

RELATIONS WITH THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE IMPLEMENTATION

I. Purpose

This Instruction implements Department of Homeland Security (DHS) Directive 077-02, and establishes the procedures regarding relations between DHS and the United States Government Accountability Office (GAO).

II. Scope

This Instruction applies throughout DHS with the exception of the Office of Inspector General.

III. References

- A. GAO's Agency Protocols, October 2004 (GAO-05-35G)
- B. Government Auditing Standards, July 2007 Revision (GAO-07-731G)

IV. Definitions

- A. **Component Counsel:** Attorneys within the Office of the General Counsel assigned by the General Counsel to serve a particular Component.
- B. **DHS Component heads:** The Under Secretaries or other functional heads of any Component.
- C. **DHS Employees:** Individuals employed by DHS or any detailee under the direct supervision of DHS employees.
- D. **DHS Program Points of Contact:** DHS officials with knowledge of the program that GAO is reviewing, who may be identified by the Department Audit Liaison (DAL) or Component Audit Liaisons (CALs) as available to GAO for follow-up. Point of Contact duties are not a permanent responsibility assigned to a particular DHS employee, but instead assigned on a review-by-review basis.

V. Responsibilities

A. Under Secretary for Management:

1. Has overall management responsibility for DHS relations with GAO and for implementation of Directive 077-02 and this Instruction.
2. Designates a DAL to maintain relations with GAO and to implement the requirements of Directive 077-02 and this Instruction.
3. Supervises and oversees the activities of the DAL including enforcement of expedited time frames for GAO access to records and interviews of DHS employees set forth in Directive 077-02 and this Instruction.
4. Ensures, in conjunction with the Office of the General Counsel (OGC), that the DAL and CALs receive appropriate training regarding GAO relations and implementation of Directive 077-02 and this Instruction.
5. Ensures that there are sufficient resources within DHS dedicated to the management of the Department's relations with GAO.

B. Office of the General Counsel:

1. Provides legal advice and guidance on matters involving relations with GAO.
2. Works with DHS officials to ensure that the Department's legal obligations are met with respect to GAO audits and investigations, including GAO requests for records or interviews.
3. Monitors GAO engagements to ensure that the scope of GAO audit and investigative activities is appropriate.
4. Ensures that DHS employees understand the proper scope of GAO audit, investigative, and access authorities.
5. Ensures, in conjunction with the Under Secretary for Management, appropriate training of the DAL and CALs regarding GAO relations and implementation of Directive 077-02 and this Instruction.
6. Component Counsel work with Component heads and Component employees to ensure that OGC responsibilities are met.

C. **Departmental Audit Liaison:**

1. Is the primary management official within DHS responsible for implementation of Directive 077-02 and this Instruction on behalf of the Under Secretary for Management, and for matters involving relations between GAO and DHS.
2. Monitors departmental activities to ensure that GAO is provided with expedited access to records and DHS employees and streamlines the review process for such record and interview requests in accordance with the policies set forth in Directive 077-02.
3. Coordinates with, and oversees the activities of, the CALs to ensure proper and efficient implementation of Directive 077-02 and this Instruction.
4. In coordination with the CALs:
 - a. Arranges and organizes entrance and exit conferences with the appropriate DHS officials and GAO;
 - b. Ensures that GAO's proposed scope of work is definite and clear, and understood by both DHS and GAO officials;
 - c. Receives incoming requests in writing from GAO regarding records or interview requests, and seeks clarification from GAO when records or interviews requested are not clearly identified;
 - d. Arranges interviews of Department employees and coordinates outgoing departmental responses to GAO requests for records in an expedited manner;
 - e. Coordinates the receipt of GAO draft reports and testimony, and solicits comments from relevant Components to respond to such drafts;
 - f. Compiles Department comments and responses to GAO draft reports and testimony and reconciles any issues that might arise in connection with the response;
 - g. Ensures that Department responses to GAO draft reports and testimony are appropriately cleared throughout the Department through the Executive Secretariat prior to submission to GAO, and timely transmits final responses to GAO;

h. Oversees audit follow-up, including tracking the status of GAO recommendations and applicable reporting requirements governing audit follow-up; and

i. Informs promptly OGC, appropriate CALs, and other appropriate DHS officials if the DAL becomes aware of a current or planned Special Investigation to be conducted by GAO.

