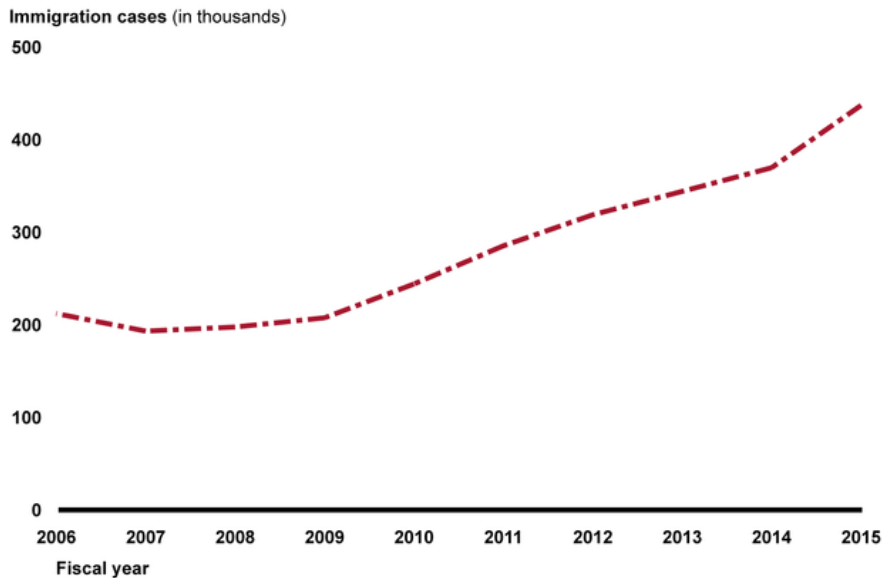


IMMIGRATION COURTS:**Actions Needed to Reduce Case Backlog and Address Long-Standing Management and Operational Challenges**

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What GAO Found

GAO's analysis showed that the Executive Office for Immigration Review's (EOIR) case backlog—cases pending from previous years that remain open at the start of a new fiscal year—more than doubled from fiscal years 2006 through 2015 (see figure) primarily due to declining cases completed per year.

Immigration Courts' Case Backlog, Fiscal Years 2006 through 2015

Source: GAO analysis of Executive Office for Immigration Review caseload data. | GAO-17-438

EOIR has taken some steps to address its workforce needs, such as entering into a contract to determine judicial staff workloads, but does not have a workforce plan that would help EOIR better address staffing needs, such as those resulting from the 39 percent of its immigration judges who are currently eligible for retirement. EOIR also does not have efficient practices for hiring new immigration judges, which has contributed to immigration judges being staffed below authorized levels. GAO found that it took an average of 742 days to hire new judges from 2011 through August 2016. By assessing its hiring process and developing a hiring strategy that targets staffing needs, EOIR would be better positioned to hire judges more quickly and address its staffing gaps.

One example of EOIR's efforts to assess court operations is the extent and reasons why judges issue continuances—temporary case adjournments until a different day or time. EOIR collects continuance data, but does not systematically assess them. GAO's analysis of continuance records showed that the use of continuances increased by 23 percent from fiscal years 2006 through 2015. Systematically analyzing the use of continuances could provide EOIR officials with valuable information about challenges the immigration courts may be experiencing, such as with operational issues like courtroom technology malfunctions, or areas that may merit additional guidance for immigration judges.

Why GAO Did This Study

The Department of Justice's EOIR is responsible for conducting immigration court proceedings, appellate reviews, and administrative hearings to fairly, expeditiously, and uniformly administer and interpret U.S. immigration laws.

GAO was asked to review EOIR's management of the immigration court system and options for improving EOIR's performance. This report addresses, among other things, (1) what EOIR data indicate about its caseload, including the backlog of cases; (2) how EOIR manages and oversees immigration court operations, including workforce planning and hiring; and (3) the extent to which EOIR has assessed immigration court performance, including case continuance data. GAO analyzed EOIR's case data from fiscal years 2006 through 2015—the most current data available—reviewed EOIR documentation, interviewed agency officials, and conducted visits to six immigration courts selected to include courts with relatively large and small case backlogs, among other things. GAO also interviewed experts and stakeholders selected based upon, among other things, their published work on the immigration court system.

