



Department of Homeland Security Office of Inspector General

Potentially High Costs and Insufficient Grant Funds Pose a Challenge to REAL ID Implementation



Office of Inspector General

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**Homeland
Security**

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Preface

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the strengths and weaknesses of the REAL ID program. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Richard L. Skinner".

Richard L. Skinner
Inspector General

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Abbreviations

AAMVA	American Association of Motor Vehicle Administrators
DHS	Department of Homeland Security
DMV	Department of Motor Vehicles
FEMA	Federal Emergency Management Agency
FY	Fiscal Year
GPD	Grants Program Directorate
NPRM	Notice of Proposed Rule Making
SAVE	Systematic Alien Verification for Entitlements

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Executive Summary

In 2005, Congress passed the *REAL ID Act* to strengthen the security of state-issued driver's licenses and identification cards in response to the use of fraudulent identification documents by the September 11, 2001, terrorists. The Act set minimum standards for identification documents accepted by federal agencies for official purposes such as entering federal buildings, visiting nuclear facilities, and boarding airplanes. The Department of Homeland Security (DHS) was tasked with implementing the Act and assisting states with becoming REAL ID compliant. We reviewed DHS' REAL ID program to assess the financial impact on 19 states' ability to comply with the law and determine whether grants sufficiently mitigated costs.

Potentially high costs pose a significant challenge to states in their efforts to implement REAL ID. Specifically, state officials considered REAL ID implementation costs prohibitive because of requirements such as the reenrollment of all current driver's license and identification card holders and the new verification processes. Further, state officials in 17 of the 19 states we contacted indicated they needed more timely guidance from DHS to estimate the full cost of implementing REAL ID. State officials also said that REAL ID grants did not sufficiently mitigate the costs, and they viewed communication of grant information by DHS as ineffective.

We recommend that the Assistant Secretary for Policy:

- Ensure stakeholders consisting of federal, state, and private representatives help develop and disseminate necessary guidance related to the REAL ID card marker, facility security, verification systems, and best practices that would assist stakeholders in implementing REAL ID.
- Establish a communications plan to ensure that stakeholders receive the necessary REAL ID program and grant guidance.

Background

Following the terrorist attacks on September 11, 2001, Congress and the President established the 9/11 Commission to determine how the events transpired and how the United States could prevent future occurrences.¹ The Commission reported that the terrorists used false identification documents.² The hijackers had 30 state-issued forms of identification; and at least seven of these documents were obtained fraudulently. These identification documents were used to rent cars and apartments, open bank accounts, and board planes.

In its report, the Commission recommended that the federal government set standards for the issuance of birth certificates and sources of identification such as driver's licenses. The Commission noted that identification document fraud is no longer a problem of mere theft. Further, at many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to screen for terrorists.

On May 11, 2005, the President signed the *REAL ID Act of 2005*.³ The *REAL ID Act* (hereafter referred to as "the Act") was intended to improve security for driver's licenses and state identification cards, thereby making it more difficult for individuals to obtain false identification documents. The Act states that, beginning 3 years after the date of its enactment, on May 11, 2008, a federal agency may not accept, for any official purpose, a driver's license or identification card issued by a state unless the state meets the Act's requirements. Official purposes include activities such as accessing federal facilities, entering nuclear power plants, and boarding federally regulated commercial aircraft.

The Act established specific minimum requirements that states must include on driver's licenses and identification cards for them to be accepted for official purposes.⁴ Specifically, the driver's licenses and identification cards must include the individual's full legal name, date of birth, driver's license or identification card number, gender, address of principal residence, and signature, as well as a digital photograph. The driver's licenses and identification cards also must have physical security features

¹*The National Commission on Terrorist Attacks Upon the United States*, Public Law 107-306, November 27, 2002.

²*Final Report of the National Commission on Terrorist Attacks Upon the United States*, July 22, 2004.

³Public Law 109-13, Division B, *REAL ID Act of 2005*, Section 202, May 11, 2005.

⁴The requirements of the Act only apply to those states that choose to comply.

designed to prevent tampering, counterfeiting, and duplication, as well as a machine-readable technology with defined minimum elements.

The Act requires states to adopt minimum standards when issuing driver's licenses and identification cards that are acceptable for official purposes such as entering federal buildings, visiting nuclear facilities, and boarding airplanes. For example, states must require that license and card applicants present certain documentation, including documents showing name, date of birth, proof of Social Security number, address of principal residence, and that the applicant is lawfully present in the United States.

States must establish procedures to verify that the documents are authentic and not forged or fraudulent. For example, states must verify the lawful status of an applicant through the Systematic Alien Verification for Entitlements (SAVE) system, and confirm the validity of social security numbers with the Social Security Administration. In addition to verifying the authenticity of source documents, states must also confirm that individuals are not holders of a separate REAL ID license in another state.

The Act further requires states to ensure the physical security of facilities where driver's licenses and identification cards are produced, as well as the security of the material used to produce them.

Individuals who meet the requirements of the Act will receive a REAL ID-compliant driver's license or identification card. Individuals who do not satisfy the requirements can still receive a state-issued identification card; however, it will not be acceptable to federal agencies for official purposes. The noncompliant identification card must be clearly marked to alert federal agencies that it cannot be used for official purposes.

The requirements for implementation of the Act pose substantial economic implications for each of the 56 jurisdictions⁵ of the United States, which together have more than 240 million applicants for and holders of a state driver's license or identification card. In recognition of the economic implications, between 2005 and 2008, Congress made approximately \$90 million available in grant funding for REAL ID implementation.

⁵ Jurisdictions are defined as all 50 states, territories of the United States, and the District of Columbia, and will hereafter be referred to as "states" within this report.

DHS’ Role in Implementing the REAL ID Act of 2005

The Act authorizes DHS, in consultation with the states and the Department of Transportation, to issue regulations and set standards to implement the requirements of the Act. Additionally, DHS is responsible for determining whether a state is meeting the requirements of the Act based on state certifications to the Secretary. DHS is also authorized to issue grants to states to assist them in conforming to the Act’s standards.

After the passage of the Act in 2005, DHS conducted a series of REAL ID working group meetings with DHS components and other government agencies.⁶ In late 2006, DHS established the REAL ID Program Office within the Office of Policy’s Screening Coordination Office to manage the implementation of the Act. The Federal Emergency Management Agency’s Grants Program Directorate (FEMA GPD) works with the REAL ID Program Office to administer grants to states to assist with REAL ID implementation costs. Figure 1 provides a depiction of DHS REAL ID components.

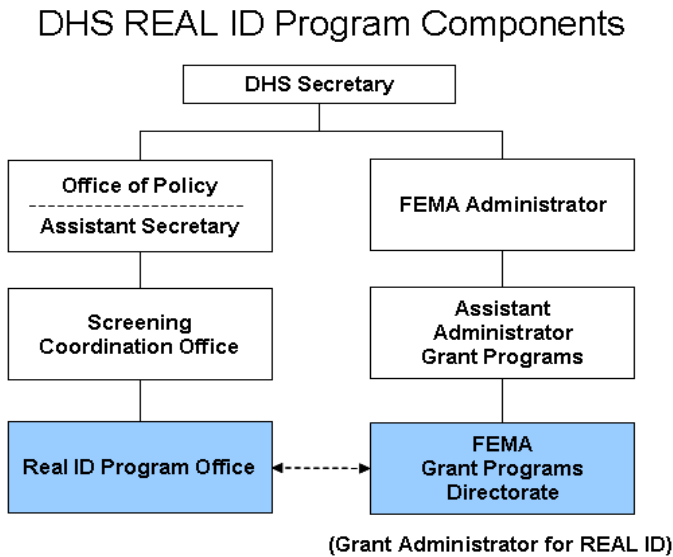


Figure 1: DHS REAL ID Program Components

The mission of the REAL ID Program Office is the timely, cost-effective, and successful implementation of the Act. It established the following objectives to meet that mission:

⁶ The REAL ID working group meetings were attended by various DHS component officials and representatives from other government agencies such as the Department of Transportation, Department of State, Department of Justice, Social Security Administration, and the Department of Health and Human Services.