5. In coordination with the CALs, ensures tracking, through an appropriate electronic monitoring system, of the status of ongoing GAO audits and investigations and DHS responses, including notifications of GAO work, entrance and exit conferences, incoming GAO requests for records and interviews with Department employees, outgoing departmental responses to GAO requests for interviews and records, incoming receipt of GAO draft reports and testimony, transmittal of departmental responses to GAO draft reports and testimony, and receipt of final GAO reports, testimony, and recommendations. With respect to GAO investigations, the DAL and CALs track such engagements to the degree possible based on the information provided about an ongoing investigation by GAO.

6. In coordination with the CALs, ensures tracking of the status of the preparation, compilation, and Department-wide clearance of the Department's responses to GAO draft reports and testimony.

7. In coordination with the CALs, provides weekly updates to the Under Secretary for Management, OGC, and other appropriate DHS officials summarizing new GAO work, upcoming reports and issues of significance, anticipated upcoming audits and issues, and overdue responses to GAO document and interview requests.

8. Consults with OGC, as appropriate, on any relevant legal issues and to ensure that the scope of GAO audit and investigative activities is appropriate.

9. Meets with GAO monthly or as requested to discuss any overdue responses to GAO requests for records or interviews with DHS employees identified by GAO or DHS, and to discuss time frames for providing such records or DHS employees to GAO.

10. Works with the Under Secretary for Management and other appropriate DHS officials to ensure that there are sufficient resources dedicated to the management of DHS relations with GAO.

D. **DHS Component heads:**

1. Ensure compliance with Directive 077-02 and this Instruction within their Components.
2. Designate a CAL to serve as the Component's primary liaison to the DAL and the management official within the Component responsible for assisting the DAL in implementation of Directive 077-02 and this Instruction.
3. Furnish GAO with expedited access to records and to Component employees in response to written requests from GAO and streamline the review process for such records and interview requests in accordance with the policies set forth in Directive 077-02.
4. Provide input on GAO draft reports and testimony as necessary, and work to ensure that Component comments fully and accurately reflect the Component's position regarding the GAO audit or investigation as well as the program under review.
5. Supervise and oversee the activities of the CALs.
6. Ensure appropriate training regarding GAO relations and implementation of Directive 077-02 and this Instruction.
7. Work with the Under Secretary for Management, DAL and appropriate DHS officials to ensure that there are sufficient resources dedicated to the management of DHS relations with GAO.

E. **Component Audit Liaisons:**

1. Serve as the Component's primary liaison to the DAL and the management official within the Component responsible for assisting the DAL in implementation of Directive 077-02 and this Instruction.
2. Monitor Component activities to ensure that GAO is provided with expedited access to records and interviews of DHS officials, and streamline the review process for such records and interview requests in accordance with the policies set forth in Directive 077-02.
3. In coordination with the DAL:
 - a. Arrange and organizes entrance and exit conferences with the appropriate Component officials and GAO;

- b. Ensure that GAO's proposed scope of work is definite and clear, and understood by both Component and GAO officials;
- c. Receive incoming requests in writing from GAO regarding records or interview requests, and seek clarification from GAO when records or interviews requested are not clearly identified;
- d. Arrange interviews of Component officials and coordinate outgoing Component responses to GAO requests for records in an expedited manner;
- e. Coordinate the receipt of GAO draft reports and testimony, and solicit comments from relevant elements of the Component to respond to such drafts;
- f. Compile Component comments and responses to GAO draft reports and testimony and reconcile any issues that might arise in connection with the response;
- g. Ensure that Component responses to GAO draft reports and testimony are appropriately cleared throughout the Component prior to timely submission to the DAL;
- h. Oversee audit follow-up at the Component, including tracking the status of GAO recommendations and applicable reporting requirements governing audit follow-up; and
- i. Inform promptly the DAL, Component head, Component Counsel, and other appropriate Component officials if the CAL becomes aware of a current or planned Special Investigation to be conducted by GAO.

4. In coordination with the DAL, track through an appropriate electronic monitoring system the status of ongoing GAO audits and investigations and DHS responses, including notifications of GAO work, entrance and exit conferences, incoming GAO requests for records and interviews with Department employees, outgoing Departmental responses to GAO requests for interviews and records, incoming receipt of GAO draft reports and testimony, transmittal of Departmental responses to GAO draft reports and testimony, and receipt of final GAO reports, testimony, and recommendations. With respect to GAO investigations, the DAL and CALs track such engagements to the degree possible based on the information provided about an ongoing investigation by GAO.

