

¹⁷ [GAO-06-296](#).

¹⁸ GAO, *Internal Control: Standards for Internal Control in the Federal Government*, [GAO/AMD-00-21.3.1](#) (Washington, D.C.: November 1999) and GAO, *Internal Control Standards: Internal Control Management and Evaluation Tool*, [GAO-01-1008G](#) (Washington, D.C.: August 2001).

these different types of POEs. Additional performance measures that consider operational and facility differences at land POEs would put US-VISIT program officials in a better position to identify problems, trends, and areas needing improvements.

DHS Cannot Currently Implement a Biometric US-VISIT Exit Capability at Land POEs and Faces Uncertainties as Testing of an Alternative Exit Strategy Continues

My statement will now focus on the challenges facing DHS as it attempts to implement a biometric exit capability at land POEs.

Various Factors Have Prevented US-VISIT from Implementing a Biometric Exit Capability

Various factors have prevented US-VISIT from implementing a biometric exit capability. Federal laws require the creation of a US-VISIT exit capability using biometric verification methods to ensure that the identity of visitors leaving the country can be matched biometrically against their entry records.¹⁹ However, according to officials at the US-VISIT Program Office and CBP and US-VISIT program documentation, there are interrelated logistical, technological, and infrastructure constraints that have precluded DHS from achieving this mandate, and there are cost factors related to the feasibility of implementation of such a solution. The major constraint to performing biometric verification upon exit at this time, in the US-VISIT Program Office's view, is that the only proven technology available would necessitate mirroring the processes currently in use for US-VISIT at entry. A mirror image system for exit would, like one for entry, require CBP officers at land POEs to examine the travel documents of those leaving the country, take fingerprints, compare visitors' facial features to photographs, and, if questions about identity arise, direct the departing visitor to secondary inspection for additional

¹⁹ Intelligence Reform and Terrorism Prevention Act of 2004, § 7208, 8 U.S.C. § 1365b. See also USA PATRIOT Act, Pub. L. No. 107-56, § 414(b)(1), 115 Stat. 272, 353 (2001); 8 U.S.C. § 1365a(b)(2)-(4).

questioning. These steps would be carried out for exiting pedestrians as well as for persons exiting in vehicles. The US-VISIT Program Office concluded in January 2005 that the mirror-imaging solution was “an infeasible alternative for numerous reasons, including but not limited to, the additional staffing demands, new infrastructure requirements, and potential trade and commerce impacts.”²⁰

US-VISIT officials told us that they anticipated that a biometric exit process mirroring that used for entry could result in delays at land POEs with heavy daily volumes of visitors. And they stated that in order to implement a mirror image biometric exit capability, additional lanes for exiting vehicles and additional inspection booths and staff would be needed, though they had not determined precisely how many. According to these officials, it is unclear how new traffic lanes and new facilities could be built at land POEs where space constraints already exist, such as those in congested urban areas. (For example, San Ysidro, California, currently has 24 entry lanes, each with its own staffed booth and 6 unstaffed exit lanes. Thus, if full biometric exit capability were implemented using a mirror image approach, San Ysidro’s current capacity of 6 exit lanes would have to be expanded to 24 exit lanes.) As shown in figure 3, based on observations during our site visit to the San Ysidro POE, the facility is surrounded by dense urban infrastructure, leaving little, if any, room to expand in place. Some of the 24 entry lanes for vehicle traffic heading northward from Mexico into the United States appear in the bottom left portion of the photograph, where vehicles are shown waiting to approach primary inspection at the facility; the six exit lanes (traffic toward Mexico), which do not have fixed inspection facilities, are at the upper left.

²⁰ US-VISIT, *Increment 2C Operational Alternatives Assessment—FINAL* (Rosslyn, Virginia: Jan. 31, 2005).

Figure 3: Aerial View of San Ysidro, California, POE



Source: GAO.