- Facilitate the process to implement the requirements of the Act;
- Evaluate implementation solutions to reduce costs and help states expedite compliance with the Act;
- Issue guidelines for state submission of certifications of compliance;
- Assist states in completing certifications, monitor state progress toward compliance, and conduct audits of state compliance; and
- Support initiatives related to REAL ID implementation, such as technology and business process upgrades, through grants.

FEMA GPD is responsible for administering the REAL ID grant process, including soliciting awards, and developing guidance for state submissions of grant applications.

REAL ID National Impact Analysis

To determine the fiscal and operational impact of the Act, in 2006, the American Association of Motor Vehicle Administrators (AAMVA), in conjunction with the National Governors Association and the National Conference of State Legislators, conducted a nationwide survey of state motor vehicle agencies (DMV). The results of this survey indicated that implementation of the Act would cost states more than \$11 billion over five years.⁷ The report identified reenrollment, new verification processes, and card design requirements as the three most costly requirements.

Reenrollment

AAMVA cost estimates indicated that states would spend \$8.48 billion over five years to reenroll all 245 million driver's license and identification card holders in the United States. States anticipated that they would need to hire additional employees; increase service hours; expand facilities; purchase additional equipment; implement public education campaigns; and handle increased calls, complaints, and return visits.

New Verification Processes

Verifying the validity of an applicant's identification documents with the appropriate issuing agency, storing verification information, capturing images of all applicants, and other related processes would cost states an estimated \$1.42 billion over five

⁷ *The Real ID Act: National Impact Analysis*, September 2006, Presented by the National Governors Association, the National Conference of State Legislatures, and the American Association of Motor Vehicle Administrators. This survey will hereafter be referred to as developed by AAMVA.

years. Compliance with the Act requires states to independently verify each identification document with its issuing agency through the use of five national electronic systems to facilitate verification. These systems will provide for data verification and state-to-state data exchanges to validate Social Security numbers, establish lawful status of REAL ID card applicants, and ensure that an applicant does not hold another REAL ID card or driver's license in another state. States would need to adapt their systems for the new requirements and establish connections with verification systems once they are made available. These estimates did not include transaction fees that may be required for states to access the verification systems.

Card Design Requirements

Assuming that a uniform security configuration would be prescribed, states estimated that they would spend \$1.1 billion over a five-year period to incorporate security features into driver's licenses and identification cards to prevent tampering, counterfeiting, or duplication.

DHS Notice of Proposed Rulemaking

On March 3, 2007, DHS published its proposed requirements to meet the minimum standards of the Act in a Notice of Proposed Rulemaking (Proposed Rule). The Proposed Rule included requirements for applicant documentation, documentation verification, the information to be included on driver's licenses and identification cards, security features on the cards, facility security plans, DMV employee background checks, the state certification process, and database connectivity.

Under the Proposed Rule, as of May 11, 2008, federal agencies could not accept driver's licenses or identification cards for official purposes from individuals in states that were not REAL ID compliant. States that intended to comply with REAL ID would have a five-year period, or until May 11, 2013, to replace all existing driver's licenses and identification cards if those documents were to be used for official purposes.

The Proposed Rule allowed states to request a one-year extension of the compliance date from DHS. Extension requests were to be submitted no later than March 31, 2008, and the extension would terminate December 31, 2009. DHS received more than 21,000 comments from stakeholders, including state and local DMV representatives along with private industry organizations.

Stakeholders expressed concern that the costs of the REAL ID program would be “huge,” “exorbitant,” “significant,” or “excessive.”

The Final Rule: DHS’ Efforts to Reduce State Costs

The Final Rule, published by DHS on January 29, 2008, included several major changes to address the concerns raised in the comments to the Proposed Rule, as well as in the AAMVA National Impact Analysis. Specifically, DHS extended reenrollment periods, provided an additional extension of the compliance deadline to address concerns relating to the new verification processes, and relaxed card design requirements.

Extended Reenrollment Periods

To reduce the operational burden on states, the Final Rule instituted a two-phased reenrollment schedule based on age. States will have until December 1, 2014, to reenroll individuals born after December 1, 1964. States will have an additional three years, until December 1, 2017, to reenroll individuals born on or before December 1, 1964. In addition, states will be allowed to reissue a driver’s license or identification card without requiring an in person visit, if there has not been a significant change in the applicant’s information since the prior issuance.

Extended Compliance Deadlines

In response to state comments that the lack of a centralized verification system would make it impossible to comply with statutory requirements by December 31, 2009, the date the first extension terminates, the Final Rule allows states to obtain a second extension to May 11, 2011. Figure 2 shows the extended deadlines imposed by the Final Rule.

STATE COMPLIANCE MILESTONES AND DEADLINES

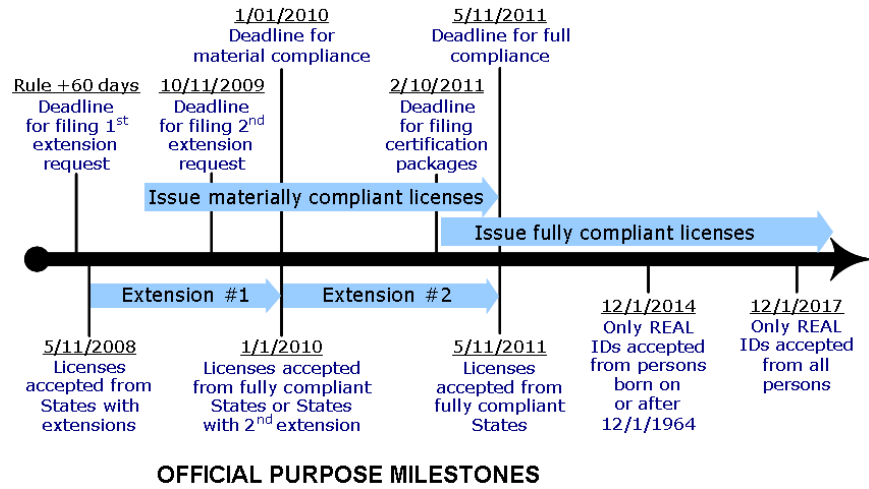


Figure 2: REAL ID Extended Compliance Milestones and Deadlines

Only states that demonstrate they have achieved “material compliance” with the Act will be granted the additional extension.⁸ DHS developed a checklist containing 18 milestones that are mandatory requirements under the Act, and must be met to achieve material compliance. These milestones are listed in Figure 3.

⁸ Material compliance is an interim status that certifies a state is taking measurable steps toward becoming REAL ID compliant. This status differs from full compliance in that states cannot issue REAL ID compliant licenses until they have been certified by DHS as having achieved full compliance.