5. Track the status of the preparation, compilation, and Component-wide clearance of the Component's responses to GAO draft reports and testimony.
6. Ensure the Component head and other appropriate Component officials are promptly advised of new GAO audits and investigations, and the status of ongoing audits and investigations (to the extent that information about investigations is known).
7. Assist the DAL prepare the weekly update reports advising DHS officials about new GAO work, upcoming reports and issues of significance, anticipated upcoming audits and issues, and overdue responses to GAO document and interview requests.
8. Notify the Component heads or other appropriate Component officials and the DAL when Component responses to GAO document and interview requests will in all likelihood not be provided within the time frames set forth in Directive 077-02 and this Instruction, and the reasons therefore.
9. Consult with Component Counsel, when appropriate, on any relevant legal issues regarding relations with GAO and to ensure that the scope of GAO audit and investigative activities is appropriate.
10. Assist the DAL in preparing for periodic meetings with GAO to discuss any overdue responses to GAO requests for records or interviews with Component employees, and to discuss timeframes for providing such records or Component employees to GAO.
11. Works with the Component head other appropriate Component officials to ensure that there are sufficient resources dedicated to the management of DHS relations with GAO.

F. **DHS Program Points of Contact**: When specifically designated at or following an entrance conference as program officials knowledgeable about the program that GAO is reviewing, Program Points of Contact may, in coordination with the DAL or CALs, assist GAO in identifying and obtaining appropriate records and interviews. Requests for records and interviews should be in writing and directed to the DAL or CAL identified at the entrance conference.

G. **DHS Employees**: DHS employees work cooperatively with representatives of GAO, DAL, CALs, Program Points of Contact (if designated), and OGC (including Component Counsel), to comply with the requirements of Directive 077-02 and this Instruction.

VI. Content and Procedures

A. Notification of GAO Work:

1. The DAL receives from GAO a Notification of GAO Work for each new audit undertaken by GAO. Any Notifications of GAO Work received by a CAL directly from GAO are forwarded immediately to the DAL.
2. Any incoming notifications of GAO work received by a DHS employee are forwarded promptly to appropriate CALs and the DAL.
3. The DAL determines which Components have an interest in the GAO engagement and notifies the appropriate CALs.
4. The DAL and appropriate CALs ensure that each new GAO engagement is entered into an appropriate electronic tracking system and determine whether the DAL or CAL(s) will have primary responsibility for electronically tracking each subsequent phase of the GAO audit or investigation, including the engagement topic or subject, entrance and exit conferences, estimated start date for the audit or investigation, GAO and DHS points of contact, GAO requests for records and interviews of DHS employees, responses to GAO requests for records and interviews, receipt of draft GAO reports and testimony, departmental responses to GAO draft reports and testimony, and the status and follow-up to GAO final reports and recommendations. With respect to GAO investigations, the DAL and CALs track such engagements to the degree possible based on the information provided about an ongoing investigation by GAO.
5. The DAL and CALs ensure that appropriate DHS officials are advised of such notifications of GAO work.

B. Entrance Conference:

1. The DAL, relevant CALs, Program Points of Contact (if designated), and other appropriate DHS officials participate in all entrance conferences with GAO to discuss the engagement objectives, key questions, general data needs, time frames, and other issues.
2. At the entrance conference, the DAL and relevant CALs clarify the scope of proposed GAO work to ensure that it is sufficiently definite and clear, and ascertain whether additional Components should be involved.

3. At the entrance conference or as soon thereafter as possible, the DAL and relevant CALs identify whether the DAL or appropriate CAL(s) will be the principal point(s) of contact for communications with GAO, and inform GAO to whom it should direct its written requests for records or interviews, draft or final reports, and any other communications between GAO and DHS. The DAL and relevant CALs also specify any applicable format requirements for GAO written requests for records or interviews.

4. At the entrance conference or as soon thereafter as possible, Program Point(s) of Contact may also be identified to serve as secondary point(s) of contact on behalf of the individual program under review. Due to their familiarity with the program, such points of contact may be of assistance to GAO in identifying and obtaining relevant records and interviews. Such assistance is coordinated with the DAL or CALs and all requests for records and interviews are to be in writing and directed to the specific DAL or CAL(s) identified as the principal point(s) of contact.

