

GAO Highlights

Highlights of [GAO-23-105431](#), a report to congressional requesters

Why GAO Did This Study

Each year, EOIR issues decisions for hundreds of thousands of cases of foreign nationals charged as removable under U.S. immigration law. EOIR is facing a significant and growing backlog of cases pending before the immigration courts. At the start of fiscal year 2023, EOIR's backlog was about 1.8 million pending cases—more than triple the number of pending cases at the start of fiscal year 2017. In 2017, GAO reported on EOIR's management practices, including how it manages and oversees workforce planning and immigration judge hiring.

GAO was asked to review various EOIR management functions, including actions taken since GAO's 2017 report. This report assesses, among other things, EOIR's (1) workforce planning practices; (2) judge performance appraisal program; and (3) policies and procedures for reporting quality data to the public. GAO analyzed EOIR staffing data from fiscal years 2017 through 2022—the most current data available. GAO reviewed EOIR documentation and interviewed officials from headquarters and four immigration courts selected to include different caseloads, among other factors.

What GAO Recommends

GAO is making six recommendations to improve, among other things, EOIR's workforce planning, judge performance appraisal program management, and data quality practices. EOIR identified ongoing and planned steps to address these recommendations.

View [GAO-23-105431](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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IMMIGRATION COURTS

Actions Needed to Address Workforce, Performance, and Data Management Challenges

What GAO Found

Within the Department of Justice, the Executive Office for Immigration Review (EOIR) is responsible for conducting immigration court proceedings, appellate reviews, and other hearings to interpret and administer U.S. immigration laws and regulations. EOIR has taken steps to improve its management practices since GAO's 2017 report but continues to face several challenges. Specifically:

- **Workforce planning.** EOIR has taken some steps to improve its workforce planning—a systematic process to align an agency's human capital with its mission needs and goals—but its practices do not fully align with GAO-identified key principles for strategic workforce planning.
 - As of January 2023, EOIR had not yet developed a strategic workforce plan or set workforce planning goals. In 2017, GAO recommended that EOIR develop and implement a strategic workforce plan that addresses the key principles of workforce planning—such as identifying critical skills, developing strategies to address skills gaps, and monitoring progress—to better position EOIR to address current and future staffing needs. GAO maintains that developing and implementing a strategic workforce plan would better position EOIR to address current and future staffing needs.
 - In June 2022, EOIR signed a contract with the U.S. Office of Personnel Management (OPM) to help develop workforce planning processes. However, EOIR does not have a governance structure—consisting of assigned and documented roles and responsibilities—to guide its workforce planning efforts and hold leadership accountable for progress on workforce goals. Given its longstanding challenges in this area, EOIR does not have reasonable assurance that it will make the investments necessary to implement the results of the contract. Establishing a documented governance structure for workforce planning would better position EOIR to institutionalize improvements moving forward.
- **Immigration judge performance appraisal program.** EOIR evaluates how immigration judges perform their duties but has not evaluated its overall judge performance appraisal program. For example, in recent years, EOIR has revised the criteria against which it evaluates judges. But, it has not assessed whether they or their supervisors are satisfied with the program's equity, utility, and accuracy, consistent with OPM guidance. Implementing a process to periodically evaluate its performance appraisal program for judges can better position EOIR to determine the program's effectiveness.
- **Data quality.** EOIR reports various immigration case data to the public and takes some steps to ensure such data are accurate and reliable, such as running regular reports on the data to identify and address any anomalies. However, EOIR does not have updated guidelines for reporting quality information—information that is secure, objective, and useful—to the public. Developing such guidelines could further ensure that EOIR consistently provides the public with accurate, reliable immigration data.