Material Compliance Checklist	
<ol style="list-style-type: none"> 1. Subject each applicant to a mandatory facial image capture and retain such image even if a driver license (DL) or identification card (ID) is not issued. 2. Have each applicant sign a declaration under penalty of perjury that the information presented is true and correct, and the State must retain this declaration. 3. Require an individual to present at least one of the source documents listed in subsections (i) through (x) when establishing identity. 4. Require documentation of: Date of birth; Social Security Number; Address of principal residence; Evidence of lawful status. 5. Have a documented exceptions process that meets the requirements established in § 37.11(h)(1)-(3)(if States choose to have such a process). 6. Make reasonable efforts to ensure that the applicant does not have more than one DL or ID already issued by that State under a different identity. 7. Verify lawful status through SAVE or another method approved by DHS. 8. Verify Social Security account numbers with the Social Security Administration or another method approved by DHS. 9. Issue DL and IDs that contain Level 1, 2 and 3 integrated security features. 	<ol style="list-style-type: none"> 10. Surface of cards include the following printed information in Latin alpha-numeric characters: Full legal name; Date of birth; Gender; Unique DL/ID number; Full facial digital photograph; Address of principal residence [with exceptions]; Signature [with exceptions]; Date of transaction. 11. Commit to marking fully compliant DL and IDs with a DHS-approved security marking. 12. Issue temporary or limited-term licenses to all individuals with temporary lawful status and tie license validity to the end of lawful status. 13. Have a documented security plan for DMV operations in accordance with the requirements set forth in § 37.41. 14. Have protections in place to ensure the security of personally identifiable information. 15. Require all employees handling source documents or issuing DL or IDs to attend and complete the AAMVA approved (or equivalent) fraudulent document recognition training and security awareness training. 16. Conduct name-based and fingerprint-based criminal history and employment eligibility checks on employees in covered positions or an alternative procedure approved by DHS. 17. Commit to be in full compliance with Subparts A through D on or before May 11, 2011. 18. Clearly state on the face of non-compliant DLs or IDs that the card is not acceptable for official purposes, except for licenses renewed or reissued under § 37.27.

Figure 3: Material Compliance Checklist for States

States must certify to DHS that they have met these milestones to obtain the extension. The extension expires on May 11, 2011, at which time states must begin issuing fully compliant REAL ID driver’s licenses and identification cards.

Relaxed Card Design Requirements

In response to comments that the physical security features for licenses and identification cards were an undue burden on states, DHS removed the proposed card standards. Under the Final Rule, states must conduct a review of their respective card designs and submit a report to DHS as part of its certification package that indicates the ability of the designs to resist compromise and document fraud attempts.

Driver’s licenses and identification cards that are not compliant with REAL ID must clearly state that they will not be accepted by any federal agency for identification or any other official purpose. The Final Rule leaves the types of marking and unique coloring to the states’ discretion, subject to DHS’ approval. The Final Rule requires that REAL ID-compliant driver’s licenses and identification cards bear a DHS-approved security marking.

According to DHS, these and other changes to the proposed requirements significantly reduced the states’ costs to implement

the Act. Figure 4 provides the main cost concerns identified in the AAMVA National Impact Analysis and the Final Rule's effect on those cost concerns.

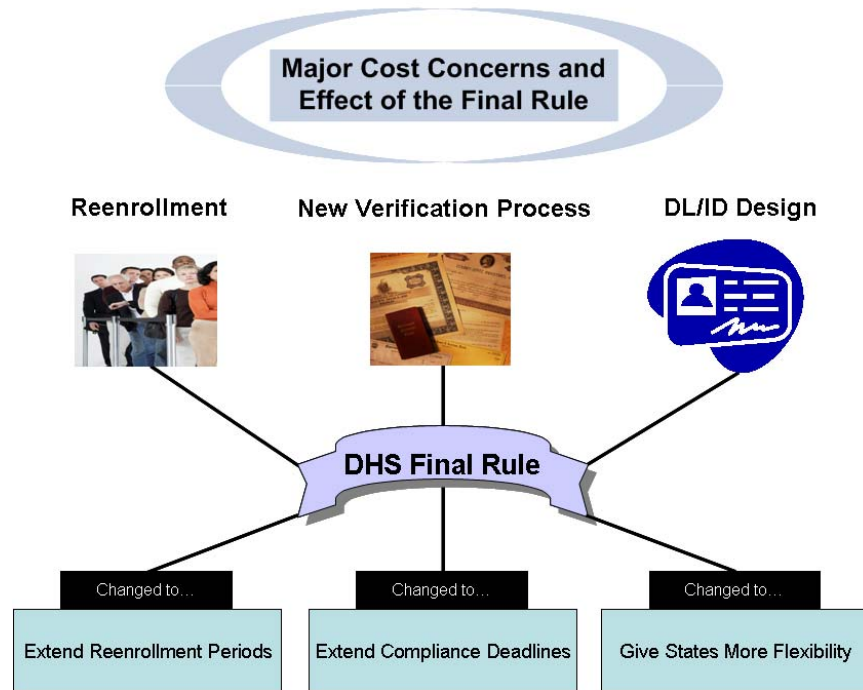


Figure 4: Final Rule's Effect on Major Cost Concerns

In January 2008, DHS conducted a Regulatory Evaluation of REAL ID to weigh the costs and benefits of the Act. The results of the evaluation indicated that the changes in the standards had reduced the costs to states by 73%.

Results of Audit

States Reported REAL ID Implementation Remains Cost Prohibitive

Although the Final Rule reduced expected state costs for complying with the Act, states continue to consider the costs prohibitive. In addition, DHS did not provide timely guidance or information on implementing several potentially costly requirements because it did not apply an effective communication strategy for developing and disseminating guidance to stakeholders. As a result, states could not accurately estimate the full costs of implementing REAL ID.

States Surveyed Were Concerned About Cost

Officials in several states told us that changes in the requirements from the Proposed Rule to the Final Rule had, in fact, reduced their expected costs for complying with the Act. For example, one state estimated it would cost \$185 million to implement the requirements under the Proposed Rule; estimated costs under the Final Rule are between \$65 million to \$80 million. Another state's estimated costs dropped from \$97 million to \$47 million.

Despite the reduction in estimated costs, states continue to consider the overall cost of implementing REAL ID requirements prohibitive. Specifically, 13 of the 19 states we surveyed indicated that implementing REAL ID would be cost prohibitive. Five states were uncertain or unable to accurately estimate their costs. Only one of 19 states surveyed indicated that the cost of REAL ID would not be prohibitive because it had already taken measures to improve driver's license security that positioned it to meet the requirements of the Act. These results are illustrated in Figure 5.

Is REAL ID Cost Prohibitive for Your State?

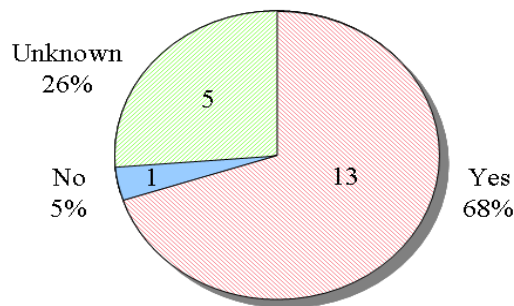


Figure 5: State Responses to REAL ID Costs

Officials from many of the states surveyed told us that reenrolling all driver's license and identification card holders, and implementing the required verification processes, would be particularly costly.

Reenrollment

Several states reported that the costs associated with reenrolling current driver's license and identification card holders remain a concern. Specifically, the reenrollment of residents will increase the number of DMV customers and the time it takes to provide service to them. For example, one state anticipates that as many as 100,000 residents will visit its DMVs per day, which will require about 3,000 DMV employees. A DMV in another state already serves 1,200 customers each day. The state believes that REAL ID will require a substantial increase in the amount of time to serve each customer, which will lead to increased waiting times. Another state expressed concern that current card holders and new applicants would bring the wrong documents with them, causing applicants to make return visits.