Other POE facilities are similarly space-constrained. At the POE at Nogales-DeConcini, Arizona, for example, we observed that the facility is bordered by railroad tracks, a parking lot, and industrial or commercial buildings. In addition, CBP has identified space constraints at some rural POEs. For example, the Thousand Islands Bridge POE at Alexandria Bay, New York, is situated in what POE officials described as a “geological bowl,” with tall rock outcroppings potentially hindering the ability to expand facilities at the current location. Officials told us that in order to accommodate existing and anticipated traffic volume upon entry, they are in the early stages of planning to build an entirely new POE on a hill about a half-mile south of the present facility. CBP officials at the Blaine-Peace Arch POE in Washington state said that CBP also is considering whether to relocate and expand the POE facility, within the next 5 to 10 years, to better handle existing and projected traffic volume. According to the US-VISIT program officials, none of the plans for any expanded, renovated, or relocated POE include a mirror image addition of exit lanes or facilities comparable to those existing for entry.

In 2003, the US-VISIT Program Office estimated that it would cost approximately \$3 billion to implement US-VISIT entry and exit capability at land POEs where US-VISIT was likely to be installed and that such an effort would have a major impact on facility infrastructure at land POEs. We did not assess the reliability of the 2003 estimate. The cost estimate did not separately break out costs for entry and exit construction, but did factor in the cost for building additional exit vehicle lanes and booths as well as buildings and other infrastructure that would be required to accommodate a mirror imaging at exit of the capabilities required for entry processing. US-VISIT program officials told us that they provided this estimate to congressional staff during a briefing, but that the reaction to this projected cost was negative and that they therefore did not move ahead with this option. No subsequent cost estimate updates had been prepared, and DHS's annual budget requests have not included funds to build the infrastructure that would be associated with the required facilities.

US-VISIT officials stated that they believe that technological advances over the next 5 to 10 years will make it possible to utilize alternative technologies that provide biometric verification of persons exiting the country without major changes to facility infrastructure and without requiring those exiting to stop and/or exit their vehicles, thereby precluding traffic backup, congestion, and resulting delays. US-VISIT's report assessing biometric alternatives noted that although limitations in technology currently preclude the use of biometric identification because visitors would have to be stopped, the use of the as yet undeveloped biometric verification technology supports the long-term vision of the US-VISIT program.²¹ However, no such technology or device currently exists that would not have a major impact on facilities. The prospects for its development, manufacture, deployment, and reliable utilization are currently uncertain or unknown, although a prototype device that would permit a fingerprint to be read remotely without requiring the visitor to come to a full stop is under development.

While logistical, technical, and cost constraints may prevent implementation of a biometrically based exit technology for US-VISIT at this time, it is important to note that there currently is not a legislatively mandated date for implementation of such a solution. The Intelligence

²¹ US-VISIT, *Increment 2C Operational Alternatives Assessment—FINAL* (Rosslyn, Virginia: Jan. 31, 2005).

Reform and Terrorism Prevention Act of 2004 requires US-VISIT to collect biometric exit data from all individuals who are required to provide biometric entry data.²² The act did not set a deadline, however, for requiring collection of biometric exit data from all individuals who are required to provide biometric entry data. Although US-VISIT had set a December 2007 deadline for implementing exit capability at the 50 busiest land POEs, US-VISIT has since determined that implementing exit capability by this date is no longer feasible, and a new date for doing so has not been set.

The US-VISIT Program Office Tested Nonbiometric Technology to Record Travelers' Departure, but Identified Numerous Performance and Reliability Problems

US-VISIT has tested nonbiometric technology to record travelers' departure, but testing showed numerous performance and reliability problems. Because there is at present no biometric technology that can be used to verify a traveler's exit from the country at land POEs without also making major and costly changes to POE infrastructure and facilities, US-VISIT tested radio frequency identification (RFID) technology as a nonbiometric means of recording visitors as they exit. RFID technology can be used to electronically identify and gather information contained on a tag—in this case, a unique identifying number embedded in a tag on a visitor's arrival/departure form—which an electronic reader at the POE is intended to detect. While RFID technology required few facility and infrastructure changes, US-VISIT's testing and analysis at five land POEs at the northern and southern borders identified numerous performance and reliability problems, such as the failure of RFID readers to detect a majority of travelers' tags during testing. For example, according to US-VISIT, at the Blaine-Pacific Highway test site, of 166 vehicles tested during a 1-week period, RFID readers correctly identified 14 percent—a sizable departure from the target read rate of 70 percent.²³

Another problem that arose was that of cross-reads, in which multiple RFID readers installed on poles or structures over roads, called gantries, picked up information from the same visitor, regardless of whether the individual was entering or exiting in a vehicle or on foot. Thus, cross-reads

²² 8 U.S.C. § 1365b(d).