What GAO Recommends


GAO is making 11 recommendations to, among other things, improve EOIR's workforce planning, hiring, and analysis of continuance data. EOIR stated that it agrees with most of the recommendations, but did not specify whether it agrees with individual recommendations. GAO continues to believe that all 11 recommendations remain valid as discussed further in this report.

For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

Recommendations for Executive Action

1. **Recommendation:** To better address current and future staffing needs, the Director of EOIR should develop and implement a strategic workforce plan that addresses, among other areas, key principles of effective strategic workforce planning, including (1) determining critical skills and competencies needed to achieve current and future programmatic results; (2) developing strategies that are tailored to address gaps in number, deployment, and alignment of human capital approaches for enabling and sustaining the contributions of all critical skills and competencies; and (3) monitoring and evaluation of the agency's progress toward its human capital goals and the contribution that human capital results have made toward achieving programmatic results.


Agency Affected: Department of Justice: Executive Office for Immigration Review

Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

2. **Recommendation:** To better address EOIR's immigration judge staffing needs, the Director of EOIR should: (1) assess the immigration judge hiring process to identify opportunities for efficiency; (2) use the assessment results to develop a hiring strategy that targets short- and long-term human capital needs; and (3) implement any corrective actions related to the hiring process resulting from this assessment.


Agency Affected: Department of Justice: Executive Office for Immigration Review

Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

3. **Recommendation:** To help ensure that EOIR meets its cost and schedule expectations for EOIR Courts and Appeals Systems (ECAS), the EOIR Director should identify and establish the appropriate entity for exercising oversight over ECAS through full implementation.


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Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

4. **Recommendation:** To help ensure that EOIR meets its cost and schedule expectations for ECAS, the EOIR Director should document and implement an oversight plan that is consistent with best practices for overseeing IT projects, including (1) establishing how the oversight body is to monitor program performance and progress toward expected cost, schedule, and benefits; (2) ensuring that corrective actions are identified and assigned to the appropriate parties at the first sign of cost, schedule, or performance slippages; and (3) ensuring that corrective actions are tracked until the desired outcomes are achieved.

Agency Affected: Department of Justice: Executive Office for Immigration Review

Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

5. **Recommendation:** To provide further assurance that EOIR's use of video teleconference (VTC) in immigration hearings is outcome-neutral, the Director of EOIR should collect more complete and reliable data on the number and type of hearings it conducts through VTC.


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Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

6. **Recommendation:** To provide further assurance that EOIR's use of VTC in immigration hearings is outcome-neutral, the Director of EOIR should collect data on appeals in which the use of VTC formed some basis for the appeal, and the number of in-person hearing motions filed.

Agency Affected: Department of Justice: Executive Office for Immigration Review

Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

7. **Recommendation:** To provide further assurance that EOIR's use of VTC in immigration hearings is outcome-neutral, the Director of EOIR should use these and other data to assess any effects of VTC on immigration hearings and, as appropriate, address any issues identified through such an assessment.


Agency Affected: Department of Justice: Executive Office for Immigration Review

Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

8. **Recommendation:** To further ensure that EOIR's VTC hearings meet all user needs and help EOIR identify and address technical issues with VTC hearings, the Director of EOIR should develop and implement a mechanism to solicit and monitor feedback from respondents regarding their satisfaction and experiences with VTC hearings, including the audio and visual quality of the hearing.


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Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

9. **Recommendation:** To better assess court performance and use data to identify potential management challenges, the Director of EOIR should establish and monitor comprehensive case completion goals, including a goal for completing non-detained cases not currently captured by performance measures, and goals for cases it considers a priority.


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Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

10. **Recommendation:** To better assess court performance and use data to identify potential management challenges, the Director of EOIR should systematically analyze immigration court continuance data to identify and address any operational challenges faced by courts or areas for additional guidance or training.


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Status: Open 

Comments: When we confirm what actions the agency has taken in response to this recommendation, we will provide updated information.

11. **Recommendation:** To better assess court performance and use data to identify potential management challenges, the Director of EOIR should update policies and procedures to ensure the timely and accurate recording of Notices to Appear.

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Status: Open 

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