Many DMVs in the states we surveyed are ill-equipped to handle the expected surge. To accommodate increased customers, and the new business processes, DMV officials said they would need to hire and train more employees. State officials also said they might need to upgrade or expand existing DMV facilities. These reenrollment challenges are expected to be particularly burdensome for over-the-counter issuance states, which have a large number of small facilities that issue driver's licenses and identification cards.

Officials in one state said the cost of reenrollment was especially challenging because it had already established processes consistent with REAL ID requirements. Although this state's DMV is nearly 90% compliant with REAL ID requirements, DHS has stated that no state could be materially compliant prior to the enactment of the Act. Therefore, even though current license and card holders presented original source documents at the time of application and those documents were verified, the documents must be recertified under the Act. This redundancy accounts for most of this state's \$150 million cost estimate for REAL ID compliance.

Verification Processes

States also remain concerned about the costs associated with the new verification processes. For example, the requirement to take a

digital photo at the beginning of the license application process will require additional equipment and facility upgrades to counter space. Also, one state official said that its current system captures only 25 characters for applicant names. As a result, this state needs to upgrade its system to capture around 125 characters for an applicant's full legal name.⁹

In addition, states are concerned about the fees for using the systems required to verify applicants' information. For example, the cost for using one existing system, SAVE, was increased recently. One state had been paying 5 cents for each transaction to verify the lawful status of applicants through the SAVE system. DHS sent a letter in July 2008 notifying this state that the fee had been increased to 50 cents per transaction. The state received the notification after the end of its legislative session, making it too late to request funds to cover the cost increase.

REAL ID Guidance to States Not Timely

The Final Rule states that DHS will work to develop best practices to guide future verification system design, development and operation, as well as privacy and security best practices, including security plans for DMV facilities. One of the primary objectives of the REAL ID Program Office is to work closely with states to facilitate compliance with REAL ID requirements by issuing guidelines or best practices.

Officials from several states reported that the REAL ID Program Office has communicated effectively with states in general, and that communication has improved over time. For example, DHS attended at least four AAMVA regional conferences during which it provided information on the REAL ID program. However, states reported that they have not received sufficient or timely guidance for critical compliance requirements, which may result in significant costs to their states. Although many of the requirements that impact the cost to states were defined or addressed in the Final Rule, DHS did not provide timely and specific guidance on how REAL ID-compliant driver's licenses and identification cards must be marked, best practices for the physical security of facilities, or information on the systems that will be used for verifying applicant documentation.

⁹ The 125 character storage capacity is an AAMVA standard endorsed by DHS, not a DHS requirement.

Card Marker

To achieve material compliance by December 31, 2009, states are required to mark REAL ID-compliant licenses with the official marker approved by DHS. The details of the marker will affect the amount that states pay the card vendors who produce the licenses. Small changes can have a large impact for states with large driver populations. For example, one state said that an increase of 25 cents per card for the marker would cost \$7 million.

Consequently, states needed to know what the marker would be to request sufficient funds in their DMV budgets. Officials from some states said that they could not wait much longer, or would have to move ahead with card design before DHS reached a final decision to meet the material compliance deadline. If this occurred, making the necessary changes later would lead to additional costs.

In February 2008, DHS announced at an AAMVA briefing that a final determination on the marker would be released to states by mid March 2008. However, as of September 2008, officials from the states we interviewed had not received this guidance.

Facility Security

DHS did not provide states with timely guidance on physical security standards. The Final Rule requires that states provide a physical security plan to DHS for approval. States were concerned that if their proposals were not in line with DHS expectations, it would be too late to make the necessary changes before the material compliance deadline. States requested guidance from DHS to ensure their physical security plans would meet DHS expectations. At an AAMVA briefing in February 2008, DHS indicated that guidance would be forthcoming in three to six months. However, representatives from the states we surveyed said that they have yet to receive this guidance.

Verification Systems

DMV officials from several of the states we surveyed reported that they have not received sufficient information on the verification systems to understand the associated costs. To achieve full compliance with REAL ID standards by 2011, states must connect with electronic verification systems to verify identification documents. Several of the systems needed do not yet exist. Figure 6 shows the verification systems that currently exist that states

must start using to achieve material compliance, as well as the systems required for full compliance that do not yet exist.

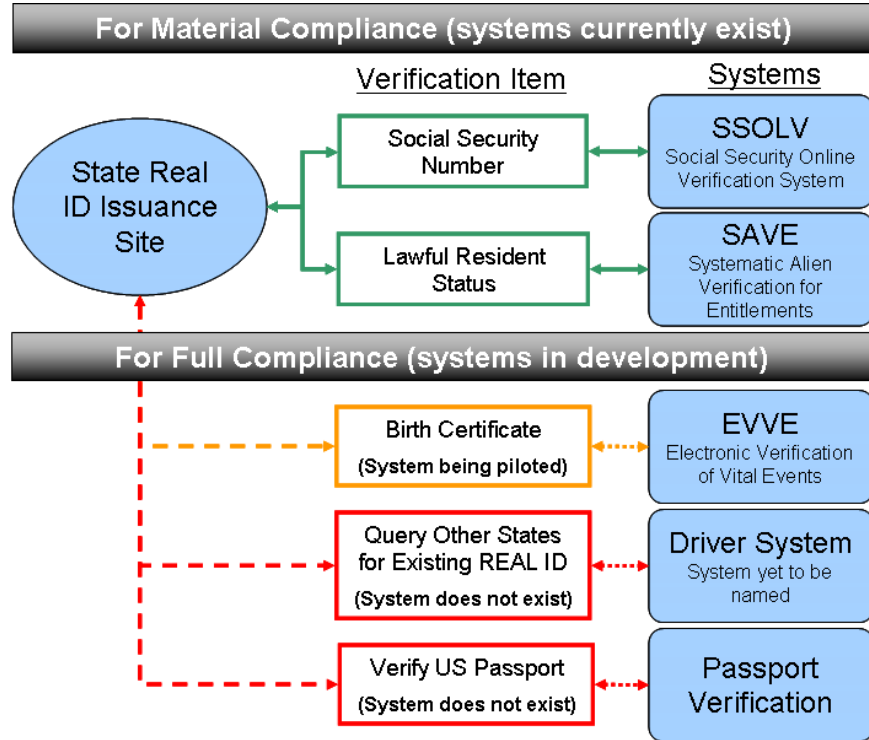


Figure 6: Verification Systems Requirements

DHS has initiated a verification systems design project to define requirements for a “hub-based” network and messaging systems to support the requirements of REAL ID. States are concerned that the costs of upgrading their systems to connect and verify information with these systems will be high. States are also concerned that there may be high transaction costs to use the new verification systems. One state expects that these fees will add \$4 to \$5 to the cost of each license. This would cost this state, which has about 4.6 million drivers, as much as \$23 million in addition to what it plans to spend on REAL ID implementation.

In February 2008, DHS had indicated to REAL ID stakeholders that verification transaction cost information would be forthcoming. Although development costs vary by state, DHS has been working with AAMVA and the Verification System Working Group to provide detailed information on ongoing costs for system access.¹⁰ However, as of September 2008, officials from many of the states we contacted had not yet received this guidance.

¹⁰ The Verification System Working Group, consisting of 14 states, was established in early 2006 to develop recommendations for the REAL ID verification system.

REAL ID Stakeholder Participation

Although DHS developed an implementation plan for the REAL ID program, the plan did not include a strategy for developing and disseminating timely guidance and best practices to stakeholders. REAL ID program officials suggested an approach to providing timely guidance to stakeholders during an AAMVA conference. Specifically, the program officials discussed the possibility of creating a steering group made up of experienced DMV representatives. This group would field ideas from stakeholders to help develop necessary guidance to assist states in implementing REAL ID.