²³ A US-VISIT program official explained that for vehicles exiting during RFID testing, one could "reasonably expect" a read rate of 70 percent because vehicles are not required to stop upon exit. The official also cited vehicle speed, safety, and awareness (of optimal positioning of the arrival/departure form; for example, holding the form up to the window of the vehicle) as factors that affected RFID read rates.

resulted in inaccurate record keeping. According to a January 2006 US-VISIT corrective-action report, remedying cross-reads would require changes to equipment and infrastructure on a case-by-case basis at each land POE, because each has a different physical configuration of buildings, roadways, roofs, gantries, poles, and other surfaces against which the signals can bounce and cause cross-reads. Each would therefore require a different physical solution to avoid the signal interference that triggers cross-reads. Although cost estimates or time lines had not been developed for such alterations to facilities and equipment, it is possible that having to alter the physical configuration at each land POE in some regard and then test each separately to ensure that cross-reads had been eliminated would be both time consuming and potentially costly, in terms of changes to infrastructure and equipment.

However, even if RFID deficiencies were to be fully addressed and deadlines set, questions remain about DHS's intentions going forward. For example, the RFID solution did not meet the congressional requirement for a biometric exit capability because the technology that had been tested cannot meet a key goal of US-VISIT—ensuring that visitors who enter the country are the same ones who leave. By design, an RFID tag embedded in an I-94 arrival/departure form cannot provide the biometric identity-matching capability that is envisioned as part of a comprehensive entry/exit border security system using biometric identifiers for tracking overstays and others entering, exiting, and re-entering the country. Specifically, the RFID tag in the I-94 form cannot be physically tied to an individual. This situation means that while a document may be detected as leaving the country, the person to whom it was issued at time of entry may be somewhere else.

Our report also noted that DHS was to have reported to Congress by June 2005 on how the agency intended to fully implement a biometric entry/exit program. As of October 2006, this plan was still under review in the Office of the Secretary, according to US-VISIT officials. According to statute, this plan is to include, among other things, a description of the manner in which the US-VISIT program meets the goals of a comprehensive entry and exit screening system—including both biometric entry and exit—and fulfills statutory obligations imposed on the program by several laws enacted between 1996 and 2002.²⁴ Until such a plan is finalized and issued, DHS is not able to articulate how entry/exit concepts will fit together—

²⁴ 8 U.S.C. §1365b(c)(2)(E).

including any interim nonbiometric solutions—and neither DHS nor Congress is positioned to prioritize and allocate resources for a US-VISIT exit capability or plan for the program’s future.

DHS Had Not Articulated How US-VISIT Strategically Fits with Other Land Border Security Initiatives

My statement will now focus on DHS efforts to define how US-VISIT fits with other emerging border security initiatives.

DHS had not articulated how US-VISIT strategically fits with other land border security initiatives. In recent years, DHS has planned or implemented a number of initiatives aimed at securing the nation’s borders. In September 2003, we reported that agency programs need to properly fit within a common strategic context governing key aspects of program operations—e.g., what functions are to be performed by whom; when and where they are to be performed; what information is to be used to perform them; what rules and standards will govern the application of technology to support them; and what facility or infrastructure changes will be needed to ensure that they operate in harmony and as intended.²⁵ We further stated that DHS had not defined key aspects of the larger homeland security environment in which US-VISIT would need to operate. For example, certain policy and standards decisions had not been made, such as whether official travel documents would be required for all persons who enter and exit the country, including U.S. and Canadian citizens, and how many fingerprints would be collected—factors that could potentially increase inspection times and ultimately increase traveler wait times at some of the higher volume land POE facilities. To minimize the impact of these changes, we recommended that DHS clarify the context in which US-VISIT is to operate. Our December 2006 report noted that, 3 years later, defining this strategic context remained a work in progress. Thus, the program’s relationships and dependencies with other closely allied initiatives and programs were still unclear.