5. The DAL, in coordination with the CALs, ensures that appropriate DHS officials are informed about the scope of the GAO work as articulated in the entrance conference.

6. OGC endeavors to participate in entrance conferences, when appropriate, to ensure that the Department meets its legal obligations and that the scope of GAO's audit and investigative activities is appropriate. Counsel should advise the DAL, CALs, and GAO officials of any anticipated or potential legal concerns implicated by the proposed GAO work as soon as possible. Counsel should ensure that DHS employees understand the scope of GAO audit, investigative, and access authorities.

C. **GAO Requests for Departmental Records or Interviews:**

1. The DAL, in coordination with appropriate CALs, has primary responsibility for providing GAO with expedited access to records and interviews of DHS employees in accordance with the Department's obligations under the law.

a. Where a GAO written request for records clearly identifies the records requested, Department employees must provide GAO with access to the records as soon as possible and not more than 20 calendar days from the date of the written request, unless there is a reasonable basis why the required time frame cannot be met.

b. In the case of a written GAO request to interview a DHS employee, the DAL or CAL must arrange a mutually-agreeable appointment for such interview as soon as possible after receiving the request. Such an arrangement should normally be reached within seven calendar days from the date of the written request, although the requested interview need not necessarily occur within those seven calendar days.

c. Where these guidelines cannot reasonably be met, the DAL or CAL should notify GAO as soon as possible of an alternative time frame for providing the requested records or interview.

2. The DAL, in coordination with the CALs, has overall responsibility for ensuring that GAO requests for Departmental records and interviews are made by GAO to the DAL or CAL(s) designated by DHS as principal point(s) of contact in writing and in accord with any format requirements specified at the entrance conference. The DAL and CALs also ensure that the GAO requests fall within the scope of the GAO audit or investigation.

3. An email request sent to the appropriate DAL or CAL that complies with any format requirements specified at the Entrance Conference constitutes a written request for purposes of Directive 077-02 and this Instruction.

4. Any DHS employee who receives a request for records or an interview promptly forwards a copy of the request to their CAL. The CALs ensure that the Department's designated point of contact(s), DAL, and all other appropriate CALs are advised of the request.

5. The DAL, in coordination with the CALs, electronically tracks GAO requests for records and interviews with DHS employees, and the Department's responses to such GAO requests, including the date and nature of each request, applicable deadlines or time frames, and the date and nature of the Department's response.

6. The DAL and CALs notify the Under Secretary for Management and other appropriate Component heads, as well as GAO, when responses to GAO requests have not been provided within the expedited time frames set forth in Directive 077-02 and this Instruction.

7. In responding to written GAO requests for records:

a. The DAL or CAL forwards the request to appropriate DHS officials and employees believed to be reasonably likely to possess the records requested. The DAL or CAL informs recipients of the applicable time frame and deadlines for production to GAO.

b. The Program Points of Contact, if designated, may assist the DAL and CALs in identifying DHS employees who are likely to possess the information requested.

c. DHS employees provide potentially responsive records to their CAL in a timely manner.

d. DHS employees inform their CAL when records being sought by GAO may implicate legal issues, such as classified, law enforcement sensitive, budgetary, pre-decisional or draft records, or records relating to ongoing proceedings or investigations. The CALs or employees, in turn, consult with Component Counsel and the DAL regarding such legal matters, as appropriate. GAO is informed as soon as possible regarding any legal concerns implicated by its records request.

e. OGC advises the DAL, CALs, Program Points of Contact (if designated), and appropriate DHS officials regarding legal issues that might be implicated by GAO records requests.

f. The DAL and CALs coordinate the Department's response to GAO's request for records.

(1) In order to provide records in a timely manner, CALs provide the DAL with an index of the records to be produced to GAO sufficiently in advance of the due date to allow the DAL to coordinate any further review and production of the records.

(2) The DAL and CALs, in consultation with OGC and other appropriate DHS officials, ensure that all records provided to GAO are appropriately marked in accordance with their sensitivity and any other limitations on their disclosure outside the Department.

g. In order to maintain proper accountability and prudent management practices, the DAL, in coordination with the CALs, maintains an index of the records produced to GAO in response to each request, and copies of all records produced in accordance with appropriate records management policies. The index is sufficiently detailed to allow for the identification of the particular records, including, when applicable, by version number or date.