Without the necessary guidance from DHS, states cannot develop cost estimates to accurately assess REAL ID implementation costs or take the steps to budget for the necessary funding. Owing to the lack of guidance on these requirements alone, officials in 17 of the 19 states we contacted stated that they cannot estimate the full costs of REAL ID compliance.

States Reported That Grants Are Insufficient to Mitigate REAL ID Implementation Costs

States reported that grants for REAL ID were insufficient to mitigate costs associated with compliance. Also, states reported confusion about the grant application and award process. This occurred because DHS had not developed an effective strategy to communicate timely grant program guidance and decisions.

REAL ID Funding

Nearly all of the states surveyed reported that grants for REAL ID were inadequate to mitigate implementation costs. Specifically, 18 of 19 states, or 95%, reported that available grant funding was insufficient. Several states referred to the amount received as a “drop in the bucket.” Figure 7 highlights the disparity between the amounts requested and the amounts awarded to the states we contacted.

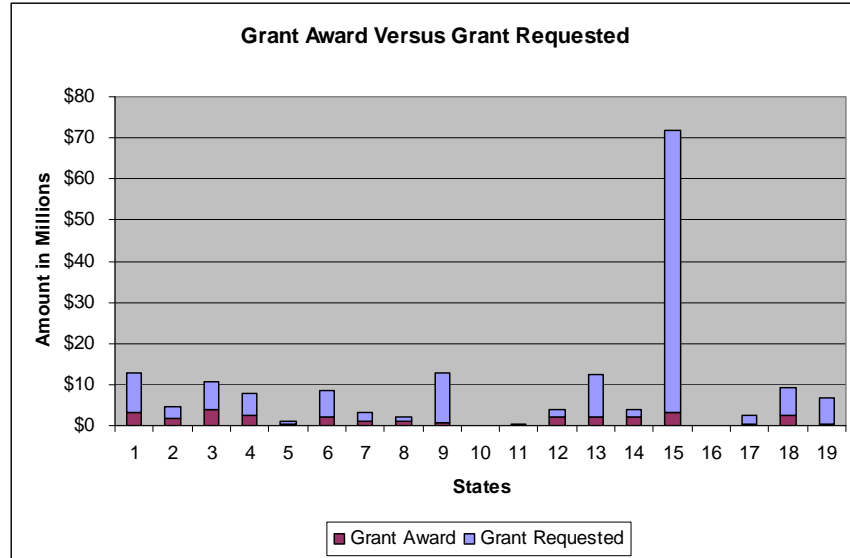


Figure 7: REAL ID Grants Awarded Compared to Grants Requested

The average amount of grant funding requested for the 19 states was \$8.5 million, while the average amount actually awarded was \$1.7 million, less than 25% of what states said they needed to fund REAL ID. For example, one state requested \$12.2 million and received approximately \$550,000.

States have requested that Congress make additional grant money available. Further, several state representatives have testified before Congress asking for increases in funding levels. As late as March 2008, stakeholders requested that the Administration and Congress provide at least an additional \$1 billion in fiscal year (FY) 2008 in addition to the grants already awarded to states to assist with start-up costs. However, no additional FY 2008 funds were allocated in response to this request.

Communication of Grant Information to Stakeholders

FEMA GPD is responsible for developing guidance for state submissions of grant applications along with developing and communicating the application review process. However, representatives from 17 of the 19 states we contacted indicated that they did not receive clear guidance on the REAL ID grant process. Specifically, states reported that DHS did not clearly communicate the process and requirements for submitting grant applications, the process and criteria for grant awards, and the terms and stipulations for acceptance of the awards.

Grant Application Process

FEMA GPD issued guidance on the REAL ID grant program to states in December 2007.¹¹ The guidance indicated that available grant funds would be awarded for electronic verification systems infrastructure development and proposals that would have multistate benefits such as the REAL ID Pilot Project and the REAL ID Vital Events Verification State Project.

However, DHS decided in March 2008 to adjust the basis for award allocation to include the number of drivers per state, which resulted in a broader distribution of grant funds. DHS also extended the grant application deadline one month, to April 2008, to allow states more time to complete their grant applications. Officials from several states told us that when the award emphasis shifted, they were advised to submit an application to ensure inclusion. States that had not intended to apply for grants based on initial guidance had to scramble to submit an application by the deadline. Additionally, states that had spent time completing an application according to the initial guidance were frustrated by the shift in award criteria.

Unclear about the requirements, states reported that their grant submissions were incomplete and misdirected. Specifically, officials from one state said that their grant submission only accounted for a portion of their total estimated implementation costs. These state officials explained that they received guidance from DHS suggesting that they scale back funding requests to improve their chances of receiving a grant award.

Grant Award Process

The grant guidance stated that proposals would be reviewed and assessed by a FEMA peer review panel based on the strength of the submission and would be awarded on a competitive basis. The panel evaluated applications and assigned a numeric score based on criteria such as innovation, security and privacy enhancements, and the state's likelihood for REAL ID implementation success and compliance. After scoring, rating, and ranking each application, the panel submitted its recommendations for grant funding to the FEMA GPD.

However, the grants awarded in FY 2008 did not correspond to the panel rankings. For example, one relatively large state included in

¹¹ *FY 2008 REAL ID Demonstration Grant Program: Program Guidance and Application Kit*, December 2007.

this review received a low ranking from the FEMA panel; however, the state received a large grant. Another state applied late and was not ranked by the FEMA panel; nevertheless, this state received grant funds.

DHS decided in March 2008 to distribute grant funds more broadly than it originally planned. In June 2008, DHS awarded each of the 48 states that applied a portion of the nearly \$80 million available. The awards were based on a number of factors including the number of drivers in a state. Additionally, \$17 million was allocated for a state to lead the verification hub project, and \$4.8 million was allocated between each of four states participating in the verification hub pilots.

Terms of Grant Awards

States reported that they were unclear if accepting grant funding obligated the state to comply with REAL ID. One state, that did not intend to implement REAL ID, reported it did not apply for grant funding as it otherwise would have because it received unclear guidance suggesting that application and acceptance of grant funding would require the state to comply with REAL ID. States reported that they received contradictory information from the REAL ID Program Office and FEMA GPD in this regard.

Although DHS provided initial guidance on the grant program, it did not communicate timely to states the changes in the grant award criteria because it had not developed a communication strategy. Consequently, states did not fully understand the process and expressed their concern and dissatisfaction with DHS' communication concerning the grant process.

Legislative Challenges Hinder State Efforts to Fund REAL ID

Without sufficient grant funds, states must find ways to pay for REAL ID. Many states reported that funding significant new costs for REAL ID in a time when state budgets are shrinking poses an additional challenge for implementing REAL ID. Officials at one state DMV said that it was difficult to ask the state legislature for a large budget to fund REAL ID under these circumstances. Another state anticipated having to reallocate money from other critical needs. For example, one state raised the possibility of taking \$100 million out of its highway fund as a last resort to cover the REAL ID implementation costs.

Some states are considering passing part of the cost to drivers through license fees. For example, one state said it anticipates increasing its driver's license fee to \$50. Another state said that it would have to increase the cost of a driver's license from \$30 to \$100 to cover REAL ID costs. In some states driver's license fees are established by the legislature, making it difficult for those states to cover increased costs this way.

States May Not Meet Material Compliance Deadline

Because of the potential high cost to implement REAL ID and insufficient grants to cover those costs, many states are unsure if they will meet the material compliance requirements by December 31, 2009. If they do not, they will not be eligible to obtain the extension provided in the Final Rule for full compliance.