According to the US-VISIT Chief Strategist, the Program Office drafted in March 2005 a strategic plan that showed how US-VISIT would be strategically aligned with DHS’s organizational mission and also defined an overall vision for immigration and border management.²⁶ According to this

²⁵ [GAO-03-1083](#).

²⁶ In commenting on our December 2006 report, DHS stated that this plan includes US-VISIT’s draft response to the legislative requirement that DHS produce a report to Congress by June 2005 that describes a comprehensive US-VISIT entry/exit screening system, as discussed earlier in this report.

official, the draft plan provided for an immigration and border management enterprise that unified multiple internal departmental and other external stakeholders with common objectives, strategies, processes, and infrastructures. As of October 2006, we were told that DHS had not approved this strategic plan. This draft plan was not available to us, and it is unclear how it would provide an overarching vision and road map of how all these component elements can at this time be addressed given that critical elements of other emerging border security initiatives have yet to be finalized.

For example, under the Intelligence Reform and Terrorism Prevention Act of 2004, DHS and the Department of State are to develop and implement a plan, no later than June 2009, which requires U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico to present a passport or other document or combination of documents deemed sufficient to show identity and citizenship to enter the United States (this is currently not a requirement for these individuals entering the United States via land POEs from within the Western Hemisphere).²⁷ This effort, known as the Western Hemisphere Travel Initiative (WHTI), was first announced in 2005, and some members of Congress and others have raised questions about agencies' progress carrying out WHTI. In May 2006, we issued a report that provided our observations on efforts to implement WHTI along the U.S. border with Canada.²⁸ We stated that DHS and the Department of State had taken some steps to carry out the Travel Initiative, but they had a long way to go to implement their proposed plans, and time was slipping by. Among other things, we found that

- key decisions had yet to be made about what documents other than a passport would be acceptable when U.S. citizens and citizens of Canada enter or return to the United States—a decision critical to making decisions about how DHS is to inspect individuals entering the

²⁷ In November 2006, DHS and the Department of State issued a final rule announcing that, beginning on January 23, 2007, citizens of the United States, Canada, Mexico, and Bermuda generally are required to present a passport to enter the United States when arriving by air from any part of the Western Hemisphere (8 C.F.R. Parts 212 and 235 and 22 C.F.R. Parts 41 and 53). According to DHS, a separate proposed rule addressing land and sea travel will be published at a later date with specific requirements for travelers entering the United States through land and sea POEs. By law, these new requirements are to be in place no later than June 2009.

²⁸ GAO, *Observations on Efforts to Implement the Western Hemisphere Travel Initiative on the U.S. Canadian Border*, [GAO-06-741R](#) (Washington, D.C.: May 25, 2006).

country, including what common facilities or infrastructure might be needed to perform these inspections at land POEs, and

- a DHS and Department of State proposal to develop an alternative form of passport, called a PASS card, would rely on RFID technology to help DHS process U.S. citizens re-entering the country, but DHS had not made decisions involving a broad set of considerations that included (1) utilizing security features to protect personal information, (2) ensuring that proper equipment and facilities are in place to facilitate crossings at land borders, and (3) enhancing compatibility with other border crossing technology already in use.

As of September 2006, DHS had still not finalized plans for changing the inspection process and using technology to process U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico re-entering or entering the country at land POEs. In the absence of decisions about the strategic direction of both programs, it was unclear (1) how the technology used to facilitate border crossings under the Travel Initiative would be integrated with US-VISIT technology, if at all, and (2) how land POE facilities would have to be modified to accommodate both programs to ensure efficient inspections that do not seriously affect wait times. This raises the possibility that CBP would be faced with managing differing technology platforms and border inspection processes at high-volume land POE facilities that, according to DHS, already face space constraints and congestion.