8. In responding to written GAO requests for interviews of DHS employees:

- a. The DAL or CAL forwards the GAO request for an interview to appropriate DHS officials, informing the recipient of any applicable time frame or deadline specified in the request.
- b. The DAL or CAL coordinates with GAO and the requested interviewee to arrange a mutually agreeable time for the interview.
- c. The DAL or CAL consults with Component Counsel regarding any legal issues that might be implicated by the requested interview. In certain instances, it may be appropriate for Counsel or a union representative to be present during the requested interview.
- d. DHS employees cooperate with GAO's requests for interviews in a timely manner and advise, before the requested interview, the DAL or CAL of all requests for interviews received from GAO.
- e. The DAL in coordination with the CALs maintain an index of individuals with whom interviews have been requested, the date of the request, the date an appointment for the interview was made, and the date of the interview.
- f. In order to maintain proper accountability and prudent management practices, DHS employees ensure that any request for records made during the course of a GAO interview be made in writing and forwarded immediately to the DAL or CAL.

D. **GAO Closeout Meeting at Field Locations:**

1. The DAL, CAL, or their designated representative strives to participate in all GAO closeout meetings at field locations to ensure that the DHS obligations have been met in accordance with the proper scope of the GAO audit or investigation.
2. The DAL, CAL, or their designated representative ensures that appropriate field employees or subject-matter experts attend the GAO closeout meeting at field locations to confirm that the information collected by GAO is accurate and complete.

E. **Exit Conference:**

1. The DAL, CAL(s), Program Points of Contact (if designated), and other appropriate DHS officials participate in all exit conferences following the completion of GAO's data collection and analysis to confirm that the critical facts and key information used to formulate GAO's analyses, findings and recommendations are current, correct, and complete.
2. The DAL, in coordination with the CALs, ensures that appropriate Component heads and other DHS officials are informed about exit conferences.
3. OGC endeavors to participate in exit conferences as appropriate.

F. **Draft Reports** and **Testimony:**

1. The DAL, in coordination with the CALs, is responsible for coordinating and managing the process of reviewing and providing comments on GAO draft reports and testimony.
2. The DAL or CAL, promptly upon receipt, circulates GAO draft reports and testimony to appropriate CALs, OGC (including Component Counsel), and other appropriate DHS officials for their review.
3. The DAL, in coordination with the CALs, works with appropriate DHS officials to assign a program office or individual employee to prepare an appropriate written response to the GAO draft report or testimony.
4. Any proposed written response to a GAO draft report or testimony is cleared throughout the Department through the Executive Secretariat prior to submission to GAO, so that other relevant Components and DHS officials can review it and submit comments when appropriate.
5. The DAL, in coordination with the CALs, notifies the Under Secretary for Management and other appropriate Component heads when a proposed written response to a GAO draft report or testimony has not been submitted in a timely manner.

G. **GAO Final Report:** The DAL, promptly upon receipt, circulates a GAO final report to the CALs, OGC, and other appropriate DHS officials.

H. **Follow-Up on GAO Recommendations:**

1. The DAL, in coordination with CALs, ensures that appropriate DHS officials are advised of any applicable GAO recommendations.

2. The DAL, in coordination with the CALs, is responsible for managing audit follow-up, including tracking the status of GAO recommendations and applicable reporting requirements governing audit follow-up.

I. **Records Retention and Recordkeeping:**

1. The DAL and the relevant CALs keep files and maintain documentation relating to GAO audits and investigations, including notification letters, GAO requests for records and interviews with DHS officials, indices of records and employees made available to GAO, GAO draft and final reports, testimony, and recommendations, the Department's final comments and responses to GAO draft reports and testimony, and the status of follow-up to GAO recommendations.

2. In order to maintain proper accountability, the DAL and CALs maintain and keep copies of all records produced to GAO in accordance with appropriate records management policies.

J. **Training:** The Under Secretary for Management and other Component heads, in coordination with OGC, the DAL and CALs, provide appropriate training regarding GAO relations and implementation of Directive 077-02 and this Instruction.

VII. Questions

Any questions or concerns regarding this Instruction should be addressed to the DAL or appropriate CAL.



Elaine Duke

Acting Under Secretary for Management

01 July 2008
Date