We asked state officials specifically whether their states would achieve material compliance benchmarks by the deadline. As illustrated in Figure 8, of the 19 states interviewed, only six states expected to meet the deadline, 10 states were not sure, and three states did not expect to be materially compliant by December 31, 2009.

Will Your State Meet REAL ID Material Compliance?

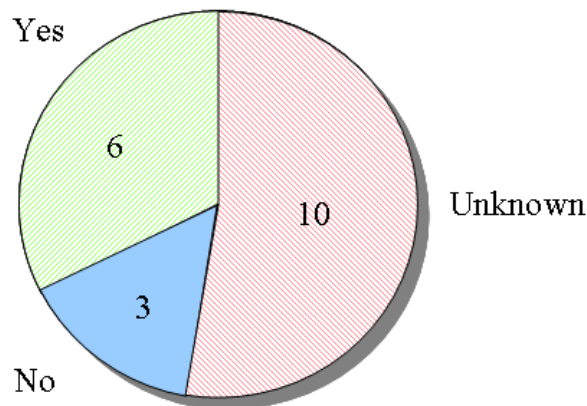


Figure 8: State Responses to REAL ID Material Compliance

Although cost is not the only factor influencing states' decisions on REAL ID, it is a major concern. Several states were hesitant to speculate on whether they would achieve material compliance until state executives and legislators reached a policy decision on REAL ID compliance. As indicated in Figure 9, some states introduced legislation opposing REAL ID based, in part, on concerns about

the costs of what they view is an unfunded mandate. Some states have already enacted laws prohibiting REAL ID implementation.

State Legislative Action on REAL ID

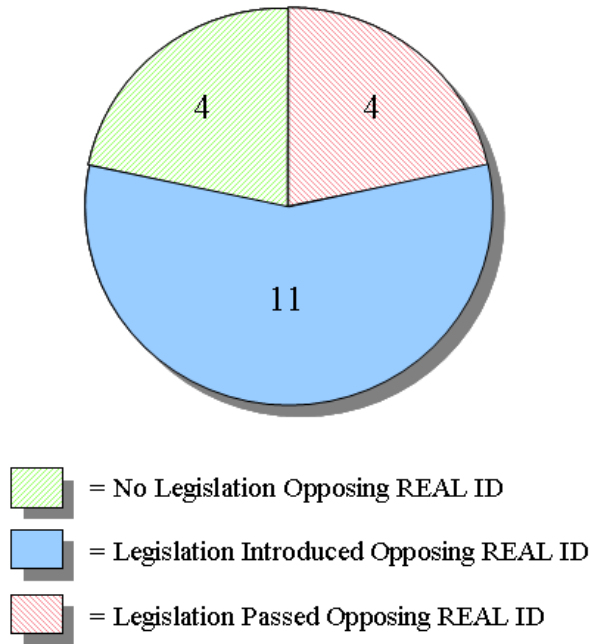


Figure 9: State REAL ID Legislative Actions

Of our sample of 19 states, 11 introduced legislation and four enacted laws opposing compliance with REAL ID.

Recommendations:

We recommend that the Assistant Secretary for Policy:

Recommendation #1: Ensure stakeholders consisting of federal, state, and private representatives help develop and disseminate necessary guidance related to the REAL ID card marker, facility security, verification systems, and best practices that would assist stakeholders in implementing REAL ID.

Recommendation #2: Establish a communications plan to ensure that stakeholders receive the necessary REAL ID program and grant guidance.

Management Comments and OIG Analysis

We obtained written comments on a draft of this report from the Acting Assistant Secretary for Policy. We have included a copy of the comments in their entirety in Appendix B.

The Acting Assistant Secretary for Policy concurred with our recommendations and provided comments and context on specific areas within the report. Additionally, the Acting Assistant Secretary provided details on steps being taken to address specific findings and recommendations in the report. We have reviewed management's comments and provided an evaluation of the issues outlined in the comments below.

In response to recommendation one, the Acting Assistant Secretary agreed that the REAL ID Program Office should ensure stakeholder participation to help develop and disseminate necessary guidance related to the REAL ID card marker, facility security, verification systems, and best practices that would assist stakeholders in implementing REAL ID. Accordingly, the REAL ID Program Office has undertaken initiatives and outreach activities in each of these areas. Specifically, DHS has convened a stakeholder group to provide input into the design and creation of the compliant card marking, and issued the final REAL ID Compliance Marking in January 2009, several months after completion of our audit field work. In addition, DHS has taken steps to include stakeholders in reviewing drafts and providing feedback on guidelines on physical and data security. Finally, the Acting Assistant Secretary identified the states as responsible for ensuring appropriate stakeholder participation for verification hub guidance. We believe that such efforts are good steps toward addressing our recommendation and look forward to learning more about continued progress and improvements in the future.

Responding to recommendation two, the Acting Assistant Secretary stated that a joint effort with FEMA/GPD is underway to develop a communications plan. In addition, the Acting Assistant Secretary identified several steps under way to ensure outreach for FY09 grants. These steps include developing a memorandum of understanding to delineate FEMA GPD and Office of Policy/Screening Coordination Office roles and responsibilities; establishing REAL ID Program Office personnel to be responsible for monthly contact with an assigned representative from each state; and taking advantage of FEMA's existing regional divisions

throughout the nation to schedule meetings to discuss grants, provide program updates, and answer specific questions. These are positive steps toward addressing our recommendation.

In discussing the criteria for grant awards, the Acting Assistant Secretary indicated that our report inaccurately states that DHS decided to “distribute grant funds more broadly.” We adjusted our report to clarify this discussion. As we state in our report, and as the Acting Assistant Secretary’s own response indicates, DHS did “adjust the basis for award allocation to include the peer review score and the size of state’s DL/ID system.” This decision to include the size of a state’s DL/ID system in the basis for award allocation resulted in a broader distribution of grant funds than was initially evident to states.

The Acting Assistant Secretary provided a number of additional editorial comments regarding specific sections of the report. We worked with the REAL ID program to address each of these suggestions and comments and made updates to the draft report where appropriate.

The Acting Assistant Secretary also submitted several substantive suggested changes. First, the Acting Assistant Secretary suggested that the word “certified” was incorrectly used to describe the states’ requirement to obtain an extension of the December 31, 2009 compliance deadline. However, the Final Rule specifically states that, “DHS has indentified eighteen milestones, captured in the ‘Material Compliance Checklist,’ that States must certify they have met in order to obtain an extension of the compliance deadline beyond December 31, 2009.” Therefore, we did not change the report in this case.

Secondly, the Acting Assistant Secretary said that, “DHS never promised ‘guidance’ on the costs of verification systems to states.” This statement does not accurately reflect our report’s message. We recognize that DHS has been working with organizations such as AAMVA and the Verification System Working Group, which have responsibility for such guidance. DHS did, however, indicate at a forum on the Final Rule in February 2008 that guidance on ongoing costs for system access would be forthcoming. Therefore we did not change the report in this case.

We began our audit work by conducting background research to gain an understanding of the *REAL ID Act of 2005* and DHS' responsibilities for implementing REAL ID. We reviewed reports prepared by the 9/11 Commission, Government Accountability Office, other federal agencies, public interest groups, and Congress. We also reviewed the *REAL ID Act*, records of congressional testimony, and meeting minutes. We attended REAL ID informational meetings with private sector and public sector interest groups such as AAMVA, National Conference of State Legislatures, and National Governors Association.