Similarly, our December 2006 report noted that it is not clear how US-VISIT is to operate in relation to another emerging border security effort, the Secure Border Initiative (SBI)—a comprehensive DHS initiative, announced last year, to secure the country's borders and reduce illegal migration. Under SBI and its CBP component, called *SBI_{net}*, DHS plans to use a systems approach to integrate personnel, infrastructures, technologies, and rapid response capability into a comprehensive border protection system. DHS reports that, among other things, *SBI_{net}* is to encompass both the northern and southern land borders, including the Great Lakes, under a unified border control strategy whereby CBP is to focus on the interdiction of cross-border violations between the ports and at the official land POEs and funnel traffic to the land POEs. As part of SBI, DHS also plans to focus on interior enforcement—disrupting and dismantling cross border crime into the interior of the United States while locating and removing aliens who are present in the United States in violation of law. Although DHS has published some information on SBI and *SBI_{net}*, it remains unclear how *SBI_{net}* will be linked, if at all, to US-

VISIT so that the two systems can share technology, infrastructure, and data across programs.

Also, given the absence of a comprehensive entry and exit system, questions remain about what meaningful data US-VISIT may be able to provide other DHS components, such as Immigration and Customs Enforcement (ICE), to ensure that DHS can, from an interior enforcement perspective, identify and remove foreign nationals covered by US-VISIT who may have overstayed their visas. In a May 2004 report, we stated that although no firm estimates were available, the extent of overstaying is significant.²⁹ We stated that most long-term overstays appeared to be motivated by economic opportunities, but a few had been identified as terrorists or involved in terrorist-related activities. Notably, some of the September 11 hijackers had overstayed their visas. We further reported that US-VISIT held promise for identifying and tracking overstays as long as it could overcome weaknesses matching visitors' entry and exit.

Conclusions, Recommendations, and Agency Response

Developing and deploying complex technology that records the entry and exit of millions of visitors to the United States, verifies their identities to mitigate the likelihood that terrorists or criminals can enter or exit at will, and tracks persons who remain in the country longer than authorized is a worthy goal in our nation's effort to enhance border security in a post-9/11 era. But doing so also poses significant challenges; foremost among them is striking a reasonable balance between US-VISIT's goals of providing security to U.S. citizens and visitors while facilitating legitimate trade and travel.

DHS has made considerable progress making the entry portion of the US-VISIT program at land POEs operational, but our work raised questions whether DHS has adequately assessed how US-VISIT has affected operations at land POEs. Because US-VISIT will likely continue to have an impact on land POE facilities as it evolves—especially as new technology and equipment are introduced—it is important for US-VISIT and CBP officials to have sufficient management controls for identifying and reporting potential computer and other operational problems that could affect the ability of US-VISIT entry capability to operate as intended. For example, if disruptions to US-VISIT computer operations are not

²⁹ GAO, *Overstay Tracking: A Key Component of Homeland Security and a Layered Defense*, [GAO-04-82](#) (Washington, D.C.: May 2004).

consistently and promptly reported and resolved, it is possible that a critical US-VISIT function—notably, the ability to use biometric information to confirm visitors’ identities through various databases—could be disrupted, as has occurred in the past. The need to avoid disruptions to biometric verification is important given that one of the primary goals of US-VISIT is to enhance the security of U.S. citizens and visitors, and in light of the substantial investment DHS has made in US-VISIT technology and equipment. To help DHS achieve benefits commensurate with its investment in US-VISIT at land POEs and security goals and objectives, we recommended that DHS (1) improve existing controls for identifying and reporting computer processing and other operational problems to help ensure that these controls are consistently administered and (2) develop performance measures specifically for assessing the impact of US-VISIT operations at land POEs.

With respect to DHS’s effort to create an exit verification capability, developing and deploying this capability at land POEs has posed a set of challenges that are distinct from those associated with entry. US-VISIT has not determined whether it can achieve, in a realistic time frame, or at an acceptable cost, the legislatively mandated capability to record the exit of travelers at land POEs using biometric technology. Apart from acquiring new facilities and infrastructure at an estimated cost of billions of dollars, US-VISIT officials have acknowledged that no technology now exists to reliably record travelers’ exit from the country, and to ensure that the person leaving the country is the same person who entered, without requiring that person to stop upon exit—potentially imposing a substantial burden on travelers and commerce. US-VISIT officials stated that they believe a biometrically based solution that does not require those exiting the country to stop for processing, that minimizes the need for major facility changes, and that can be used to definitively match a visitor’s entry and exit will be available in 5 to 10 years. In the interim, it remains unclear how DHS plans to proceed. According to statute, DHS was required to report more than a year ago on its plans for developing a comprehensive biometric entry and exit system, but DHS has yet to finalize this road map for Congress. Until DHS finalizes such a plan, neither Congress nor DHS is likely to have sufficient information as a basis for decisions about various factors relevant to the success of US-VISIT, ranging from funding needed for any land POE facility modifications in support of the installation of exit technology to the trade-offs associated with ensuring traveler convenience while providing verification of travelers’ departure consistent with US-VISIT’s national security and law enforcement goals. We recommended that as DHS finalizes the mandated report, the Secretary take steps to ensure that the report includes, among other things, information on the

costs, benefits, and feasibility of deploying biometric and nonbiometric exit capabilities at land POEs. Our recommendation also stated that DHS's report should include a description of how DHS plans to align US-VISIT with other emerging land border security initiatives and what facilities or facility modifications would be needed at land POEs to ensure that different technologies and processes work in harmony. By showing how these initiatives are to be aligned, Congress, DHS, and others would be in a better position to understand what resources and tools are needed to ensure success and ensure that land POE facilities are positioned to accommodate them.

DHS generally agreed with our recommendations and stated that it either had begun to take or was planning to take actions to implement them. It acknowledged that the exit technology tested by DHS would not satisfy statutory requirements for a biometric exit system and said that it would perform research and industry outreach to satisfy the mandate. DHS, however, disagreed with our finding that the US-VISIT Program Office did not fully consider the impact of US-VISIT on the overall operations at POEs. It said that US-VISIT impacts are limited to changes in Form I-94 processing time, which according to officials, improved, and that issues related to capacity, staffing, and other factors are "arguably" beyond the scope of US-VISIT. We agree that the approach taken to do operational assessments of the impact of US-VISIT land POE facilities focused on changes to I-94 processing time. Our concern is that the assessments did not examine other operational factors, such as US-VISIT's impact on physical facilities, to help ensure that US-VISIT operates as intended. We believe more complete assessments of the impact of US-VISIT on land POE operations would better position DHS to anticipate potential problems and develop solutions, especially as additional US-VISIT capabilities, such as 10-fingerprint scanning, are introduced at these facilities.

This concludes my prepared testimony. I would be happy to respond to any questions that Members of the Subcommittee may have.

GAO Contact and Staff Acknowledgements

For further information about this testimony, please contact me at (202) 512-8816. John Mortin, Assistant Director; Amy Bernstein; Frances Cook; Odi Cuero; Richard Hung; Amanda Miller; James R. Russell; and Jonathan Tumin made key contributions to this testimony.

Appendix I: Legislative Overview of the US-VISIT Program

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 originally required the development of an automated entry and exit control system to collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; make it possible to identify nonimmigrants who remain in the country beyond the authorized period; and not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border ports of entry. It also required the integration of overstay information into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices. The system was originally to be developed by September 30, 1998; this deadline was changed to October 15, 1998, and was changed again for land border ports of entry and sea ports to March 30, 2001.

The Immigration and Naturalization Service Data Management Improvement Act (DMIA) of 2000 replaced the 1996 statute in its entirety, requiring instead an electronic system that would provide access to and integrate alien arrival and departure data that are authorized or required to be created or collected under law, are in an electronic format, and are 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. The act specifically provided that it not be construed to permit the imposition of any new documentary or data collection requirements on any person for the purpose of satisfying its provisions, but it further provided that it also not be construed to reduce or curtail any authority of the Attorney General (now Secretary of Homeland Security) or Secretary of State under any other provision of law. The integrated entry and exit data system was to be implemented at airports and seaports by December 31, 2003, at the 50 busiest land ports of entry by December 31, 2004, and at all remaining ports of entry by December 31, 2005.

The DMIA also required that the system use available data 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. The system was to match an alien's available arrival data with the alien's available departure data, assist in the identification of possible overstays, and use available alien arrival and departure data for annual reports to Congress. These reports were to include the number of aliens for whom departure data were collected during the reporting period, with an accounting by country of nationality; the number of departing aliens whose departure data were successfully matched to the alien's arrival data, with an accounting by country of

nationality and classification as an immigrant or nonimmigrant; the number of aliens who arrived pursuant to a nonimmigrant visa, or as a visitor under 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, with an accounting by country of nationality and date of arrival in the United States; and the number of identified overstays, with an accounting by country of nationality.