To obtain information on the current status of REAL ID implementation and state cost challenges, we obtained internal DHS correspondence that established policies and procedures relative to REAL ID from the REAL ID Program Office. We looked at the Notice of Proposed Rulemaking, DHS' Regulatory Evaluation, and the Final Rule. We also researched the department's internal Web site to obtain relevant information about REAL ID regarding DHS' roles and responsibilities for implementing REAL ID, progress made toward implementation, associated costs, and grants. Owing to the high visibility of the REAL ID program, we reviewed DHS press releases and researched media articles that pertained to REAL ID. We also researched legislation that established individual states' positions on compliance with REAL ID implementation.

To obtain information on grant usage, we reviewed the FY 2008 REAL ID Demonstration Grant Program document, researched the department's internal Web site to obtain relevant information about REAL ID grants, and reviewed DHS press releases and media articles that pertained to grants.

We conducted our audit fieldwork from June to September 2008 at REAL ID Program Office headquarters and FEMA GPD in Washington, DC. We met with DHS REAL ID Program Office officials responsible for REAL ID program management, planning, and implementation to obtain information on the progress made toward the implementation of REAL ID among all 56 states. We also met with officials from FEMA GPD responsible for the REAL ID grants management and administration process.

We selected a sample of 19 states that were a combination of border states; states within the interior of the contiguous United States; states with large and small populations; states that support and oppose REAL ID; states that issued identification to the terrorists involved in the September 11, 2001, attacks; states that

represent each of the U.S. geographic regions: North, South, East, and West; grant recipient states; states that applied for REAL ID grant programs; and states recommended by REAL ID Program Office and FEMA GPD officials.

We visited the state DMV, Governor's office, and REAL ID program and grants representatives in the following states:

- Richmond, Virginia;
- Hanover, Maryland;
- District of Columbia;
- Jefferson City, Missouri;
- Olympia, Washington;
- Sacramento, California;
- Santa Fe, New Mexico;
- Austin, Texas;
- Tallahassee, Florida;
- Honolulu, Hawaii;
- Wethersfield, Connecticut;
- Albany, New York; and
- Raleigh, North Carolina.

We also teleconferenced with the state DMV, Governor's office, and REAL ID program and grants representatives at the following locations:

- Springfield, Illinois;
- Harrisburg, Pennsylvania;
- Saint Croix, U.S. Virgin Islands;
- Atlanta, Georgia;
- Augusta, Maine; and
- Helena, Montana.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The principal OIG points of contact for this audit are Frank Deffer, Assistant Inspector General for Information Technology Audits, and Richard Harsche, Director, Information Management. Major OIG contributors to the audit are identified in Appendix C.


Appendix B
Management Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

MEMORANDUM FOR: Frank Deffer
Assistant Inspector General for Information Technology Audits
U.S. Department of Homeland Security

FROM: Richard Barth 
Assistant Secretary for Policy (Acting)

SUBJECT: Draft Report: Potentially High Cost and Insufficient Grant Funds
Pose and Challenge to REAL ID Implementation

Thank you for the opportunity to review the draft report. Below you will find a joint response from the DHS Office of Policy and the Federal Emergency Management Agency (FEMA) providing comments on the findings and context for assertions made in the draft report. These comments focus, in particular, on cost estimates for implementation and the grant process. Both of these items highlighted the importance of communication efforts with state departments of motor vehicles (DMV). We concur with the two recommendations made in the report, with the minor edits, that we discussed to the first recommendation at the exit conference.

By way of introduction, secure and reliable state-issued driver's licenses and identification cards (DL/ID) form an essential component of the Department's strategy for securing the Homeland, preventing terrorism, and combating identity fraud. Recognizing that these documents are the most widely used forms of identification in the United States, the Department has worked very closely with the states and specifically with state DMVs on ways to improve the integrity and security of their DL/IDs. A significant part of our collective efforts has been driven by legislative mandate through the implementation of the REAL ID Act. The Act directs DHS to set minimum standards for DL/IDs that will be acceptable for official purposes. The law is not binding on states, as they can choose to comply or not comply with the minimum standards of REAL ID.

Cost Estimates

The Department recognizes that the cost of implementing REAL ID, both for the states and the federal government, has been a core concern since enactment. As noted in the report, the Department focused intensely on reducing the costs, consistent with the mandate. To that end, we identified a cost reduction in the final regulation of 73 percent, largely through recognition of the challenge of in-person re-enrollment capacity. The Act and the final rule clearly articulate the performance standards to be met, leaving the states with as much flexibility as possible

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regarding how they incorporate requirements into their unique processes. Many of the states have already met some of the requirements – such as ensuring the physical security for production of a DL/ID and securing the personal data collected in the issuance process – through compliance with state laws and industry best practices.

The report cites three areas cost information is still needed to develop more complete cost estimates: card markings, physical security, and verification systems. In addition, the report recommended the REAL ID Program Office call together representative stakeholder groups in formal and informal ways to provide input as appropriate to address these and other issues. We agree. The following briefly outlines our activities and outreach in the three areas.

With respect to card markings, DHS convened a stakeholder group consisting of state DMVs, experts in forensic document analysis, DHS components who will be using the markings in their operations, and vendors who would be producing the markings on documents for DMVs. Input received from this meeting was incorporated into the design and creation of the final REAL ID Compliance Markings, issued on Friday, January 9, 2009. DHS has provided documentation demonstrating this effort to your office and is happy to provide any additional information determined to be necessary.

Second, DHS promised to provide guidelines on physical and data security at the request of a number of states. The guidelines are in interagency clearance, pursuant to the executive order on significant guidance. Again, we pulled stakeholders together to review drafts and provide feedback to ensure the guidelines covered the issues of concern to the states. We hope to issue the guidelines shortly.

Lastly, DHS estimated that approximately 40 percent of the costs to states are IT-related and some of these costs cannot be fully estimated until the requirements and design of the verification hub has been completed – a process managed by the states for the states. The verification hub requirement identification effort has been underway for more than a year working through the American Association of Motor Vehicles Administration (AAMVA) Verification Systems Working Group. A more disciplined verification hub requirement effort was launched in October 2008 with the \$17 million FY 2008 REAL ID Demonstration Lead State Grant award to the State of Mississippi and grants of \$1.2 million each to the three other pilot participating states. They are responsible for leading the formal effort to develop requirements, system design documents and establish a governance model to sustain the system, which necessarily includes a financing model. The states are also responsible for ensuring appropriate stakeholder participation. Thus, the states will collectively play a lead role in determining the overall costs of IT development, operations and maintenance on individual states.

For the reasons noted above, segregating and fully quantifying the costs specific to implementation of REAL ID remains challenging. We continue to encourage the states to develop cost estimates and have incorporated reporting regarding progress and cost into the grant process, something we expect to refine over time.

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Grants Process

Our comments on the report's treatment of the grant program focus on two areas – the criteria for grant award and communication with the states.

The FY 2006 Appropriation Act required DHS to develop and obtain Congressional approval of the REAL ID Implementation Plan prior to awarding grant funds. The REAL ID Implementation Plan was approved by Congress in August 2007. In addition, DHS developed and included grant award criteria in the 2007 REAL ID Implementation Plan. The award criteria included in the 2007 REAL ID Implementation Plan was used as the basis for the FY 2008 REAL ID Demonstration Grant funding award allocations to the states. The Congressionally approved 2007 REAL ID Implementation Plan allocated the majority¹ of available funds for competitive grants with the following priorities:

- Initial development of an integrated system for state-to-state data exchange.
- Improvements to the Electronic Verification of Vital Events hub to support the volume of transactions required under REAL ID.
- System development to support applicant data verification with the Department of State.
- Model standards and procedures for document verification by state DMVs.
- Model privacy standards, security practices, and business rules regarding verification of driver information with Federal and state agencies.
- Modifications to, or expansion of, the Commercial Driver License Information System (CDLIS) to meet the requirements of the REAL ID Act.