In 2001, the USA PATRIOT Act provided that, in developing the integrated entry and exit data system under the DMIA, the Attorney General (now Secretary of Homeland Security) and Secretary of State were to focus particularly on the utilization of biometric technology and the development of tamper-resistant documents readable at ports of entry. It also required that the system 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. The PATRIOT Act also required by January 26, 2003, the development and certification of a technology standard, including appropriate biometric identifier standards, that can be used to verify the identity of persons applying for a U.S. visa or persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name. This technology standard was to be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully interoperable means to share law enforcement and intelligence information necessary to confirm the identity of persons applying for a U.S. visa or persons seeking to enter the United States pursuant to a visa. This electronic system was to be readily and easily accessible to consular officers, border inspection agents, and law enforcement and intelligence officers responsible for investigation or identification of aliens admitted to the United States pursuant to a visa. Every 2 years, beginning on October 26, 2002, the Attorney General (now Secretary of Homeland Security) and the Secretary of State were to jointly report to Congress on the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system.

The Enhanced Border Security and Visa Entry Reform Act of 2002 required that, in developing the integrated entry and exit data system for the ports of entry under the DMIA, the Attorney General (now Secretary of Homeland Security) and Secretary of State implement, fund, and use the technology standard required by the USA PATRIOT Act at U.S. ports of entry and at consular posts abroad. The act also required the

establishment of a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens and the interoperability of all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act. In implementing these requirements, the INS (now the Department of Homeland Security [DHS]) and the Department of State were to utilize technologies that facilitate the lawful and efficient cross-border movement of commerce and persons without compromising the safety and security of the United States and were to consider implementing a North American National Security Program, for which other provisions in the act called for a feasibility study.

The act, as amended, also established a number of requirements regarding biometric travel and entry documents. It required that not later than October 26, 2004, the Attorney General (now Secretary of Homeland Security) and the Secretary of State issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers and that they jointly establish document authentication standards and biometric identifiers standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations. It also required by October 26, 2005, the installation at all ports of entry of the United States of equipment and software to allow biometric comparison and authentication of all U.S. visas and other travel and entry documents issued to aliens and passports issued by visa waiver participants. Such biometric data readers and scanners were to be those that domestic and international standards organizations determine to be highly accurate when used to verify identity, that can read the biometric identifiers used under the act, and that can authenticate the document presented to verify identity. These systems also were to utilize the technology standard established pursuant to the PATRIOT Act.

The Intelligence Reform and Terrorism Prevention Act of 2004 did not amend the existing statutory provisions governing US-VISIT, but it did establish additional statutory requirements concerning the program. It described the program as an “automated biometric entry and exit data system” and required DHS to develop a plan to accelerate the full implementation of the program and to report to Congress on this plan by June 15, 2005. The report was to provide several types of information about the implementation of US-VISIT, including a “listing of ports of entry and other DHS and Department of State locations with biometric exit data systems in use.” The report also was to provide a description of the

manner in which the US-VISIT program meets the goals of a comprehensive entry and exit screening system, “including both entry and exit biometric;” and fulfills the statutory obligations imposed on the program by several laws enacted between 1996 and 2002. The act provided that US-VISIT “shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.”

The new provisions in the 2004 act also addressed integration and interoperability of databases and data systems that process or contain information on aliens and federal law enforcement and intelligence information relevant to visa issuance and admissibility of aliens; maintaining the accuracy and integrity of the US-VISIT data system; using the system to track and facilitate the processing of immigration benefits using biometric identifiers; the goals of the program (e.g., serving as a vital counterterrorism tool, screening visitors efficiently and in a welcoming manner, integrating relevant databases and plans for database modifications to address volume increase and database usage, and providing inspectors and related personnel with adequate real time information); training, education, and outreach on US-VISIT, low-risk visitor programs, and immigration law; annual compliance reports by DHS, State, the Department of Justice, and any other department or agency subject to the requirements of the new provisions; and development and implementation of a registered traveler program.

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