The REAL ID Implementation Plan also detailed the following criteria for grant awards:

- Expedite deployment of required verification systems.
- Expedite states' ability to connect to required verification systems.
- Involve the joint efforts of multiple states or state DMVs.
- Reduce the costs of REAL ID implementation for individuals, states, and the Federal Government.
- Reduce the potential for fraudulent use or abuse of DL/IDs.
- Expedite state progress toward compliance with REAL ID implementation.

The above criteria and priorities reflect our emphasis on verification capabilities, but at the same time are not exclusive to those activities. As such, the report inaccurately states that DHS decided to “distribute grant funds more broadly.” DHS awarded targeted grants to the lead and pilot states to begin development of the verification hub. With respect to the state-specific awards, DHS did adjust the basis for award allocation to include the peer review score and the size of state's DL/ID system as a measure of the scope of efforts the state will need to undertake to become compliant with REAL ID. In addition, DHS extended the deadline for applications

¹ The Commonwealth of Kentucky received \$3 million of the original FY06 grant to fund a REAL ID Pilot Project to fund birth record verification process improvements. DHS awarded an additional \$4 million REAL ID Vital Events Verification State Project Grant to Kentucky to fund connectivity to the Electronic Verification of Vital Events (EVVE) hub by all jurisdictions.

Appendix B Management Comments to the Draft Report

based on requests from states to simplify what they considered a difficult application form. We believe documentation regarding our outreach has been provided, however, we are happy to provide further documentation if needed.

FEMA/Grants Programs Directorate (FEMA/GPD) worked diligently with prospective grant applicants in advance of the application submittal deadlines to ensure that each received grant program guidance and was notified of required application edits or changes. Recognizing that many state DMV applicants had limited or no experience with the FEMA grant process, FEMA/GPD - in conjunction with the REAL ID Program Office - established formal and informal lines of communication to assist them in preparing and revising their grant proposal submissions. Formally, the REAL ID Program Office and FEMA/GPD convened a special question and answer meeting with National Governors Association leadership and numerous state department of motor vehicles leaders to ensure DHS provided absolute clarity of program goals and grant processing requirements. At the conclusion of the meeting, FEMA/GPD agreed to send to all selected state DMV applicants the revised grant language. This revised language clarified program goals and grant processing requirements. Informally, states DMV applicants were encouraged to call FEMA's toll-free number or the REAL ID Hotline to ask questions or request program and grant application assistance. Finally, recognizing that many state DMVs were unfamiliar with the grant application process, states were provided, and most states accepted, a second opportunity after their initial grant application was submitted to improve the quality of their grant application.

We agree with the recommendation to develop a communications plan. We have already begun a joint effort to that end. In addition, we have taken the following steps to ensure outreach on the FY09 grants:

- Developing a memorandum of understanding to articulate our shared commitment and clearly delineate FEMA/GPD and Office of Policy/Screening Coordinating Office roles and responsibilities
- Established REAL ID Program Office personnel to be responsible for monthly contact with their assigned REAL ID representative from each state
- On January 22nd, conducted the first FEMA regional meeting with Region V states (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin) state POCs to discuss FY 08 and FY09 grants, provide program updates and answer specific questions. This regional meeting format worked well and we are currently working to schedule similar meetings with other Regions in the near future

Additional comments:

Page 3

Comment. The requirements of the Act only apply to states that choose to comply and only to the issuance of compliant cards, with the exception of 6 CFR 37.71. The descriptive language on page 3 and following should reflect the limited scope of applicability of the Act and rule.

It is important to note the dedicated funding because the states can use other grant funds to support REAL ID implementation in their state at their discretion.

Appendix B Management Comments to the Draft Report

States do not need to “certify” that they meet the milestones. All they need to do is fill out and submit the Material Compliance Checklist with the date a benchmark was met or will be met.

Comment. DHS did have both a strategy and process for developing guidance on card marking and physical security. State comments reflect delays in delivering on DHS commitments and not the absence of a strategy. DHS drafted proposed guidance documents, actively solicited state input and review, and submitted both for agency and interagency review. The card marking guidance has been completed and disseminated to states. The guidance on facilities security is currently in interagency review. The process may have been delayed but it proceeded as planned. Recommend that this statement be modified.

Page 13, first paragraph

Comment. There is no specific requirement for 125 character storage of the full legal name. However, DHS endorses AAMVA current and proposed standards for capture, storage, formatting, and transliteration of name data. Recommend that the statement be qualified to indicate that the 125 character standard is an AAMVA standard and not a requirement of the DHS rule.

Comment. REAL ID does not require states to share information with issuing agencies or with other states (except for the status of current driver’s licenses or REAL IDs valid in other states). Data is matched or verified, not exchanged. If an individual is found to have multiple REAL IDs or driver’s licenses as a result of the state-to-state query, the state originating the query must receive confirmation that the (other) existing license has been terminated, but no additional data is exchanged. Recommend change “share” to “verify”.

Page 15, last paragraph, page 16 top

Comment. DHS has never promised “guidance” on the costs of verification systems to states. DHS has promised to provide the funding to states so that states themselves could jointly determine the basis for these costs. DHS has been working with AAMVA and the states to define system requirements for verification systems. Only after states have documented both system requirements and detailed design for these systems can cost information in general and transaction cost information in particular be identified.

Page 19, 1st paragraph

Comment. The press release announcing grant awards correctly stated the award basis – it was not “a number of factors” but very clearly the criteria from the grant guidance and the size of the state’s DL/ID system.

Page 21, Recommendations

“Recommendation #1: Establish a stakeholder group”

Appendix B Management Comments to the Draft Report

DHS has worked with AAMVA to establish stakeholder “working groups” based on particular tasks to ensure appropriate, focused participation. For example, groups have been established to define verification system requirements, revise AAMVA card standards, and review proposed guidelines for card marking and physical security standards. DHS has refrained from establishing a single, comprehensive stakeholder group for all REAL ID implementation issues because of the need to bring together the right level of expertise among stakeholders in particular areas (i.e., those with verification system ownership are different from those with expertise in the levels of physical security features on cards).

Additionally, state DMVs have requested that we work closely with AAMVA as the entity that formally represents their interests and concerns in Washington. To that end, DHS has sought to take advantage of the existing communications infrastructure of AAMVA as well as AAMVA standards setting, training, and IT systems operations activities. For example, DHS is supporting an AAMVA special project to revise the AAMVA International Card Specification to include the requirements of the final rule. While DHS is solely responsible for setting REAL ID requirements and assessing conformity with those requirements, DHS believes that it should not compete with or duplicate the activities of AAMVA, Federal Motor Carrier Safety Administration, and other public or private standard setting bodies.

Information Management Division

Richard Harsche, Director
Beverly Bush, Audit Manager
Steven Staats, Auditor-in-Charge
Kia Smith, Auditor
Swati Nijhawan, Auditor
Craig Adelman, Auditor
Nazia Khan, Referencer

Department of Homeland Security

Secretary
Deputy Secretary
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Deputy Chief of Staff
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Director, GAO/OIG Liaison Office
Assistant Secretary for Office of Policy
Assistant Secretary for Office of Public Affairs
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Director, Screening Coordination Office, Office of Policy Development
Deputy Assistant Secretary, Federal Emergency Management Agency
Director, FEMA Grants Program Directorate
DHS OIG Liaison

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Congress

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